ployee in charge of the office abroad in which the deceased was employed considers proper.

(c) Payments under this section are made from appropriations available to the department concerned for miscellaneous or contingent expenses.

§ 5945. Notary public commission expenses

An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia who is required to serve as a notary public in connection with the performance of official business is entitled to an allowance, established by the agency concerned, not in excess of the expense required to obtain the commission. Funds available to an agency concerned for personal services or general administrative expenses are available to carry out this section.

§ 5946. Membership fees; expenses of attendance at meetings; limitations

Except as authorized by a specific appropriation, by express terms in a general appropriation, or by sections 4109 and 4110 of this title, appropriated funds may not be used for payment of—

(1) membership fees or dues of an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia in a society or association; or

(2) expenses of attendance of an individual at meetings or conventions of members of a society or association.

This section does not prevent the use of appropriations for the Department of Agriculture for expenses incident to the delivery of lectures, the giving of instructions, or the acquiring of information at meetings by its employees on subjects relating to the authorized work of the Department.

Subpart E—Attendance and Leave

CHAPTER 61—HOURS OF WORK

§ 6101. Basic 40-hour workweek; work schedules; regulations

(a) The head of each Executive agency, military department, and of the government of the District of Columbia shall—

(1) establish a basic administrative workweek of 40 hours for each full-time employee in his organization; and

(2) require that the hours of work within that workweek be performed within a period of not more than 6 of any 7 consecutive days.

(b) Except when the head of an Executive agency, a military department, or of the government of the District of Columbia determines that his organization would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he shall provide, with respect to each employee in his organization, that—

(1) assignments to tours of duty are scheduled in advance over periods of not less than 1 week;
(2) the basic 40-hour workweek is scheduled on 5 days, Monday through Friday when possible, and the 2 days outside the basic workweek are consecutive;

(3) the working hours in each day in the basic workweek are the same;

(4) the basic nonovertime workday may not exceed 8 hours;

(5) the occurrence of holidays may not affect the designation of the basic workweek; and

(6) breaks in working hours of more than 1 hour may not be scheduled in a basic workday.

(c) The Architect of the Capitol may apply this section to employees under the Office of the Architect of the Capitol or the Botanic Garden. The Librarian of Congress may apply this section to employees under the Library of Congress.

(d) For the purpose of this section, "employee" includes an individual employed by the government of the District of Columbia, but does not include an employee or individual excluded from the definition of employee in section 5541(2) of this title.

(e) The Civil Service Commission may prescribe regulations, subject to the approval of the President, necessary for the administration of this section insofar as this section affects employees in or under an Executive agency.

§ 6102. Eight-hour day; 40-hour workweek; wage-board employees

The regular hours of work for an employee whose basic rate of pay is fixed and adjusted from time to time in accordance with prevailing rates by a wage board or similar administrative authority serving the same purpose are established at not more than 8 a day or 40 a week. However, work in excess of these hours is permitted when administratively determined to be in the public interest.

§ 6103. Holidays

(a) The following are legal public holidays:

- January 1, New Year's Day.
- February 22, Washington's Birthday.
- May 30, Memorial Day.
- July 4, Independence Day.
- The first Monday in September, Labor Day.
- November 11, Veterans Day.
- The fourth Thursday in November, Thanksgiving Day.
- December 25, Christmas.

(b) For the purpose of statutes relating to pay and leave of employees, with respect to a legal public holiday and any other day declared to be a holiday by Federal statute or Executive order, the following rules apply:

1. Instead of a holiday that occurs on a Saturday, the Friday immediately before is a legal public holiday for—
   (A) employees whose basic workweek is Monday through Friday; and
   (B) the purpose of section 6309 of this title.

2. Instead of a holiday that occurs on a regular weekly nonworkday of an employee whose basic workweek is other than Monday through Friday, except the regular weekly nonworkday administratively scheduled for the employee instead of Sunday, the workday immediately before that regular weekly nonworkday is a legal public holiday for the employee.

This subsection, except subparagraph (B) of paragraph (1), does not apply to an employee whose basic workweek is Monday through Saturday.
(c) January 20 of each fourth year after 1965, Inauguration Day, is a legal public holiday for the purpose of statutes relating to pay and leave of employees as defined by section 2105 of this title and individuals employed by the government of the District of Columbia employed in the District of Columbia, Montgomery and Prince Georges Counties in Maryland, Arlington and Fairfax Counties in Virginia, and the cities of Alexandria and Falls Church in Virginia. When January 20 of any fourth year after 1965 falls on Sunday, the next succeeding day selected for the public observance of the inauguration of the President is a legal public holiday for the purpose of this subsection.

§ 6104. Holidays; daily, hourly, and piece-work basis employees

When a regular employee as defined by section 2105 of this title or an individual employed regularly by the government of the District of Columbia, whose pay is fixed at a daily or hourly rate, or on a piece-work basis, is relieved or prevented from working on a day—

(1) on which agencies are closed by Executive order, or, for individuals employed by the government of the District of Columbia, by order of the Board of Commissioners;

(2) by administrative order under regulations issued by the President, or, for individuals employed by the government of the District of Columbia, by the Board of Commissioners; or

(3) solely because of the occurrence of a legal public holiday under section 6103 of this title, or a day declared a holiday by Federal statute, Executive order, or, for individuals employed by the government of the District of Columbia, by order of the Board of Commissioners;

he is entitled to the same pay for that day as for a day on which an ordinary day's work is performed.

§ 6105. Closing of Executive departments

An Executive department may not be closed as a mark to the memory of a deceased former official of the United States.

§ 6106. Time clocks; restrictions

A recording clock may not be used to record time of an employee of an Executive department in the District of Columbia.

CHAPTER 63—LEAVE

SUBCHAPTER I—ANNUAL AND SICK LEAVE

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6301. Definitions.
6302. General provisions.
6303. Annual leave; accrual.
6304. Annual leave; accumulation.
6305. Home leave; leave for Chiefs of Missions.
6306. Annual leave; refund of lump-sum payment; recredit of annual leave.
6307. Sick leave; accrual and accumulation.
6308. Transfers between positions under different leave systems.
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SUBCHAPTER II—OTHER PAID LEAVE

Sec.
6321. Absence of veterans to attend funeral services.
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6324. Absence of certain police and firemen.
SUBCHAPTER I—ANNUAL AND SICK LEAVE

§ 6301. Definitions
For the purpose of this subchapter—

(1) "United States", when used in a geographical sense, means the several States and the District of Columbia; and

(2) "employee" means—

(A) an employee as defined by section 2105 of this title; and

(B) an individual employed by the government of the District of Columbia;

but does not include—

(i) a teacher or librarian of the public schools of the District of Columbia;

(ii) a part-time employee, except an hourly employee in the postal field service, who does not have an established regular tour of duty during the administrative workweek;

(iii) a temporary employee engaged in construction work at an hourly rate;

(iv) an employee of the Canal Zone Government or the Panama Canal Company when employed on the Isthmus of Panama;

(v) a physician, dentist, or nurse in the Department of Medicine and Surgery, Veterans' Administration;

(vi) an employee of either House of Congress or of the two Houses;

(vii) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(viii) an alien employee who occupies a position outside the United States, except as provided by section 6310 of this title;

(ix) a "teacher" or an individual holding a "teaching position" as defined by section 901 of title 20;

(x) an officer in the executive branch or in the government of the District of Columbia who is appointed by the President and whose rate of basic pay exceeds the highest rate payable under section 5332 of this title;

(xi) an officer in the executive branch or in the government of the District of Columbia who is designated by the President, except a postmaster, United States attorney, or United States marshal; or

(xii) an officer who receives pay under section 866 of title 22.

§ 6302. General provisions

(a) The days of leave provided by this subchapter are days on which an employee would otherwise work and receive pay and are exclusive of holidays and nonworkdays established by Federal statute, Executive order, or administrative order.

(b) For the purpose of this subchapter an employee is deemed employed for a full biweekly pay period if he is employed during the days within that period, exclusive of holidays and nonworkdays established by Federal statute, Executive order, or administrative order, which fall within his basic administrative workweek.

(c) A part-time employee, unless otherwise excepted, is entitled to the benefits provided by subsection (d) of this section and sections 6303, 6304 (a), (b), 6305 (a), 6307, and 6310 of this title on a pro rata basis.
(d) The annual leave provided by this subchapter, including annual leave that will accrue to an employee during the year, may be granted at any time during the year as the head of the agency concerned may prescribe.

(e) If an officer excepted from this subchapter by section 6301 (2) (x)-(xii) of this title, without a break in service, again becomes subject to this subchapter on completion of his service as an excepted officer, the unused annual and sick leave standing to his credit when he was excepted from this subchapter is deemed to have remained to his credit.

§ 6303. Annual leave; accrual

(a) An employee is entitled to annual leave with pay which accrues as follows—

(1) one-half day for each full biweekly pay period for an employee with less than 3 years of service;

(2) three-fourths day for each full biweekly pay period, except that the accrual for the last full biweekly pay period in the year is one and one-fourth days, for an employee with 3 but less than 15 years of service; and

(3) one day for each full biweekly pay period for an employee with 15 or more years of service.

In determining years of service, an employee is entitled to credit for all service creditable under section 8332 of this title for the purpose of an annuity under subchapter III of chapter 83 of this title. However, an employee who is a retired member of a uniformed service as defined by section 3501 of this title is entitled to credit for active military service 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 line of duty during a period of war as defined by sections 101 and 301 of title 38;

(B) that service was performed in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; 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.

The determination of years of service may be made on the basis of an affidavit of the employee. Leave provided by this subchapter accrues to an employee who is not paid on the basis of biweekly pay periods on the same basis as it would accrue if the employee were paid on the basis of biweekly pay periods.

(b) Notwithstanding subsection (a) of this section, an employee is entitled to annual leave under this subchapter only after being currently employed for a continuous period of 90 days under one or more appointments without a break in service. After completing the 90-day period, the employee is entitled to be credited with the leave that would have accrued to him under subsection (a) of this section except for this subsection.

(c) A change in the rate of accrual of annual leave by an employee under this section takes effect at the beginning of the pay period after the pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, in which the employee completed the prescribed period of service.

(d) Leave granted under this subchapter is exclusive of time actually and necessarily occupied in going to or from a post of duty and
time necessarily occupied awaiting transportation, in the case of an employee—

(1) to whom section 6304(b) of this title applies;
(2) whose post of duty is outside the United States; and
(3) who returns on leave to the United States, or to his place of residence, which is outside the area of employment, in its territories or possessions including the Commonwealth of Puerto Rico.

This subsection does not apply to more than one period of leave in a prescribed tour of duty at a post outside the United States.

§ 6304. Annual leave; accumulation

(a) Except as provided by subsection (b) of this section, annual leave provided by section 6303 of this title, which is not used by an employee, accumulates for use in succeeding years until it totals not more than 30 days at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year.

(b) Annual leave not used by an employee of the Government of the United States in one of the following classes of employees stationed outside the United States accumulates for use in succeeding years until it totals not more than 45 days at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year:

(1) Individuals directly recruited or transferred by the Government of the United States from the United States or its territories or possessions including the Commonwealth of Puerto Rico for employment outside the area of recruitment or from which transferred.

(2) Individuals employed locally but—

(A) (i) who were originally recruited from the United States or its territories or possessions including the Commonwealth of Puerto Rico but outside the area of employment;
(ii) who have been in substantially continuous employment by other agencies of the United States, United States firms, interests, or organizations, international organizations in which the United States participates, or foreign governments; and
(iii) whose conditions of employment provide for their return transportation to the United States or its territories or possessions including the Commonwealth of Puerto Rico;

or

(B) (i) who were at the time of employment temporarily absent, for the purpose of travel or formal study, from the United States, or from their respective places of residence in its territories or possessions including the Commonwealth of Puerto Rico; and
(ii) who, during the temporary absence, have maintained residence in the United States or its territories or possessions including the Commonwealth of Puerto Rico but outside the area of employment.

(3) Individuals who are not normally residents of the area concerned and who are discharged from service in the armed forces to accept employment with an agency of the Government of the United States.

(c) Annual leave in excess of the amount allowable—

(1) under subsection (a) or (b) of this section which was accumulated under earlier statute; or
(2) under subsection (a) of this section which was accumulated under subsection (b) of this section by an employee who becomes subject to subsection (a) of this section; remains to the credit of the employee until used. The excess annual leave is reduced at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year, by the amount of annual leave the employee used during the preceding year in excess of the amount which accrued during that year, until the employee's accumulated leave does not exceed the amount allowed under subsection (a) or (b) of this section, as appropriate.

§ 6305. Home leave; leave for Chiefs of Missions

(a) After 24 months of continuous service outside the United States, an employee may be granted leave of absence, under regulations of the President, at a rate not to exceed 1 week for each 4 months of that service without regard to other leave provided by this subchapter. Leave so granted—

(1) is for use in the United States, or if the employee's place of residence is outside the area of employment, in its territories or possessions including the Commonwealth of Puerto Rico;

(2) accumulates for future use without regard to the limitation in section 6304(b) of this title; and

(3) may not be made the basis for terminal leave or for a lump-sum payment.

(b) The President may authorize leave of absence to an officer excepted from this subchapter by section 6301(2) (xii) of this title for use in the United States and its territories or possessions. Leave so authorized does not constitute a leave system and may not be made the basis for a lump-sum payment.

§ 6306. Annual leave; refund of lump-sum payment; recredit of annual leave

(a) When an individual who received a lump-sum payment for leave under section 5551 of this title is reemployed before the end of the period covered by the lump-sum payment in or under the Government of the United States or the government of the District of Columbia, except in a position excepted from this subchapter by section 6301(2) (ii), (iii), (vi), or (vii) of this title, he shall refund to the employing agency an amount equal to the pay covering the period between the date of reemployment and the expiration of the lump-sum period.

(b) An amount refunded under subsection (a) of this section shall be deposited in the Treasury of the United States to the credit of the employing agency. When an individual is reemployed under the same leave system, an amount of leave equal to the leave represented by the refund shall be recredited to him in the employing agency. When an individual is reemployed under a different leave system, an amount of leave equal to the leave represented by the refund shall be recredited to him in the employing agency on an adjusted basis under regulations prescribed by the Civil Service Commission. When an individual is reemployed in a position excepted from this subchapter by section 6301(2) (x)-(xii) of this title, an amount of leave equal to the leave represented by the refund is deemed, on separation from the service, death, or transfer to another position in the service, to have remained to his credit.

§ 6307. Sick leave; accrual and accumulation

(a) An employee is entitled to sick leave with pay which accrues on the basis of one-half day for each full biweekly pay period, except that
sick leave with pay accrues to a member of the Firefighting Division of the Fire Department of the District of Columbia on the basis of two-fifths of a day for each full biweekly pay period.

(b) Sick leave provided by this section, which is not used by an employee, accumulates for use in succeeding years.

(c) When required by the exigencies of the situation, a maximum of 30 days sick leave with pay may be advanced for serious disability or ailment, except that a maximum of 24 days sick leave with pay may be advanced to a member of the Firefighting Division of the Fire Department of the District of Columbia.

§ 6308. Transfers between positions under different leave systems

The annual and sick leave to the credit of an employee who transfers between positions under different leave systems without a break in service shall be transferred to his credit in the employing agency on an adjusted basis under regulations prescribed by the Civil Service Commission, unless the individual is excepted from this subchapter by section 6301(2) (ii), (iii), (vi), or (vii) of this title. However, when a former member receiving a retirement annuity under sections 521-535 of title 4, District of Columbia Code, is reemployed in a position to which this subchapter applies, his sick leave balance may not be recredited to his account on the later reemployment.

§ 6309. Leave of absence; rural carriers

The authorized absence of a rural carrier on a Saturday which occurs at the beginning, within, or at the end of a period of annual or sick leave of at least 5 days' duration, or 4 days' duration if a holiday falls at the beginning, within, or at the end of the period of annual or sick leave, is without charge to leave or loss of pay. A Saturday occurring in a period of annual or sick leave taken in a smaller number of days, at the option of the carrier, may be charged to his accrued leave and when so charged he is entitled to be paid for that absence.

§ 6310. Leave of absence; aliens

The head of the agency concerned may grant leave of absence with pay, not in excess of the amount of annual and sick leave allowable to citizen employees under this subchapter, to alien employees who occupy positions outside the United States.

§ 6311. Regulations

The Civil Service Commission may prescribe regulations necessary for the administration of this subchapter.

SUBCHAPTER II—OTHER PAID LEAVE

§ 6321. Absence of veterans to attend funeral services

An employee in or under an Executive agency who is a veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized, or a member of an honor or ceremonial group of an organization of those veterans, may be excused from duty without loss of pay or deduction from annual leave for the time necessary, not to exceed 4 hours in any one day, to enable him to participate as an active pallbearer or as a member of a firing squad or a guard of honor in a funeral ceremony for a member of the armed forces whose remains are returned from abroad for final interment in the United States.
§ 6322. Leave for jury service

Except as provided by section 5515 of this title, the pay of an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia may not be reduced during a period of absence for jury service in a State court or a court of the United States because of the absence. The period of absence for jury service is without deduction from other leave of absence authorized by statute.

§ 6323. Military leave; Reserves and National Guardsmen

(a) An employee as defined by section 2105 of this title (except a substitute in the postal field service) or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, is entitled to leave without loss of pay, time, or performance or efficiency rating for each day, not in excess of 15 days in a calendar year, in which he is on active duty or is engaged in field or coast defense training under sections 502-505 of title 32 as a Reserve of the armed forces or member of the National Guard.

(b) A substitute employee in the postal field service is entitled to leave without loss of pay, time, or efficiency rating for absence, not in excess of 80 hours in a calendar year, because of active duty or field or coast defense training under sections 502-505 of title 32 as a Reserve of the armed forces or member of the National Guard. This leave is on the basis of 1 hour of leave for each period aggregating 26 hours of work performed during the calendar year immediately before the calendar year in which he is ordered to that duty or training. However, he is entitled to this leave only if he worked at least 1,040 hours during that calendar year.

§ 6324. Absence of certain police and firemen

(a) Sick leave may not be charged to the account of a member of the Metropolitan Police force or the Fire Department of the District of Columbia, the United States Park Police force, or the White House Police force for an absence due to injury or illness resulting from the performance of duty.

(b) The determination of whether an injury or illness resulted from the performance of duty shall be made under regulations prescribed by—

(1) the Commissioners of the District of Columbia for members of the Metropolitan Police force and the Fire Department of the District of Columbia;

(2) the Secretary of the Interior for the United States Park Police force; and

(3) the Secretary of the Treasury for the White House Police force.

Subpart F—Employee Relations

CHAPTER 71—POLICIES

SUBCHAPTER I—EMPLOYEE ORGANIZATIONS

See.

7101. Right to organize; postal employees.
7102. Right to petition Congress; employees.
SUBCHAPTER II—ANTIDISCRIMINATION IN
EMPLOYMENT

Sec.
7151. Policy.
7152. Marital status.
7153. Physical handicap.
7154. Other prohibitions.

SUBCHAPTER I—EMPLOYEE ORGANIZATIONS

§ 7101. Right to organize; postal employees
A postal employee may not be reduced in rank or pay or removed from the postal service because of—
(1) membership in an organization of postal employees having for its objects, among other things, improvements in the working conditions of its members, including hours of work, pay, and leave of absence, and which is not affiliated with an outside organization imposing an obligation on the employees to engage in a strike, or proposing to assist them in a strike, against the United States; or
(2) presenting, individually or as a member of a group of postal employees, a grievance to Congress or a Member of Congress.

§ 7102. Right to petition Congress; employees
The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.

SUBCHAPTER II—ANTIDISCRIMINATION IN
EMPLOYMENT

§ 7151. Policy
It is the policy of the United States to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex, or national origin. The President shall use his existing authority to carry out this policy.

§ 7152. Marital status
The President may prescribe rules which shall prohibit, as nearly as conditions of good administration warrant, discrimination because of marital status in an Executive agency or in the competitive service.

§ 7153. Physical handicap
The President may prescribe rules which shall prohibit, as nearly as conditions of good administration warrant, discrimination because of physical handicap in an Executive agency or in the competitive service with respect to a position the duties of which, in the opinion of the Civil Service Commission, can be performed efficiently by an individual with a physical handicap, except that the employment may not endanger the health or safety of the individual or others.

§ 7154. Other prohibitions
(a) The head of an Executive department or military department may appoint qualified women to positions in the department with the legal pay of the positions to which appointed.
(b) In the administration of chapter 51, subchapter III of chapter 53, and sections 305 and 3324 of this title, discrimination because of race, color, creed, sex, or marital status is prohibited with respect to an individual or a position held by an individual.
(c) The Civil Service Commission may prescribe regulations necessary for the administration of subsection (b) of this section.
CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT

SUBCHAPTER I—REGULATION OF CONDUCT

Sec.
7301. Presidential regulations.

SUBCHAPTER II—LOYALTY, SECURITY, AND STRIKING

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7311. Loyalty and striking.
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SUBCHAPTER III—POLITICAL ACTIVITIES

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SUBCHAPTER IV—FOREIGN DECORATIONS

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7341. Receipt and display of foreign decorations.

SUBCHAPTER V—MISCONDUCT

Sec.
7351. Gifts to superiors.
7352. Excessive and habitual use of intoxicants.

SUBCHAPTER I—REGULATION OF CONDUCT

§ 7301. Presidential regulations

The President may prescribe regulations for the conduct of employees in the executive branch.

SUBCHAPTER II—LOYALTY, SECURITY, AND STRIKING

§ 7311. Loyalty and striking

An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

1. advocates the overthrow of our constitutional form of government;
2. is a member of an organization that he knows advocates the overthrow of our constitutional form of government;
3. participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or
4. is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

§ 7312. Employment and clearance; individuals removed for national security

Removal under section 7532 of this title does not affect the right of an individual so removed to seek or accept employment in an agency of the United States other than the agency from which removed. However, the appointment of an individual so removed may be made only after the head of the agency concerned has consulted with the Civil
Service Commission. The Commission, on written request of the head of the agency or the individual so removed, may determine whether the individual is eligible for employment in an agency other than the agency from which removed.

SUBCHAPTER III—POLITICAL ACTIVITIES

§ 7321. Political contributions and services
The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service is not obliged, by reason of that employment, to contribute to a political fund or to render political service, and that he may not be removed or otherwise prejudiced for refusal to do so.

§ 7322. Political use of authority or influence; prohibition
The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service may not use his official authority or influence to coerce the political action of a person or body.

§ 7323. Political contributions; prohibition
An employee in an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate) may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes. An employee who violates this section shall be removed from the service.

§ 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions
(a) An employee in an Executive agency or an individual employed by the government of the District of Columbia may not—

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

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

For the purpose of this subsection, 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.

(b) An employee or individual to whom subsection (a) of this section applies retains the right to vote as he chooses and to express his opinion on political subjects and candidates.

(c) Subsection (a) of this section does not apply to an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization.

(d) Subsection (a) (2) of this section does not apply to—

(1) an employee paid from the appropriation for the office of the President;

(2) the head or the assistant head of an Executive department or military department;

(3) an employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be
pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;
(4) the Commissioners of the District of Columbia; or

§ 7325. Penalties
An employee or individual who violates section 7324 of this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Civil Service Commission finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Commission.

§ 7326. Nonpartisan political activity permitted
Section 7324(a) (2) 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 or political party of a territory or possession of the United States.

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 or political party of a territory or possession of the United States.

§ 7327. Political activity permitted; employees residing in certain municipalities
(a) Section 7324 (a) (2) of this title does not apply to an employee of The Alaska Railroad who resides in a municipality on the line of the railroad in respect to political activities involving that municipality.

(b) The Civil Service Commission may prescribe regulations permitting employees and individuals to whom section 7324 of this title applies to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Commission considers it to be in their domestic interest, when—
(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and
(2) the Commission determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

SUBCHAPTER IV—FOREIGN DECORATIONS

§ 7341. Receipt and display of foreign decorations
A present, decoration, or other thing presented or conferred by a foreign government to an employee, a Member of Congress, the President, or a member of a uniformed service shall be tendered through the Department of State and not to the individual in person.
The Department may deliver the present, decoration, or thing to the individual in person only if authorized by statute. After delivery is authorized by statute, the individual may not publicly show or wear the present, decoration, or thing. The Secretary of State shall furnish the 89th Congress and each alternate Congress thereafter a list of retired individuals for whom the Department of State is holding a present, decoration, or thing under this section.

**SUBCHAPTER V—MISCONDUCT**

§ 7351. Gifts to superiors
An employee may not—
1. solicit a contribution from another employee for a gift to an official superior;
2. make a donation as a gift to an official superior; or
3. accept a gift from an employee receiving less pay than himself.
An employee who violates this section shall be removed from the service.

§ 7352. Excessive and habitual use of intoxicants
An individual who habitually uses intoxicating beverages to excess may not be employed in the competitive service.

**CHAPTER 75—ADVERSE ACTIONS**

**SUBCHAPTER I—COMPETITIVE SERVICE**

Sec. 7501. Cause; procedure; exception.

**SUBCHAPTER II—PREFERENCE ELIGIBLES**

Sec. 7511. Definitions.
7512. Cause; procedure; exception.

**SUBCHAPTER III—HEARING EXAMINERS**

Sec. 7521. Removal.

**SUBCHAPTER IV—NATIONAL SECURITY**

Sec. 7531. Definitions.
7532. Suspension and removal.
7533. Effect on other statutes.

**SUBCHAPTER I—COMPETITIVE SERVICE**

§ 7501. Cause; procedure; exception
(a) An individual in the competitive service may be removed or suspended without pay only for such cause as will promote the efficiency of the service.
(b) An individual in the competitive service whose removal or suspension without pay is sought is entitled to reasons in writing and to—
1. notice of the action sought and of any charges preferred against him;
2. a copy of the charges;
3. a reasonable time for filing a written answer to the charges, with affidavits; and
4. a written decision on the answer at the earliest practicable date.
Examination of witnesses, trial, or hearing is not required but may be provided in the discretion of the individual directing the removal or suspension without pay. Copies of the charges, the notice of hearing, the answer, the reasons for and the order of removal or suspension without pay, and also the reasons for reduction in grade or pay, shall be made a part of the records of the employing agency, and, on request, shall be furnished to the individual affected and to the Civil Service Commission.

(c) This section applies to a preference eligible employee as defined by section 7511 of this title only if he so elects. This section does not apply to the suspension or removal of an employee under section 7532 of this title.

SUBCHAPTER II—PREFERENCE ELIGIBLES

§ 7511. Definitions
For the purpose of this subchapter—
(1) "preference eligible employee" means a permanent or indefinite preference eligible who has completed a probationary or trial period as an employee of an Executive agency or as an individual employed by the government of the District of Columbia, but does not include 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; and
(2) "adverse action" means a removal, suspension for more than 30 days, furlough without pay, or reduction in rank or pay.

§ 7512. Cause; procedure; exception
(a) An agency may take adverse action against a preference eligible employee, or debar him for future appointment, only for such cause as will promote the efficiency of the service.
(b) A preference eligible employee against whom adverse action is proposed is entitled to—
(1) at least 30 days' advance written notice, except when there is reasonable cause to believe him guilty of a crime for which a sentence of imprisonment can be imposed, stating any and all reasons, specifically and in detail, for the proposed action;
(2) a reasonable time for answering the notice personally and in writing and for furnishing affidavits in support of the answer; and
(3) a notice of an adverse decision.
(c) This section does not apply to the suspension or removal of a preference eligible employee under section 7532 of this title.

SUBCHAPTER III—HEARING EXAMINERS

§ 7521. Removal
A hearing examiner appointed under section 3105 of this title may be removed by the agency in which he is employed only for good cause established and determined by the Civil Service Commission on the record after opportunity for hearing.

SUBCHAPTER IV—NATIONAL SECURITY

§ 7531. Definitions
For the purpose of this subchapter, "agency" means—
(1) the Department of State;
(2) the Department of Commerce;
(3) the Department of Justice;
(4) the Department of Defense;
(5) a military department;
(6) the Coast Guard;
(7) the Atomic Energy Commission;
(8) the National Aeronautics and Space Administration; and
(9) such other agency of the Government of the United States as
the President designates in the best interests of national
security.

The President shall report any designation to the Committees on the
Armed Services of the Congress.

§ 7532. Suspension and removal

(a) Notwithstanding other statutes, the head of an agency may sus-
pend without pay an employee of his agency when he considers that
action necessary in the interests of national security. To the extent
that the head of the agency determines that the interests of national
security permit, the suspended employee shall be notified of the reasons
for the suspension. Within 30 days after the notification, the sus-
pended employee is entitled to submit to the official designated by the
head of the agency statements or affidavits to show why he should be
restored to duty.

(b) Subject to subsection (c) of this section, the head of an agency
may remove an employee suspended under subsection (a) of this
section when, after such investigation and review as he considers
necessary, he determines that removal is necessary or advisable in
the interests of national security. The determination of the head
of the agency is final.

(c) An employee suspended under subsection (a) of this section
who—

(1) has a permanent or indefinite appointment;
(2) has completed his probationary or trial period; and
(3) is a citizen of the United States;

is entitled, after suspension and before removal, to—

(A) a written statement of the charges against him within 30
days after suspension, which may be amended within 30 days
thereafter and which shall be stated as specifically as security
considerations permit;

(B) an opportunity within 30 days thereafter, plus an addi-
tional 30 days if the charges are amended, to answer the charges
and submit affidavits;

(C) a hearing, at the request of the employee, by an agency
authority duly constituted for this purpose;

(D) a review of his case by the head of the agency or his
designee, before a decision adverse to the employee is made final;

and

(E) a written statement of the decision of the head of the
agency.

§ 7533. Effect on other statutes

This subchapter does not impair the powers vested in the Atomic
Energy Commission by chapter 23 of title 42, or the requirement in
section 2201(d) of title 42 that adequate provision be made for ad-
ministrative review of a determination to dismiss an employee of the
Atomic Energy Commission.
CHAPTER 77—APPEALS

§7701. Appeals of preference eligibles

A preference eligible employee as defined by section 7511 of this title is entitled to appeal to the Civil Service Commission from an adverse decision under section 7512 of this title of an administrative authority so acting. The employee shall submit the appeal in writing within a reasonable time after receipt of notice of the adverse decision, and is entitled to appear personally or through a representative under regulations prescribed by the Commission. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority and shall send copies of the findings and recommendations to the appellant or his representative. The administrative authority shall take the corrective action that the Commission finally recommends.

CHAPTER 79—SERVICES TO EMPLOYEES

§7901. Health service programs

(a) The head of each agency of the Government of the United States may establish, within the limits of appropriations available, a health service program to promote and maintain the physical and mental fitness of employees under his jurisdiction.

(b) A health service program may be established by contract or otherwise, but only—

(1) after consultation with the Public Health Service and consideration of its recommendations; and

(2) in localities where there are a sufficient number of employees to warrant providing the service.

(c) A health service program is limited to—

(1) treatment of on-the-job illness and dental conditions requiring emergency attention;

(2) preemployment and other examinations;

(3) referral of employees to private physicians and dentists; and

(4) preventive programs relating to health.

(d) The Public Health Service, on request, shall review a health service program conducted under this section and shall submit comment and recommendations to the head of the agency concerned.

(e) When this section authorizes the use of the professional services of physicians, that authorization includes the use of the professional services of surgeons and osteopathic practitioners within the scope of their practice as defined by State law.

(f) The health programs conducted by the following agencies are not affected by this section—

(1) the Tennessee Valley Authority;

(2) the Canal Zone Government; and

(3) the Panama Canal Company.

§7902. Safety programs

(a) For the purpose of this section—

(1) "employee" means an employee as defined by section 8101 of this title; and
(2) "agency" means an agency in any branch of the Government of the United States, including an instrumentality wholly owned by the United States, and the government of the District of Columbia.

(b) The Secretary of Labor shall carry out a safety program under section 941(b)(1) of title 33 covering the employment of each employee of an agency.

(c) The President may—

(1) establish by Executive order a safety council composed of representatives of the agencies to serve as an advisory body to the Secretary in furtherance of the safety program carried out by the Secretary under subsection (b) of this section; and

(2) undertake such other measures as he considers proper to prevent injuries and accidents to employees of the agencies.

(d) The head of each agency shall develop and support organized safety promotion to reduce accidents and injuries among employees of his agency, encourage safe practices, and eliminate work hazards and health risks.

(e) Each agency shall—

(1) keep a record of injuries and accidents to its employees whether or not they result in loss of time or in the payment or furnishing of benefits; and

(2) make such statistical or other reports on such forms as the Secretary may prescribe by regulation.

§ 7903. Protective clothing and equipment

Appropriations available for the procurement of supplies and material or equipment are available for the purchase and maintenance of special clothing and equipment for the protection of personnel in the performance of their assigned tasks. For the purpose of this section, "appropriations" includes funds made available by statute under section 849 of title 31.

Subpart G—Insurance and Annuities

CHAPTER 81—COMPENSATION FOR WORK INJURIES

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SUBCHAPTER I—GENERALLY

§ 8101. Definitions
For the purpose of this subchapter—
(1) "employee" means—
   (A) a civil officer or employee in any branch of the Government of the United States, including an officer or employee of an instrumentality wholly owned by the United States;
   (B) an individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service, or authorizes payment of travel or other expenses of the individual;
   (C) an individual, other than an independent contractor or an individual employed by an independent contractor, employed on the Menominee Indian Reservation in Wisconsin in operations conducted under a statute relating to tribal timber and logging operations on that reservation;
   (D) an individual employed by the government of the District of Columbia; and
   (E) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);
but does not include—
   (i) a commissioned officer of the Regular Corps of the Public Health Service;
   (ii) a commissioned officer of the Reserve Corps of the Public Health Service on active duty;
(iii) a commissioned officer of the Coast and Geodetic Survey; or
(iv) a member of the Metropolitan Police or the Fire Department of the District of Columbia who is pensioned or pensionable under sections 521-535 of title 4, District of Columbia Code;

(2) “physician” includes surgeons and osteopathic practitioners within the scope of their practice as defined by State law;

(3) “medical, surgical, and hospital services and supplies” includes services and supplies by osteopathic practitioners and hospitals within the scope of their practice as defined by State law;

(4) “monthly pay” means the monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if the recurrence begins more than 6 months after the injured employee resumes regular full-time employment with the United States, whichever is greater, except when otherwise determined under section 8113 of this title with respect to any period;

(5) “injury” includes, in addition to injury by accident, a disease proximately caused by the employment;

(6) “widow” means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion;

(7) “parent” includes stepparents and parents by adoption;

(8) “brother” and “sister” mean one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers or married sisters;

(9) “child” means one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and includes stepchildren, adopted children, and posthumous children, but does not include married children;

(10) “grandchild” means one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support;

(11) “widower” means one who, because of physical or mental disability, was wholly dependent for support on the employee at the time of her death;

(12) “compensation” includes the money allowance payable to an employee or his dependents and any other benefits paid for from the Employees’ Compensation Fund, but this does not in any way reduce the amount of the monthly compensation payable for disability or death;

(13) “war-risk hazard” means a hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring in the country in which an individual to whom this subchapter applies is serving; from—

(A) the discharge of a missile, including liquids and gas, or the use of a weapon, explosive, or other noxious thing by a hostile force or individual or in combating an attack or an imagined attack by a hostile force or individual;

(B) action of a hostile force or individual, including rebellion or insurrection against the United States or any of its allies;
(C) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or individual;
(D) the collision of vessels on convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or
(E) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities;

(14) "hostile force or individual" means a nation, a subject of a foreign nation, or an individual serving a foreign nation—
(A) engaged in a war against the United States or any of its allies;
(B) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies; or
(C) engaged in a war or armed conflict between military forces of any origin in a country in which an individual to whom this subchapter applies is serving;

(15) "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance; and

(16) "war activities" includes activities directly relating to military operations.

§ 8102. Compensation for disability or death of employee

(a) The United States shall pay compensation as specified by this subchapter for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty, unless the injury or death is—
(1) caused by willful misconduct of the employee;
(2) caused by the employee's intention to bring about the injury or death of himself or of another; or
(3) proximately caused by the intoxication of the injured employee.

(b) Disability or death from a war-risk hazard or during or as a result of capture, detention, or other restraint by a hostile force or individual, suffered by an employee who is employed outside the continental United States or in Alaska or in the Canal Zone, is deemed to have resulted from personal injury sustained while in the performance of his duty, whether or not the employee was engaged in the course of employment when the disability or disability resulting in death occurred or when he was taken by the hostile force or individual. This subsection does not apply to an individual—
(1) whose residence is at or in the vicinity of the place of his employment and who was not living there solely because of the exigencies of his employment, unless he was injured or taken while engaged in the course of his employment; or
(2) who is a prisoner of war or a protected individual under the Geneva Conventions of 1949 and is detained or utilized by the United States.

This subsection does not affect the payment of compensation under this subchapter derived otherwise than under this subsection, but compensation for disability or death does not accrue for a period for which pay, other benefit, or gratuity from the United States accrues to the disabled individual or his dependents on account of detention by the enemy or because of the same disability or death, unless that pay, benefit, or gratuity is refunded or renounced.
§ 8103. Medical services and initial medical and other benefits

(a) The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation. These services, appliances, and supplies shall be furnished—

(1) whether or not disability has arisen;
(2) notwithstanding that the employee has accepted or is entitled to receive benefits under subchapter III of chapter 83 of this title; and
(3) by or on the order of United States medical officers and hospitals, or, when this is not practicable, by or on the order of private physicians and hospitals designated or approved by the Secretary.

The employee may be furnished transportation and may be paid all expenses incident to the securing of these services, appliances, and supplies which the Secretary considers necessary and reasonable. These expenses, when authorized or approved by the Secretary, shall be paid from the Employees' Compensation Fund.

(b) The Secretary, under such limitations or conditions as he considers necessary, may authorize the employing agencies to provide for the initial furnishing of medical and other benefits under this section. The Secretary may certify vouchers for these expenses out of the Employees' Compensation Fund when the immediate superior of the employee certifies that the expense was incurred in respect to an injury which was accepted by the employing agency as probably compensable under this subchapter. The Secretary shall prescribe the form and content of the certificate.

§ 8104. Vocational rehabilitation

The Secretary of Labor may direct a permanently disabled individual whose disability is compensable under this subchapter to undergo vocational rehabilitation. The Secretary shall provide for furnishing the vocational rehabilitation services. In providing for these services, the Secretary, insofar as practicable, shall use the services or facilities of State agencies and corresponding agencies which cooperate with the Secretary of Health, Education, and Welfare in carrying out the purposes of chapter 4 of title 29, except to the extent that the Secretary of Labor provides for furnishing these services under section 8103 of this title. The cost of providing these services to individuals undergoing vocational rehabilitation under this section shall be paid from the Employees' Compensation Fund. However, in reimbursing a State or corresponding agency under an arrangement pursuant to this section the cost to the agency reimbursable in full under section 32(b)(1) of title 29 is excluded.

§ 8105. Total disability

(a) If the disability is total, the United States shall pay the employee during the disability monthly monetary compensation equal to 66 2/3 percent of his monthly pay, which is known as his basic compensation for total disability.

(b) The loss of use of both hands, both arms, both feet, or both legs, or the loss of sight of both eyes, is prima facie permanent total disability.
§ 8106. Partial disability

(a) If the disability is partial, the United States shall pay the employee during the disability monthly monetary compensation equal to 66\(\frac{2}{3}\) percent of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of the partial disability, which is known as his basic compensation for partial disability.

(b) The Secretary of Labor may require a partially disabled employee to report his earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies. The employee shall include in the affidavit or report the value of housing, board, lodging, and other advantages which are part of his earnings in employment or self-employment and which can be estimated in money. An employee who—

(1) fails to make an affidavit or report when required; or

(2) knowingly omits or understates any part of his earnings; forfeits his right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129 of this title, unless recovery is waived under that section.

(c) A partially disabled employee who—

(1) refuses to seek suitable work; or

(2) refuses or neglects to work after suitable work is offered to, procured by, or secured for him;

is not entitled to compensation.

§ 8107. Compensation schedule

(a) If there is a permanent disability involving—

(1) solely the loss of use of a member or function of the body, whether or not the cause of the disability originates in a part of the body other than the member; or

(2) disfigurement as provided by the schedule in subsection (c) of this section;

the employee is entitled to basic compensation for the period specified by the schedule at the rate of 66\(\frac{2}{3}\) percent of his monthly pay. The basic compensation is—

(A) in addition to compensation for temporary total or temporary partial disability; and

(B) instead of compensation for permanent disability, except in a case involving disfigurement and as otherwise provided by subsection (b) of this section.

(b) If an injury causes the total and permanent loss of use of an arm, a hand, a leg, a foot, or an eye, including loss of binocular vision, or total and permanent loss of hearing in both ears, whether or not the disability also involves other impairment of the body, the individual is entitled—

(1) for the period specified by the schedule in subsection (c) of this section, to basic compensation at the rate of 66\(\frac{2}{3}\) percent of his monthly pay; and

(2) for a later period, to basic compensation as provided by—

(A) section 8105 of this title if the disability is total; or

(B) section 8106 of this title if the disability is partial.

The basic compensation is in addition to compensation for periods of temporary total or temporary partial disability, and is payable notwithstanding subsection (a) of this section and sections 8105 and 8106 of this title.
(c) The compensation schedule is as follows:

1. Arm lost, 312 weeks' compensation.
2. Leg lost, 288 weeks' compensation.
3. Hand lost, 244 weeks' compensation.
4. Foot lost, 205 weeks' compensation.
5. Eye lost, 160 weeks' compensation.
6. Thumb lost, 75 weeks' compensation.
7. First finger lost, 46 weeks' compensation.
8. Great toe lost, 38 weeks' compensation.
9. Second finger lost, 30 weeks' compensation.
10. Third finger lost, 25 weeks' compensation.
11. Toe other than great toe lost, 16 weeks' compensation.
12. Fourth finger lost, 15 weeks' compensation.
13. Loss of hearing—
   (A) complete loss of hearing of one ear, 52 weeks' compensation; or
   (B) complete loss of hearing of both ears, 200 weeks' compensation.
14. Compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is the same as for loss of the eye.
15. Compensation for loss of more than one phalanx of a digit is the same as for loss of the entire digit. Compensation for loss of the first phalanx is one-half of the compensation for loss of the entire digit.
16. If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation is the same as for loss of the arm or leg, respectively.
17. Compensation for loss of use of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, is proportioned to the loss of use of the hand or foot occasioned thereby.
18. Compensation for permanent total loss of use of a member is the same as for loss of the member.
19. Compensation for permanent partial loss of use of a member may be for proportionate loss of use of the member. The degree of loss of vision or hearing under this schedule is determined without regard to correction.
20. In case of loss of use of more than one member or parts of more than one member as enumerated by this schedule, the compensation is for loss of use of each member or part thereof, and the awards run consecutively. However, when the injury affects only two or more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is computed on the loss as affecting both ears.
21. For serious disfigurement of the face, head, or neck of a character likely to handicap an individual in securing or maintaining employment, proper and equitable compensation not to exceed $3,500 shall be awarded in addition to any other compensation payable under this schedule.
§ 8108. Reduction of compensation for subsequent injury to same member

The period of compensation payable under the schedule in section 8107(c) of this title is reduced by the period of compensation paid or payable under the schedule for an earlier injury if—

(1) compensation in both cases is for disability of the same member or function or different parts of the same member or function or for disfigurement; and

(2) the Secretary of Labor finds that compensation payable for the later disability in whole or in part would duplicate the compensation payable for the preexisting disability.

In such a case, for the purposes of disabilities specified by section 8107(b) of this title, compensation for disability continuing after the scheduled period starts on expiration of that period as reduced under this section.

§ 8109. Beneficiaries of awards unpaid at death; order of precedence

(a) If an individual—

(1) has sustained disability compensable under section 8107(a) of this title, including a disability compensable under the schedule in section 8107(c) of this title because of section 8107(b) of this title;

(2) has filed a valid claim in his lifetime; and

(3) dies from a cause other than the injury before the end of the period specified by the schedule;

the compensation specified by the schedule that is unpaid at his death, whether or not accrued or due at his death, shall be paid—

(A) under an award made before or after the death;

(B) for the period specified by the schedule;

(C) to and for the benefit of the persons then in being within the classes and proportions and on the conditions specified by this section; and

(D) in the following order of precedence:

(i) If there is no child, to the widow or widower.

(ii) If there are both a widow or widower and a child or children, one-half to the widow or widower and one-half to the child or children.

(iii) If there is no widow or widower, to the child or children.

(iv) If there is no survivor in the above classes, to the parent or parents wholly or partly dependent for support on the decedent, or to other wholly dependent relatives listed by section 8133(a)(5) of this title, or to both in proportions provided by regulation.

(v) If there is no survivor in the above classes and no burial allowance is payable under section 8134 of this title, an amount not exceeding that which would be expendable under section 8134 of this title if applicable shall be paid to reimburse a person equitably entitled thereto to the extent and in the proportion that he has paid the burial expenses, but a compensated insurer or other person obligated by law or contract to pay the burial expenses or a State or political subdivision or entity is deemed not equitably entitled.

(b) Payments under subsection (a) of this section, except for an amount payable for a period preceding the death of the individual, are at the basic rate of compensation for permanent disability speci-
fied by section 8107(a) of this title even if at the time of death the individual was entitled to the augmented rate specified by section 8110 of this title.

c) A surviving beneficiary under subsection (a) of this section, except one under subsection (a) (D) (v), does not have a vested right to payment and must be alive to receive payment.

d) A beneficiary under subsection (a) of this section, except one under subsection (a) (D) (v), ceases to be entitled to payment on the happening of an event which would terminate his right to compensation for death under section 8133 of this title. When that entitlement ceases, compensation remaining unpaid under subsection (a) of this section is payable to the surviving beneficiary in accordance with subsection (a) of this section.

§ 8110. Augmented compensation for dependents

(a) For the purpose of this section, "dependent" means—

(1) a wife, if—

(A) she is a member of the same household as the employee;
(B) she is receiving regular contributions from the employee for her support; or
(C) the employee has been ordered by a court to contribute to her support;

(2) a husband, if wholly dependent on the employee for support because of his own physical or mental disability;

(3) an unmarried child, while living with the employee or receiving regular contributions from the employee toward his support, and who is—

(A) under 18 years of age; or
(B) over 18 years of age and incapable of self-support because of physical or mental disability; and

(4) a parent, while wholly dependent on and supported by the employee.

(b) A disabled employee with one or more dependents is entitled to have his basic compensation for disability augmented—

(1) at the rate of 8 1/3 percent of his monthly pay if that compensation is payable under section 8105 or 8107(a) of this title including compensation payable under the schedule in section 8107(c) by virtue of section 8107(b) of this title; and
(2) at the rate of 8 1/2 percent of the difference between his monthly pay and his monthly wage-earning capacity if that compensation is payable under section 8106(a) of this title.

However, for a period of temporary total disability the augmentation of basic compensation for disability payable under section 8105 of this title is limited to that part of the monthly pay of the employee which is not in excess of $420.

§ 8111. Additional compensation for services of attendants or vocational rehabilitation

(a) The Secretary of Labor may pay an employee who has been awarded compensation an additional sum of not more than $125 a month, as the Secretary considers necessary, when the Secretary finds that the service of an attendant is necessary constantly because the employee is totally blind, or has lost the use of both hands or both feet, or is paralyzed and unable to walk, or because of other disability resulting from the injury making him so helpless as to require constant attendance.
(b) The Secretary may pay an individual undergoing vocational rehabilitation under section 8104 of this title additional compensation necessary for his maintenance, but not to exceed $100 a month.

§ 8112. Maximum and minimum monthly payments

Except as provided by section 8138 of this title, the monthly rate of compensation for disability, including augmented compensation under section 8110 of this title but not including additional compensation under section 8111 of this title, may not exceed $525 a month, and in case of total disability may not be less than $180 a month or the amount of the monthly pay of the employee, whichever is less.

§ 8113. Increase or decrease of basic compensation

(a) If an individual—

(1) was a minor or employed in a learner's capacity at the time of injury; and

(2) was not physically or mentally handicapped before the injury;

the Secretary of Labor, on review under section 8128 of this title after the time the wage-earning capacity of the individual would probably have increased but for the injury, shall recompute prospectively the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to the probable increased wage-earning capacity.

(b) The Secretary, on review under section 8128 of this title after a disabled employee becomes 70 years of age and his wage-earning capacity would probably have decreased because of old age aside from and independently of the effects of the injury, shall recompute prospectively the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to the probable decreased wage-earning capacity.

(c) If an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed under section 8104 of this title, the Secretary, on review under section 8128 of this title and after finding that in the absence of the failure the wage-earning capacity of the individual would probably have substantially increased, may reduce prospectively the monetary compensation of the individual in accordance with what would probably have been his wage-earning capacity in the absence of the failure, until the individual in good faith complies with the direction of the Secretary.

§ 8114. Computation of pay

(a) For the purpose of this section—

(1) "overtime pay" means pay for hours of service in excess of a statutory or other basic workweek or other basic unit of worktime, as observed by the employing establishment; and

(2) "year" means a period of 12 calendar months, or the equivalent thereof as specified by regulations prescribed by the Secretary of Labor.

(b) In computing monetary compensation for disability or death on the basis of monthly pay, that pay is determined under this section.

(c) The monthly pay at the time of injury is deemed one-twelfth of the average annual earnings of the employee at that time. When compensation is paid on a weekly basis, the weekly equivalent of the monthly pay is deemed one-fifty-second of the average annual earnings. However, for so much of a period of total disability as does not exceed 90 calendar days from the date of the beginning of compensable disability, the compensation, in the discretion of the Secre-
tary of Labor, may be computed on the basis of the actual daily wage of the employee at the time of injury in which event he may be paid compensation for the days he would have worked but for the injury.

(d) Average annual earnings are determined as follows:

(1) If the employee worked in the employment in which he was employed at the time of his injury during substantially the whole year immediately preceding the injury and the employment was in a position for which an annual rate of pay—

(A) was fixed, the average annual earnings are the annual rate of pay; or

(B) was not fixed, the average annual earnings are the product obtained by multiplying his daily wage for the particular employment, or the average thereof if the daily wage has fluctuated, by 300 if he was employed on the basis of a 6-day workweek, 280 if employed on the basis of a 5½-day week, and 260 if employed on the basis of a 5-day week.

(2) If the employee did not work in employment in which he was employed at the time of his injury during substantially the whole year immediately preceding the injury, but the position was one which would have afforded employment for substantially a whole year, the average annual earnings are a sum equal to the average annual earnings of an employee of the same class working substantially the whole immediately preceding year in the same or similar employment by the United States in the same or neighboring place, as determined under paragraph (1) of this subsection.

(3) If either of the foregoing methods of determining the average annual earnings cannot be applied reasonably and fairly, the average annual earnings are a sum that reasonably represents the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury having regard to the previous earnings of the employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring location, other previous employment of the employee, or other relevant factors. However, the average annual earnings may not be less than 150 times the average daily wage the employee earned in the employment during the days employed within 1 year immediately preceding his injury.

(4) If the employee served without pay or at nominal pay, paragraphs (1), (2), and (3) of this subsection apply as far as practicable, but the average annual earnings of the employee may not exceed the minimum rate of basic pay for GS-15. If the average annual earnings cannot be determined reasonably and fairly in the manner otherwise provided by this section, the average annual earnings shall be determined at the reasonable value of the service performed but not in excess of $3,600 a year.

(e) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money, is included as part of the pay, but account is not taken of—

(1) overtime pay;

(2) additional pay or allowance authorized outside the United States because of differential in cost of living or other special circumstances; or

(3) bonus or premium pay for extraordinary service including bonus or pay for particularly hazardous service in time of war.
§ 8115. Determination of wage-earning capacity

(a) In determining compensation for partial disability, except permanent partial disability compensable under sections 8107-8109 of this title, the wage-earning capacity of an employee is determined by his actual earnings if his actual earnings fairly and reasonably represent his wage-earning capacity. If the actual earnings of the employee do not fairly and reasonably represent his wage-earning capacity or if the employee has no actual earnings, his wage-earning capacity as appears reasonable under the circumstances is determined with due regard to—

1) the nature of his injury;
2) the degree of physical impairment;
3) his usual employment;
4) his age;
5) his qualifications for other employment;
6) the availability of suitable employment; and
7) other factors or circumstances which may affect his wage-earning capacity in his disabled condition.

(b) Section 8114(d) of this title is applicable in determining the wage-earning capacity of an employee after the beginning of partial disability.

§ 8116. Limitations on right to receive compensation

(a) While an employee is receiving compensation under this subchapter, or if he has been paid a lump sum in commutation of installment payments until the expiration of the period during which the installment payments would have continued, he may not receive salary, pay, or remuneration of any type from the United States, except—

1) in return for service actually performed; and
2) pension for service in the Army, Navy, or Air Force.

However, eligibility for or receipt of benefits under subchapter III of chapter 83 of this title does not impair the right of the employee to compensation for scheduled disabilities specified by section 8107(c) of this title.

(b) An individual entitled to benefits under this subchapter because of his injury, or because of the death of an employee, who also is entitled to receive from the United States under a provision of statute other than this subchapter payments or benefits for that injury or death (except proceeds of an insurance policy), because of service by him (or in the case of death, by the deceased) as an employee or in the armed forces, shall elect which benefits he will receive. The individual shall make the election within 1 year after the injury or death or within a further time allowed for good cause by the Secretary of Labor. The election when made is irrevocable, except as otherwise provided by statute.

(c) The liability of the United States or an instrumentality thereof under this subchapter or any extension thereof with respect to the injury or death of an employee is exclusive and instead of all other liability of the United States or the instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and any other person otherwise entitled to recover damages from the United States or the instrumentality because of the injury or death in a direct judicial proceeding, in a civil action, or in admiralty, or by an administrative or judicial proceeding under a workmen's compensation statute or under a Federal tort liability statute. However, this subsection does not apply to a master or a member of a crew of a vessel.
§ 8117. Time of accrual of right
An employee is not entitled to compensation for the first 3 days of temporary disability, except—
(1) when the disability exceeds 21 days;
(2) when the disability is followed by permanent disability; or
(3) as provided by sections 8103 and 8104 of this title.

§ 8118. Election to use annual or sick leave
An employee may use annual or sick leave to his credit at the time disability begins, but his compensation for disability does not begin, and the time periods specified by section 8117 of this title do not begin to run, until the use of the annual or sick leave ends.

§ 8119. Notice of injury; failure to give
(a) An employee injured in the performance of his duty, or someone on his behalf, shall give notice thereof. The notice shall—
(1) be given within 48 hours after the injury;
(2) be given to the immediate superior of the employee by personal delivery or by depositing it in the mail properly stamped and addressed;
(3) be in writing;
(4) state the name and address of the employee;
(5) state the year, month, day, and hour when and the particular locality where the injury occurred;
(6) state the cause and nature of the injury; and
(7) be signed by and contain the address of the individual giving the notice.
(b) Compensation may be allowed only if the notice is given within 48 hours after the injury or if the immediate superior of the employee has actual knowledge of the injury. However, the Secretary of Labor may allow compensation if—
(1) the notice is filed within 1 year after the injury and reasonable cause for the delay is shown; or
(2) the requirement for 48 hours’ notice is waived under section 8122 of this title.

§ 8120. Report of injury
Immediately after an injury to an employee which results in his death or probable disability, his immediate superior shall report to the Secretary of Labor. The Secretary may—
(1) prescribe the information that the report shall contain;
(2) require the immediate superior to make supplemental reports; and
(3) obtain such additional reports and information from employees as are agreed on by the Secretary and the head of the employing agency.

§ 8121. Claim
Compensation under this subchapter may be allowed only if an individual or someone on his behalf makes claim therefor. The claim shall—
(1) be made in writing within the time specified by section 8122 of this title;
(2) be delivered to the office of the Secretary of Labor or to an individual whom the Secretary may designate by regulation, or deposited in the mail properly stamped and addressed to the Secretary or his designee;
(3) be on a form furnished by the Secretary;
(4) contain all information required by the Secretary;
(5) be sworn to by the individual entitled to compensation or someone on his behalf; and
(6) except in case of death, be accompanied by a certificate of the physician of the employee stating the nature of the injury and the nature and probable extent of the disability.

The Secretary may waive paragraphs (3)-(6) of this section for reasonable cause shown.

§ 8122. Time for making claim
(a) An original claim for compensation—
   (1) for death shall be made within 1 year after the death; and
   (2) for disability shall be made within 60 days after the injury.

However, the Secretary of Labor may allow an original claim for disability to be made within 1 year after the injury for reasonable cause shown.

(b) In a case of latent disability due to radiation or other cause, the time for filing claim does not begin to run until the employee has a compensable disability and is aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship of the compensable disability to his employment. In such a case, the time for giving notice of injury begins to run when the employee is aware, or by the exercise of reasonable diligence should have been aware, that his condition is causally related to his employment, whether or not there is a compensable disability.

(c) The Secretary may waive compliance with the requirements of this subchapter for giving notice of injury and for filing claim for compensation for disability or death if—
   (1) a claim is filed within 5 years after the injury or death; and
   (2) the Secretary finds—
      (A) that the failure to comply was due to circumstances beyond the control of the individual claiming benefits; or
      (B) that the individual claiming benefits has shown sufficient cause or reason in explanation of, and material prejudice to the interest of the United States has not resulted from, the failure.

§ 8123. Physical examinations
(a) An employee shall submit to examination by a medical officer of the United States, or by a physician designated or approved by the Secretary of Labor, after the injury and as frequently and at the times and places as may be reasonably required. The employee may have a physician designated and paid by him present to participate in the examination. If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.

(b) An employee is entitled to be paid expenses incident to an examination required by the Secretary which in the opinion of the Secretary are necessary and reasonable, including transportation and loss of wages incurred in order to be examined. The expenses, when authorized or approved by the Secretary, are paid from the Employees' Compensation Fund.
(c) The Secretary shall fix the fees for examinations held under this section by physicians not employed by or under contract to the United States to furnish medical services to employees. The fees, when authorized or approved by the Secretary, are paid from the Employees' Compensation Fund.

(d) If an employee refuses to submit to or obstructs an examination, his right to compensation under this subchapter is suspended until the refusal or obstruction stops. Compensation is not payable while a refusal or obstruction continues, and the period of the refusal or obstruction is deducted from the period for which compensation is payable to the employee.

§ 8124. Findings and award
The Secretary of Labor shall determine and make a finding of facts and make an award for or against payment of compensation under this subchapter after—

(1) considering the claim presented by the beneficiary and the report furnished by the immediate superior; and

(2) completing such investigation as he considers necessary.

§ 8125. Misbehavior at proceedings
If an individual—

(1) disobeys or resists a lawful order or process in proceedings under this subchapter before the Secretary of Labor or his representative; or

(2) misbehaves during a hearing or so near the place of hearing as to obstruct it;

the Secretary or his representative shall certify the facts to the district court having jurisdiction in the place where he is sitting. The court, in a summary manner, shall hear the evidence as to the acts complained of and if the evidence warrants, punish the individual in the same manner and to the same extent as for a contempt committed before the court, or commit the individual on the same conditions as if the forbidden act had occurred with reference to the process of or in the presence of the court.

§ 8126. Subpoenas; oaths; examination of witnesses
The Secretary of Labor, on any matter within his jurisdiction under this subchapter, may—

(1) issue subpoenas for and compel the attendance of witnesses within a radius of 100 miles;

(2) administer oaths;

(3) examine witnesses; and

(4) require the production of books, papers, documents, and other evidence.

§ 8127. Representation; attorneys' fees
(a) A claimant may authorize an individual to represent him in any proceeding under this subchapter before the Secretary of Labor.

(b) A claim for legal or other services furnished in respect to a case, claim, or award for compensation under this subchapter is valid only if approved by the Secretary.

§ 8128. Review of award
(a) The Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application. The Secretary, in accordance with the facts found on review, may—
end, decrease, or increase the compensation previously awarded; or
(2) award compensation previously refused or discontinued.

(b) The action of the Secretary or his designee in allowing or denying a payment under this subchapter is—
(1) final and conclusive for all purposes and with respect to all questions of law and fact; and
(2) not subject to review by another official of the United States or by a court by mandamus or otherwise.

Credit shall be allowed in the accounts of a certifying or disbursing official for payments in accordance with that action.

§ 8129. Recovery of overpayments

(a) When an overpayment has been made to an individual under this subchapter because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled. If the individual dies before the adjustment is completed, adjustment shall be made by decreasing later benefits payable under this subchapter with respect to the individual’s death.

(b) Adjustment or recovery by the United States may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.

(c) A certifying or disbursing official is not liable for an amount certified or paid by him when—
(1) adjustment or recovery of the amount is waived under subsection (b) of this section; or
(2) adjustment under subsection (a) of this section is not completed before the death of all individuals against whose benefits deductions are authorized.

§ 8130. Assignment of claim

An assignment of a claim for compensation under this subchapter is void. Compensation and claims for compensation are exempt from claims of creditors.

§ 8131. Subrogation of the United States

(a) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability on a person other than the United States to pay damages, the Secretary of Labor may require the beneficiary to—
(1) assign to the United States any right of action he may have to enforce the liability or any right he may have to share in money or other property received in satisfaction of that liability; or
(2) prosecute the action in his own name.

An employee required to appear as a party or witness in the prosecution of such an action is in an active duty status while so engaged.

(b) A beneficiary who refuses to assign or prosecute an action in his own name when required by the Secretary is not entitled to compensation under this subchapter.

(c) The Secretary may prosecute or compromise a cause of action assigned to the United States. When the Secretary realizes on the cause of action, he shall deduct therefrom and place to the credit of the Employees’ Compensation Fund the amount of compensation already paid to the beneficiary and the expense of realization or collection. Any surplus shall be paid to the beneficiary and credited on future payments of compensation payable for the same injury.
(d) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability in the Panama Canal Company to pay damages under the law of a State, a territory or possession of the United States, the District of Columbia, or a foreign country, compensation is not payable until the individual entitled to compensation—

1. releases to the Panama Canal Company any right of action he may have to enforce the liability of the Panama Canal Company; or

2. assigns to the United States any right he may have to share in money or other property received in satisfaction of the liability of the Panama Canal Company.

§ 8132. Adjustment after recovery from a third person

If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability in a person other than the United States to pay damages, and a beneficiary entitled to compensation from the United States for that injury or death receives money or other property in satisfaction of that liability as a result of suit or settlement by him or in his behalf, the beneficiary, after deducting therefrom the costs of suit and a reasonable attorney's fee, shall refund to the United States the amount of compensation paid by the United States and credit any surplus on future payments of compensation payable to him for the same injury. The amount refunded to the United States shall be credited to the Employees' Compensation Fund. If compensation has not been paid to the beneficiary, he shall credit the money or property on compensation payable to him by the United States for the same injury.

§ 8133. Compensation in case of death

(a) If death results from an injury sustained in the performance of duty, the United States shall pay a monthly compensation equal to a percentage of the monthly pay of the deceased employee in accordance with the following schedule:

1. To the widow or widower, if there is no child, 45 percent.
2. To the widow or widower, if there is a child, 40 percent and in addition 15 percent for each child not to exceed a total of 75 percent for the widow or widower and children.
3. To the children, if there is no widow or widower, 35 percent for one child and 15 percent additional for each additional child not to exceed a total of 75 percent, divided among the children share and share alike.
4. To the parents, if there is no widow, widower, or child, as follows—
   (A) 25 percent if one parent was wholly dependent on the employee at the time of death and the other was not dependent to any extent;
   (B) 20 percent to each if both were wholly dependent; or
   (C) a proportionate amount in the discretion of the Secretary of Labor if one or both were partly dependent.

If there is a widow, widower, or child, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of 75 percent.
5. To the brothers, sisters, grandparents, and grandchildren, if there is no widow, widower, child, or dependent parent, as follows—
   (A) 20 percent if one was wholly dependent on the employee at the time of death;
(B) 30 percent if more than one was wholly dependent, divided among the dependents share and share alike; or
(C) 10 percent if no one is wholly dependent but one or more is partly dependent, divided among the dependents share and share alike.

If there is a widow, widower, child, or dependent parent, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, children, and dependent parents, will not exceed a total of 75 percent.

(b) The compensation payable under subsection (a) of this section is paid from the time of death until—

(1) a widow dies or remarries;
(2) a widower dies or remarries or becomes capable of self-support;
(3) a child, a brother, a sister, or a grandchild dies or marries or becomes 18 years of age, or if over age 18 and incapable of self-support becomes capable of self-support; or
(4) a parent or grandparent dies or marries or ceases to be dependent.

(c) On the cessation of compensation under this section to or on account of an individual, the compensation of the remaining individuals entitled to compensation for the unexpired part of the period during which their compensation is payable, is that which they would have received if they had been the only individuals entitled to compensation at the time of the death of the employee.

(d) When there are two or more classes of individuals entitled to compensation under this section and the apportionment of compensation under this section would result in injustice, the Secretary may modify the apportionment to meet the requirements of the case.

(e) The monthly pay for computing compensation under this section is deemed at least $240, but the total monthly compensation may not exceed the monthly pay computed under section 8114 of this title or $525, whichever is less.

§ 8134. Funeral expenses; transportation of body

(a) If death results from an injury sustained in the performance of duty, the United States shall pay, to the personal representative of the deceased or otherwise, funeral and burial expenses not to exceed $800, in the discretion of the Secretary of Labor.

(b) The body of an employee whose home is in the United States, in the discretion of the Secretary, may be embalmed and transported in a hermetically sealed casket to his home or last place of residence at the expense of the Employees' Compensation Fund if—

(1) the employee dies from—
   (A) the injury while away from his home or official station or outside the United States; or
   (B) from other causes while away from his home or official station for the purpose of receiving medical or other services, appliances, supplies, or examination under this subchapter; and

(2) the relatives of the employee request the return of his body.

If the relatives do not request the return of the body of the employee, the Secretary may provide for its disposition and incur and pay from the Employees' Compensation Fund the necessary and reasonable transportation, funeral, and burial expenses.

§ 8135. Lump-sum payment

The liability of the United States for compensation to a beneficiary in the case of death or of permanent total or permanent partial disability may be discharged by a lump-sum payment equal to the present
value of all future payments of compensation computed at 4 percent true discount compounded annually if—

(1) the monthly payment to the beneficiary is less than $5 a month;
(2) the beneficiary is or is about to become a nonresident of the United States; or
(3) the Secretary of Labor determines that it is for the best interest of the beneficiary.

The probability of the death of the beneficiary before the expiration of the period during which he is entitled to compensation shall be determined according to the American Experience Table of Mortality, but the lump-sum payment to a widow or widower of the deceased employee may not exceed 60 months’ compensation. The probability of the happening of any other contingency affecting the amount or duration of compensation shall be disregarded.

§ 8136. Initial payments outside the United States

If an employee is injured outside the continental United States, the Secretary of Labor may arrange and provide for initial payment of compensation and initial furnishing of other benefits under this subchapter by an employee or agent of the United States designated by the Secretary for that purpose in the locality in which the employee was employed or the injury occurred.

§ 8137. Compensation for noncitizens and nonresidents

(a) When the Secretary of Labor finds that the amount of compensation payable to an employee who is neither a citizen nor resident of the United States or Canada, or payable to a dependent of such an employee, is substantially disproportionate to compensation for disability or death payable in similar cases under local statute, regulation, custom, or otherwise at the place outside the continental United States or Canada where the employee is working at the time of injury, he may provide for payment of compensation on a basis reasonably in accord with prevailing local payments in similar cases by—

(1) the adoption or adaptation of the substantive features, by a schedule or otherwise, of local workmen’s compensation provisions or other local statute, regulation, or custom applicable in cases of personal injury or death; or
(2) establishing special schedules of compensation for injury, death, and loss of use of members and functions of the body for specific classes of employees, areas, and places.

Irrespective of the basis adopted, the Secretary may at any time—

(A) modify or limit the maximum monthly and total aggregate payments for injury, death, and medical or other benefits;
(B) modify or limit the percentages of the wage of the employee payable as compensation for the injury or death; and
(C) modify, limit, or redesignate the class or classes of beneficiaries entitled to death benefits, including the designation of persons, representatives, or groups entitled to payment under local statute or custom whether or not included in the classes of beneficiaries otherwise specified by this subchapter.

(b) In a case under this section, the Secretary or his designee may—

(1) make a lump-sum award in the manner prescribed by section 8135 of this title when he or his designee considers it to be for the best interest of the United States; and
(2) compromise and pay a claim for benefits, including a claim in which there is a dispute as to jurisdiction or other fact or a question of law.
Compensation paid under this subsection is instead of all other compensation from the United States for the same injury or death, and a payment made under this subsection is deemed compensation under this subchapter and is satisfaction of all liability of the United States in respect to the particular injury or death.

(c) The Secretary may delegate to an employee or agency of the United States, with such limitations and right of review as he considers advisable, authority to process, adjudicate, commute by lump-sum award, compromise, and pay a claim or class of claims for compensation, and to provide other benefits, locally, under this section, in accordance with such regulations and instructions as the Secretary considers necessary. For this purpose, the Secretary may provide or transfer funds, including reimbursement of amounts paid under this subchapter.

(d) The Secretary may waive the application of this subchapter in whole or in part and for such period or periods as he may fix if he finds that—

(1) conditions prevent the establishment of facilities for processing and adjudicating claims under this section; or

(2) claimants under this section are alien enemies.

(e) The Secretary may apply this section retrospectively with adjustment of compensation and benefits as he considers necessary and proper.

§ 8138. Minimum limit modification for noncitizens and aliens

(a) Except as provided by subsection (b) of this section, the minimum limit on monthly compensation for disability under section 8112 of this title and the minimum limit on monthly pay on which death compensation is computed under section 8133 of this title do not apply in the case of a noncitizen employee, or a class or classes of noncitizen employees, who sustain injury outside the continental United States. The Secretary of Labor may establish a minimum monthly pay on which death compensation is computed in the case of a class or classes of such noncitizen employees.

(b) The President may remove or modify the minimum limit on monthly compensation for disability under section 8112 of this title and the minimum limit on monthly pay on which death compensation is computed under section 8133 of this title in the case of an alien employee, or a class or classes of alien employees, of the Canal Zone Government or the Panama Canal Company.

§ 8139. Employees of the District of Columbia

Compensation awarded to an employee of the government of the District of Columbia shall be paid in the manner provided by statute for the payment of the general expenses of the government of the District of Columbia.

§ 8140. Members of the Reserve Officers' Training Corps

(a) Subject to the provisions of this section, this subchapter applies to a member of, or applicant for membership in, the Reserve Officers' Training Corps of the Army, Navy, or Air Force who suffers disability or death from an injury incurred in line of duty—

(1) while engaged in a flight or in flight instruction under chapter 103 of title 10; or

(2) while performing authorized travel to or from, or while attending, field training or a practice cruise under chapter 103 of title 10.
(b) For the purpose of this section, an injury is incurred in line of duty only if it is the proximate result of the performance of military training by the member concerned, or of his travel to or from that training, during the periods specified by subsection (a) (2) of this section. A member or applicant for membership who contracts a disease or illness which is the proximate result of the performance of training during the periods specified by subsection (a) (2) of this section is considered for the purpose of this section to have been injured in line of duty during that period. Subject to review by the Secretary of Labor, the Secretary of the military department concerned, under regulations prescribed by him, shall determine whether or not an injury, disease, or illness was incurred or contracted in line of duty and was the proximate result of the performance of military training by the member concerned or of his travel to or from that military training.

(c) In computing the compensation payable under this section, the monthly pay received by the injured or deceased individual, in cash and kind, is deemed $150.

(d) The Secretary of the military department concerned shall cooperate fully with the Department of Labor in the prompt investigation and prosecution of a case involving the legal liability of a third party other than the United States.

(e) An individual may not receive disability benefits under this section while on active duty with the armed forces, but these benefits may be reinstated when the individual is released from that active duty.

(f) Expenses incurred by a military department in providing hospitalization, medical and surgical care, necessary transportation incident to that hospitalization or medical and surgical care, or in connection with a funeral and burial on behalf of an individual covered by subsection (a) of this section shall be reimbursed by the Secretary of Labor from the Employees' Compensation Fund in accordance with this subchapter. However, reimbursement may not be made for hospitalization or medical or surgical care provided an individual while attending field training or a practice cruise under chapter 103 of title 10.

§ 8141. Civil Air Patrol volunteers.

(a) Subject to the provisions of this section, this subchapter applies to a volunteer civilian member of the Civil Air Patrol, except a Civil Air Patrol Cadet.

(b) In administering this subchapter for a member of the Civil Air Patrol covered by this section—

(1) the monthly pay of a member is deemed $300 for the purpose of computing compensation for disability or death;

(2) the percentages applicable to payments under section 8133 of this title are—

(A) 45 percent for section 8133(a) (2) of this title, if the member dies fully or currently insured under subchapter II of chapter 7 of title 42, with no additional payments for a child or children while the widow or widower remains eligible for payments under section 8133(a) (2) of this title;

(B) 20 percent for section 8133(a) (3) of this title for one child and 10 percent additional for each additional child, but not to exceed a total of 75 percent, if the member died fully or currently insured under subchapter II of chapter 7 of title 42; and
(C) 25 percent for section 8133(a) (4) of this title, if one parent was wholly dependent on the deceased member at the time of his death and the other was not dependent to any extent; 16 percent to each, if both were wholly dependent; and if one was or both were partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(3) a payment may not be made under section 8133(a) (5) of this title;

(4) "performance of duty" means only active service, and travel to and from that service, rendered in performance or support of operational missions of the Civil Air Patrol under direction of the Department of the Air Force and under written authorization by competent authority covering a specific assignment and prescribing a time limit for the assignment; and

(5) the Secretary of Labor or his designee shall inform the Secretary of Health, Education, and Welfare when a claim is filed and eligibility for compensation is established under section 8133(a) (2) or (3) of this title, and the Secretary of Health, Education, and Welfare shall certify to the Secretary of Labor as to whether or not the member concerned was fully or currently insured under subchapter II of chapter 7 of title 42 at the time of his death.

c) The Secretary of Labor or his designee may inform the Secretary of the Air Force or his designee when a claim is filed. The Secretary of the Air Force, on request of the Secretary of Labor, shall advise him of the facts concerning the injury and whether or not the member was rendering service, or engaged in travel to or from service, in performance or support of an operational mission of the Civil Air Patrol at the time of injury. This subsection does not dispense with the report of the immediate superior of the member required by section 8120 of this title, or other reports agreed on under that section.

§ 8142. Peace Corps volunteers

(a) For the purpose of this section, "volunteer" means—

(1) a volunteer enrolled in the Peace Corps under section 2504 of title 22;

(2) a volunteer leader enrolled in the Peace Corps under section 2505 of title 22; and

(3) an applicant for enrollment as a volunteer or volunteer leader during a period of training under section 2507(a) of title 22 before enrollment.

(b) Subject to the provisions of this section, this subchapter applies to a volunteer, except that entitlement to disability compensation payments does not commence until the day after the date of termination of his service as a volunteer.

(c) For the purpose of this subchapter—

(1) a volunteer is deemed receiving monthly pay at the minimum rate for GS-7;

(2) a volunteer leader referred to by section 2505 of title 22 is deemed receiving monthly pay at the minimum rate for GS-11;

(3) an injury suffered by a volunteer when he is outside the several States, territories and possessions of the United States, and the District of Columbia is deemed proximately caused by his employment, unless the injury or disease is—

(A) caused by willful misconduct of the volunteer;

(B) caused by the volunteer's intention to bring about the injury or death of himself or of another; or
proximately caused by the intoxication of the injured
volunteer; and

(4) the period of service of an individual as a volunteer in-
cludes—

(A) any period of training under section 2507(a) of title 22 before enrollment as a volunteer; and

(B) the period between enrollment as a volunteer and the termination of service as a volunteer by the President or by death or resignation.

§ 8143. Job Corps enrollees; volunteers in service to America

(a) Subject to the provisions of this subsection, this subchapter applies to an enrollee in the Job Corps under sections 2711-2790 of title 42, except that compensation for disability does not begin to accrue until the day after the date of termination of his enrollment as an enrollee. In administering this subchapter for an enrollee covered by this subsection—

(1) the monthly pay of an enrollee is deemed $150 for the purpose of computing compensation for disability or death, except that with respect to compensation for disability accruing after the individual concerned becomes 21 years of age the monthly pay is deemed to be that received at the minimum rate for GS-2;

(2) section 8113(a), (b) of this title applies to an enrollee; and

(3) “performance of duty” does not include an act of an enrollee while—

(A) on authorized leave or pass; or

(B) absent from his assigned post of duty, except while participating in an activity authorized by or under the direction or supervision of the Job Corps.

(b) This subchapter applies to a volunteer in service to America during training and a volunteer in service to America assigned under section 2943(a) (2) of title 42 to the same extent as enrollees of the Job Corps under subsection (a) of this section.

§ 8144. Student-employees

A student-employee as defined by section 5351 of this title who suffers disability or death as a result of personal injury arising out of and in the course of training, or incurred in the performance of duties in connection with that training, is considered for the purpose of this subchapter an employee who incurred the injury in the performance of duty.

§ 8145. Administration

The Secretary of Labor shall administer, and decide all questions arising under, this subchapter. He may—

(1) appoint employees to administer this subchapter; and

(2) delegate to any employee of the Department of Labor any of the powers conferred on him by this subchapter.

§ 8146. Administration for the Canal Zone and The Alaska Railroad

(a) The President, from time to time, may transfer the administration of this subchapter—

(1) so far as employees of the Canal Zone Government and of the Panama Canal Company are concerned to the Governor of the Canal Zone; and

(2) so far as employees of The Alaska Railroad are concerned to the general manager of The Alaska Railroad.
(b) When administration is transferred under subsection (a) of this section, the expenses incident to physical examinations which are payable under section 8123 of this title shall be paid from appropriations for the Canal Zone Government or for The Alaska Railroad or from funds of the Panama Canal Company, as the case may be, instead of from the Employees' Compensation Fund. The President may authorize the Governor of the Canal Zone and the general manager of The Alaska Railroad to pay the compensation provided by this subchapter, including medical, surgical, and hospital services and supplies under section 8103 of this title and the transportation and burial expenses under sections 8103 and 8134 of this title, from appropriations for the Canal Zone Government and for The Alaska Railroad, and these appropriations shall be reimbursed for the payments by transfer of funds from the Employees' Compensation Fund.

(c) The President may authorize the Governor of the Canal Zone to waive, at his discretion, the making of the claim required by section 8121 of this title in the case of compensation to an employee of the Canal Zone Government or of the Panama Canal Company for temporary disability, either total or partial.

(d) When administration is transferred under subsection (a) of this section to the general manager of The Alaska Railroad, the Secretary of Labor is not divested of jurisdiction and a claimant is entitled to appeal from the decision of the general manager of The Alaska Railroad to the Secretary of Labor. The Secretary on receipt of an appeal shall, or on his own motion may, review the decision of the general manager of The Alaska Railroad, and in accordance with the facts found on review may proceed under section 8128 of this title. The Secretary shall provide the form and manner of taking an appeal.

(e) The same right of appeal exists with respect to claims filed by employees of the Canal Zone Government and of the Panama Canal Company or their dependents in case of death, as is provided with respect to the claims of other employees to whom this subchapter applies, under section 8149 of this title. The Employees' Compensation Appeals Board referred to by section 8149 of this title has jurisdiction, under regulations prescribed by the Secretary, over appeals relating to claims of the employees or their dependents.

§ 8147. Employees' Compensation Fund

(a) There is in the Treasury of the United States the Employees' Compensation Fund which consists of sums that Congress, from time to time, may appropriate for or transfer to it, and amounts that otherwise accrue to it under this subchapter or other statute. The Fund is available without time limit for the payment of compensation and other benefits and expenses, except administrative expenses, authorized by this subchapter or any extension or application thereof, except as otherwise provided by this subchapter or other statute. The Secretary of Labor shall submit annually to the Bureau of the Budget estimates of appropriations necessary for the maintenance of the Fund.

(b) Before August 15 of each year, the Secretary shall furnish to each agency and instrumentality of the United States having an employee who is or may be entitled to compensation benefits under this subchapter or any extension or application thereof a statement showing the total cost of benefits and other payments made from the Employees' Compensation Fund during the preceding fiscal year on account of the injury or death of employees or individuals under the jurisdiction of the agency or instrumentality. Each agency and instrumentality shall include in its annual budget estimates for the next
fiscal year a request for an appropriation in an amount equal to the costs. Sums appropriated pursuant to the request shall be deposited in the Treasury to the credit of the Fund within 30 days after they are available. An agency or instrumentality not dependent on an annual appropriation shall make the deposit required by this subsection from funds under its control. If an agency or instrumentality (or part or function thereof) is transferred to another agency or instrumentality, the cost of compensation benefits and other expenses paid from the Fund on account of the injury or death of employees of the transferred agency or instrumentality (or part or function) shall be included in costs of the receiving agency or instrumentality.

(c) In addition to the contributions for the maintenance of the Employees' Compensation Fund required by this section, a mixed ownership corporation as defined by section 856 of title 31, or any other corporation or agency or instrumentality (or activity thereof) which is required by statute to submit an annual budget pursuant to or as provided by sections 841-869 of title 31, shall pay an additional amount for its fair share of the cost of administration of this subchapter as determined by the Secretary. With respect to these corporations, agencies, and instrumentalities, the charges billed by the Secretary under this section shall include an additional amount for these costs, which shall be paid into the Treasury as miscellaneous receipts from the sources authorized and in the manner otherwise provided by this section.

§ 8148. Reports

The Secretary of Labor shall report to Congress at the beginning of each regular session on the work for the preceding fiscal year under this subchapter. The report shall include—

(1) a detailed statement of appropriations and expenditures;
(2) a detailed statement showing receipts of and expenditures from the Employees' Compensation Fund; and
(3) his recommendations for legislation.

§ 8149. Regulations

The Secretary of Labor may prescribe rules and regulations necessary for the administration and enforcement of this subchapter. The rules and regulations shall provide for an Employees' Compensation Appeals Board of three individuals designated or appointed by the Secretary with authority to hear and, subject to applicable law and the rules and regulations of the Secretary, make final decisions on appeals taken from determinations and awards with respect to claims of employees.

§ 8150. Effect on other statutes

(a) This subchapter does not affect the maritime rights and remedies of a master or member of the crew of a vessel.
(b) Section 8141 of this title and section 9441 of title 10 do not confer military or veteran status on any individual.

SUBCHAPTER II—EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

§ 8171. Compensation for work injuries; generally

(a) Chapter 18 of title 33 applies with respect to disability or death resulting from injury, as defined by section 902(2) of title 33, occurring to an employee of a nonappropriated fund instrumentality described by section 2105(c) of this title who is—

(1) a United States citizen or a permanent resident of the United States or a territory or possession of the United States employed outside the continental United States; or
(2) employed inside the continental United States.

However, that part of section 903(a) of title 33 which follows the first comma does not apply to such an employee.

(b) For the purpose of this subchapter, the term "employer" in section 902(4) of title 33 includes the nonappropriated fund instrumentalities described by section 2105(c) of this title.

(c) The Secretary of Labor may—

(1) extend compensation districts established under section 939(b) of title 33, or establish new districts to include the areas outside the continental United States; and

(2) assign to each district one or more deputy commissioners as the Secretary considers advisable.

(d) Judicial proceedings under sections 918 and 921 of title 33 with respect to an injury or death occurring outside the continental United States shall be instituted in the district court within the territorial jurisdiction of which is located the office of the deputy commissioner having jurisdiction with respect to the injury or death.

§ 8172. Employees not citizens or residents of the United States

In case of disability or death resulting from injury, as defined by section 902(2) of title 33, occurring to an employee of a nonappropriated fund instrumentality described by section 2105(c) of this title who is—

(1) not a citizen or permanent resident of the United States or a territory or possession of the United States; and

(2) employed outside the continental United States;

compensation shall be provided in accordance with regulations prescribed by the Secretary of the military department concerned and approved by the Secretary of Defense or regulations prescribed by the Secretary of the Treasury, as the case may be.

§ 8173. Liability under this subchapter exclusive

The liability of the United States or of a nonappropriated fund instrumentality described by section 2105(c) of this title, with respect to the disability or death resulting from injury, as defined by section 902(2) of title 33, of an employee referred to by sections 8171 and 8172 of this title, shall be determined as provided by this subchapter. This liability is exclusive and instead of all other liability of the United States or the instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and any other person otherwise entitled to recover damages from the United States or the instrumentality because of the disability or death in a direct judicial proceeding, in a civil action, or in admiralty, or by an administrative or judicial proceeding under a workmen's compensation statute or under a Federal tort liability statute.

CHAPTER 83—RETIREMENT

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SUBCHAPTER I—GENERAL PROVISIONS

§ 8301. Uniform retirement date

(a) Except as otherwise specifically provided by this title or other statute, retirement authorized by statute is effective on the first day of the month following the month in which retirement would otherwise be effective.

(b) Notwithstanding subsection (a) of this section, the rate of active or retired pay or allowance is computed as of the date retirement would have occurred but for subsection (a) of this section.

SUBCHAPTER II—FORFEITURE OF ANNUITIES AND RETIRED PAY

§ 8311. Definitions

For the purpose of this subchapter—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title;

(B) a Member of Congress as defined by section 2106 of this title and a Delegate to Congress;

(C) a member or former member of a uniformed service; and

(D) an individual employed by the government of the District of Columbia;

(2) "annuity" means a retirement benefit, including a disability insurance benefit and a dependent's or survivor's benefit under subchapter II of chapter 7 of title 42, and a monthly annuity under section 228b or 228e of title 45, payable by an agency of the Government of the United States or the government of the District of Columbia on the basis of service as a civilian employee and other service which is creditable to an employee.
toward the benefit under the statute, regulation, or agreement which provides the benefit, but does not include—

(A) a benefit provided under statutes administered by the Veterans' Administration;

(B) pay or compensation which may not be diminished under section 1 of Article III of the Constitution of the United States;

(C) that portion of a benefit payable under subchapter II of chapter 7 of title 42 which would be payable without taking into account, for any of the purposes of that subchapter, including determinations of periods of disability under section 416(i) of title 42, pay for services as an employee;

(D) monthly annuity awarded under section 228b or 228e of title 45 before September 26, 1961, whether or not computed under section 228c(e) of title 45;

(E) that portion of an annuity awarded under section 228b or 228e of title 45 after September 25, 1961, which would be payable without taking into account military service creditable under section 228c-1 of title 45;

(F) a retirement benefit, including a disability insurance benefit and a dependent's or survivor's benefit under subchapter II of chapter 7 of title 42, awarded before September 1, 1954, to an individual or his survivor or beneficiary, insofar as the individual, before September 1, 1954—

(i) was convicted of an offense named by subsection (b) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8314 or 8315(a)(1) of this title;

or

(G) a retirement benefit, including a disability insurance benefit and a dependent's or survivor's benefit under subchapter II of chapter 7 of title 42, awarded before September 26, 1961, to an individual or his survivor or beneficiary, insofar as the individual, before September 26, 1961—

(i) was convicted of an offense named by subsection (c) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8315(a)(2) of this title; and

(3) "retired pay" means retired pay, retirement pay, retainer pay, or equivalent pay, payable under a statute to a member or former member of a uniformed service, and an annuity payable to an eligible beneficiary of the member or former member under chapter 73 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), but does not include—

(A) a benefit provided under statutes administered by the Veterans' Administration;

(B) retired pay, retirement pay, retainer pay, or equivalent pay, awarded before September 1, 1954, to an individual, insofar as the individual, before September 1, 1954—

(i) was convicted of an offense named by subsection (b) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8314 or 8315(a)(1) of this title;

(C) retired pay, retirement pay, retainer pay, or equivalent
pay, awarded before September 26, 1961, to an individual, insofar as the individual, before September 26, 1961—

(i) was convicted of an offense named by subsection (e) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8315(a)(2) of this title; or

(D) an annuity payable to an eligible beneficiary of an individual under chapter 73 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), if the annuity was awarded to the beneficiary, or if retired pay was awarded to the individual, before September 26, 1961, insofar as the individual, on the basis of whose service the annuity was awarded, before September 26, 1961—

(i) was convicted of an offense named by section 8312 of this title, to the extent provided by that section; or

(ii) violated section 8314 or 8315 of this title.

§ 8312. Conviction of certain offenses

(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311(2) and (3) of this title, if the individual—

(1) was convicted, before, on, or after September 1, 1954, of an offense named by subsection (b) of this section, to the extent provided by that subsection; or

(2) was convicted, before, on, or after September 26, 1961, of an offense named by subsection (c) of this section, to the extent provided by that subsection.

The prohibition on payment of annuity or retired pay applies—

(A) with respect to the offenses named by subsection (b) of this section, to the period after the date of the conviction or after September 1, 1954, whichever is later; and

(B) with respect to the offenses named by subsection (c) of this section, to the period after the date of conviction or after September 26, 1961, whichever is later.

(b) The following are the offenses to which subsection (a) of this section applies if the individual was convicted before, on, or after September 1, 1954:

(1) An offense within the purview of—

(A) section 792 (harboring or concealing persons), 793 (gathering, transmitting, or losing defense information), 794 (gathering or delivering defense information to aid foreign government), or 798 (disclosure of classified information), of chapter 37 (relating to espionage and censorship) of title 18;

(B) chapter 105 (relating to sabotage) of title 18;

(C) section 2381 (treason), 2382 (misprision of treason), 2383 (rebellion or insurrection), 2384 (seditious conspiracy), 2385 (advocating overthrow of government), 2387 (activities affecting armed forces generally), 2388 (activities affecting armed forces during war), 2389 (recruiting for service against United States), or 2390 (enlistment to serve against United States), of chapter 115 (relating to treason, sedition, and subversive activities) of title 18;

(D) section 10(b)(2), (3), or (4) of the Atomic Energy Act of 1946 (60 Stat. 766, 767), as in effect before August 30, 1954;
(E) section 16(a) or (b) of the Atomic Energy Act of 1946 (60 Stat. 773), as in effect before August 30, 1954, insofar as the offense is committed with intent to injure the United States or with intent to secure an advantage to a foreign nation; or

(F) an earlier statute on which a statute named by subparagraph (A), (B), or (C) of this paragraph (1) is based.

(2) An offense within the purview of—

(A) article 104 (aiding the enemy) or article 106 (spies) of the Uniform Code of Military Justice (chapter 47 of title 10) or an earlier article on which article 104 or article 106, as the case may be, is based; or

(B) a current article of the Uniform Code of Military Justice (or an earlier article on which the current article is based) not named by subparagraph (A) of this paragraph (2) on the basis of charges and specifications describing a violation of a statute named by paragraph (1), (3), or (4) of this subsection, if the executed sentence includes death, dishonorable discharge, or dismissal from the service, or if the defendant dies before execution of that sentence as finally approved.

(3) Perjury committed under the statutes of the United States or the District of Columbia—

(A) in falsely denying the commission of an act which constitutes an offense within the purview of—

(i) a statute named by paragraph (1) of this subsection; or

(ii) an article or statute named by paragraph (2) of this subsection insofar as the offense is within the purview of an article or statute named by paragraph (1) or (2) (A) of this subsection;

(B) in falsely testifying before a Federal grand jury, court of the United States, or court-martial with respect to his service as an employee in connection with a matter involving or relating to an interference with or endangerment of, or involving or relating to a plan or attempt to interfere with or endanger, the national security or defense of the United States; or

(C) in falsely testifying before a congressional committee in connection with a matter under inquiry before the congressional committee involving or relating to an interference with or endangerment of, or involving or relating to a plan or attempt to interfere with or endanger, the national security or defense of the United States.

(4) Subornation of perjury committed in connection with the false denial or false testimony of another individual as specified by paragraph (3) of this subsection.

(c) The following are the offenses to which subsection (a) of this section applies if the individual was convicted before, on, or after September 26, 1961:

(1) An offense within the purview of—

(A) section 2272 (violation of specific sections) or 2273 (violation of sections generally of chapter 23 of title 42) of title 42 insofar as the offense is committed with intent to injure the United States or with intent to secure an advantage to a foreign nation;
§ 8313. Absence from the United States to avoid prosecution

(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311 (2) and (3) of this title, if the individual—

(1) is under indictment, or has outstanding against him charges preferred under the Uniform Code of Military Justice—

(A) after July 31, 1956, for an offense named by section 8312(b) of this title; or

(B) after September 26, 1961, for an offense named by section 8312(c) of this title; and

(2) willfully remains outside the United States, or its territories and possessions including the Commonwealth of Puerto Rico, for more than 1 year with knowledge of the indictment or charges, as the case may be.

(b) The prohibition on payment of annuity or retired pay under subsection (a) of this section applies to the period after the end of the 1-year period and continues until—

(1) a nolle prosequi to the entire indictment is entered on the record or the charges are dismissed by competent authority;

(2) the individual returns and thereafter the indictment or charges is or are dismissed; or

(3) after trial by court or court-martial, the accused is found not guilty of the offense or offenses.

§ 8314. Refusal to testify

(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311 (2) and (3) of this title, if the individual, before, on, or after September 1, 1954, refused or refuses, or knowingly and willfully failed or fails, to appear, testify, or produce a book, paper, record, or other document, relating to his service as an em-
ployee, before a Federal grand jury, court of the United States, court-martial, or congressional committee, in a proceeding concerning—

(1) his past or present relationship with a foreign government; or

(2) a matter involving or relating to an interference with or endangerment of, or involving or relating to a plan or attempt to interfere with or endanger, the national security or defense of the United States.

(b) The prohibition on payment of annuity or retired pay under subsection (a) of this section applies to the period after the date of the failure or refusal of the individual, or after September 1, 1954, whichever is later.

§ 8315. Falsifying employment applications

(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311 (2) and (3) of this title, if the individual knowingly and willfully made or makes a false, fictitious, or fraudulent statement or representation, or knowingly and willfully concealed or conceals a material fact—

(1) before, on, or after September 1, 1954, concerning his—

(A) past or present membership in, affiliation or association with, or support of the Communist Party, or a chapter, branch, or subdivision thereof, in or outside the United States, or other organization, party, or group advocating—

(i) the overthrow, by force, violence, or other unconstitutional means, of the Government of the United States;

(ii) the establishment, by force, violence, or other unconstitutional means, of a Communist totalitarian dictatorship in the United States; or

(iii) the right to strike against the United States;

(B) conviction of an offense named by subsection (b) of section 8312 of this title, to the extent provided by that subsection; or

(C) failure or refusal to appear, testify, or produce a book, paper, record, or other document, as specified by section 8314 of this title; or

(2) before, on, or after September 26, 1961, concerning his conviction of an offense named by subsection (c) of section 8312 of this title, to the extent provided by that subsection;

in a document executed by the individual in connection with his employment in, or application for, a civilian or military office or position in or under the legislative, executive, or judicial branch of the Government of the United States or the government of the District of Columbia.

(b) The prohibition on the payment of annuity or retired pay applies—

(1) with respect to matters specified by subsection (a) (1) of this section, to the period after the statement, representation, or concealment of fact is made or occurs, or after September 1, 1954, whichever is later; and

(2) with respect to matters specified by subsection (a) (2) of this section, to the period after the statement, representation, or concealment of fact is made or occurs, or after September 26, 1961, whichever is later.
§ 8316. Refund of contributions and deposits

(a) When payment of annuity or retired pay is denied under this subchapter because an individual was convicted of an offense named by section 8312 of this title, to the extent provided by that section, or violated section 8314 or 8315 of this title—

(1) the amount, except employment taxes, contributed by the individual toward the annuity, less the amount previously refunded or paid as annuity benefits; and

(2) deposits made under section 1438 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504) to provide the eligible beneficiary with annuity for any period, less the amount previously paid as retired pay benefits; shall be refunded, on appropriate application therefor—

(A) to the individual;

(B) if the individual is dead, to the beneficiary designated to receive refunds by or under the statute, regulation, or agreement under which the annuity, the benefits of which are denied under this subchapter, would have been payable; or

(C) if a beneficiary is not designated, in the order of precedence prescribed by section 8342(c) of this title or section 2771 of title 10, as the case may be.

(b) A refund under subsection (a) of this section shall be made with interest at the rate and for the period provided under the statute, regulation, or agreement under which the annuity would have been payable. However, interest may not be computed—

(1) if the individual was convicted of an offense named by section 8312(b) of this title, or violated section 8314 or 8315(a)(1) of this title, for the period after the conviction or commission of the violation, or after September 1, 1954, whichever is later; or

(2) if the individual was convicted of an offense named by section 8312(c) of this title, or violated section 8315(a)(2) of this title, for the period after the conviction or commission of the violation, or after September 26, 1961, whichever is later.

§ 8317. Repayment of annuity or retired pay properly paid; waiver

(a) An individual, or his survivor or beneficiary, to whom payment of annuity is denied under this subchapter is not thereafter required to repay that part of the annuity otherwise properly paid to the individual, or to his survivor or beneficiary on the basis of the service of the individual, which is in excess of the aggregate amount of the contributions of the individual toward the annuity, with applicable interest.

(b) An individual, including an eligible beneficiary under chapter 73 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), to whom payment of retired pay is denied under this subchapter is not thereafter required to repay retired pay otherwise properly paid to the individual or beneficiary which is paid in violation of this subchapter.

§ 8318. Restoration of annuity or retired pay

(a) If an individual who was convicted, before, on, or after September 1, 1954, of—

(1) an offense named by section 8312 of this title; or

(2) an offense constituting a violation of section 8314 or 8315 of this title;

is pardoned by the President, the right of the individual and his survivor or beneficiary to receive annuity or retired pay previously denied under this subchapter is restored as of the date of the pardon.
(b) The President may restore, effective as of the date he prescribes, the right to receive annuity or retired pay which is denied, before, on, or after September 1, 1954, under section 8314 or 8315 of this title, to the individual and to his survivor or beneficiary.

(c) Payment of annuity or retired pay which results from pardon or restoration by the President under subsection (a) or (b) of this section may not be made for a period before—

(1) the date of pardon referred to by subsection (a) of this section; or

(2) the effective date of restoration referred to by subsection (b) of this section.

(d) Credit for a period of service covered by a refund under section 8316 of this title is allowed only after the amount refunded has been redeposited.

§ 8319. Removal of members of the uniformed services from rolls; restoration; reappointment

(a) The President may drop from the rolls a member of a uniformed service who is deprived of retired pay under this subchapter.

(b) The President may restore—

(1) military status to an individual dropped from the rolls to whom retired pay is restored under this subchapter or under section 2 of the Act of September 26, 1961 (75 Stat. 648); and

(2) all rights and privileges to the individual and his beneficiaries of which he or they were deprived because his name was dropped from the rolls.

(c) If the individual restored was a commissioned officer, the President alone may reappoint him to the grade and position on the retired list held when his name was dropped from the rolls.

§ 8320. Offense or violation committed in compliance with orders

When it is established by satisfactory evidence that an individual—

(1) was convicted of an offense named by section 8312 of this title; or

(2) violated section 8314 or 8315 of this title;

as a result of proper compliance with orders issued, in a confidential relationship, by an agency or other authority of the Government of the United States or the government of the District of Columbia, the right to receive annuity or retired pay may not be denied.

§ 8321. Liability of accountable employees

An accountable employee may not be held responsible for a payment made in violation of this subchapter when the payment made is in due course and without fraud, collusion, or gross negligence.

§ 8322. Effect on other statutes

This subchapter does not restrict authority under a statute, other than this subchapter, to deny or withhold benefits authorized by statute.

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

§ 8331. Definitions

For the purpose of this subchapter—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title;

(B) the Architect of the Capitol and an employee of the Architect of the Capitol;
(C) a Congressional employee as defined by section 2107 of this title (except the Architect of the Capitol and an employee of the Architect of the Capitol), after he gives notice in writing to the official by whom he is paid of his desire to come within the purview of this subchapter;

(D) a temporary Congressional employee appointed at an annual rate of pay, after he gives notice in writing to the official by whom he is paid of his desire to come within the purview of this subchapter;

(E) a United States Commissioner whose total pay for services performed as Commissioner is not less than $3,000 in each of the last 3 consecutive calendar years ending after December 31, 1954;

(F) an individual employed by a county committee established under section 509h(b) of title 16;

(G) an individual employed by the government of the District of Columbia;

(H) an individual employed by Gallaudet College; and

(I) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

but does not include—

(i) a justice or judge of the United States as defined by section 451 of title 28;

(ii) an employee subject to another retirement system for Government employees;

(iii) an employee or group of employees in or under an Executive agency excluded by the Civil Service Commission under section 8347(g) of this title;

(iv) an individual or group of individuals employed by the government of the District of Columbia excluded by the Commission under section 8347(h) of this title;

(v) a temporary employee of the Administrative Office of the United States Courts or of a court named by section 610 of title 28;

(vi) a construction employee or other temporary, part-time, or intermittent employee of the Tennessee Valley Authority;

(vii) an employee under the Office of the Architect of the Capitol excluded by the Architect of the Capitol under section 8347(i) of this title;

(viii) an employee under the Library of Congress excluded by the Librarian of Congress under section 8347(j) of this title; or

(ix) a student-employee as defined by section 5351 of this title.

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

(2) "Member" means a Member of Congress as defined by section 2106 of this title, and a Delegate to Congress, after he gives notice in writing to the official by whom he is paid of his desire to come within the purview of this subchapter;
(3) "basic pay" includes—
   (A) the amount a Member received from April 1, 1954, to February 28, 1955, as expense allowance under section 601(b) of the Legislative Reorganization Act of 1946 (60 Stat. 850), as amended; and that amount from January 3, 1953, to March 31, 1954, if deposit is made therefor as provided by section 8334 of this title; and
   (B) additional pay provided by—
      (i) subsection (a) of section 60e-7 of title 2 and the provisions of law referred to by that subsection; and
      (ii) sections 60e-8, 60e-9, 60e-10, and 60e-11 of title 2;
but does not include bonuses, allowances, overtime pay, military pay, pay given in addition to the base pay of the position as fixed by law or regulation except as provided by subparagraph (B) of this paragraph, retroactive pay under section 5344 of this title in the case of a retired or deceased employee, uniform allowances under section 5901 of this title, or lump-sum leave payments under subchapter VI of chapter 55 of this title. For an employee paid on a fee basis, the maximum amount of basic pay which may be used is $10,000;
(4) "average pay" means the largest annual rate resulting from averaging an employee's or Member's rates of basic pay in effect—
   (A) over any 5 consecutive years of creditable service; or
   (B) at a Member's option over all periods of Member service after August 2, 1946, used in the computation of an annuity under this subchapter;
with each rate weighted by the time it was in effect;
(5) "Fund" means the Civil Service Retirement and Disability Fund;
(6) "disabled" and "disability" mean totally disabled or total disability, respectively, for useful and efficient service in the grade or class of position last occupied by the employee or Member because of disease or injury not due to vicious habits, intemperance, or willful misconduct on his part within 5 years before becoming so disabled;
(7) "Government" means the Government of the United States, the government of the District of Columbia, and Gallaudet College;
(8) "lump-sum credit" means the unrefunded amount consisting of—
   (A) retirement deductions made from the basic pay of an employee or Member;
   (B) amounts deposited by an employee or Member covering earlier service; and
   (C) interest on the deductions and deposits at 4 percent a year to December 31, 1947, and 3 percent a year thereafter compounded annually to December 31, 1956, or, in the case of an employee or Member separated or transferred to a position not within the purview of this subchapter before he has completed 5 years of civilian service, to the date of the separation or transfer;
but does not include interest—
   (i) if the service covered thereby aggregates 1 year or less; or
   (ii) for the fractional part of a month in the total service;
“annuitant” means a former employee or Member who, on the basis of his service, meets all requirements of this subchapter for title to annuity and files claim therefor;

(10) “survivor” means an individual entitled to annuity under this subchapter based on the service of a deceased employee, Member, or annuitant;

(11) “survivor annuitant” means a survivor who files claim for annuity;

(12) “service” means employment creditable under section 8332 of this title;

(13) “military service” means honorable active service—
(A) in the armed forces;
(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960; or
(C) as a commissioned officer of the Coast and Geodetic Survey after June 30, 1961;

but does not include service in the National Guard except when ordered to active duty in the service of the United States;

(14) “Member service” means service as a Member and includes the period from the date of the beginning of the term for which elected or appointed to the date on which he takes office as a Member; and

(15) “price index” means the annual average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

§ 8332. Creditable service

(a) The total service of an employee or Member is the full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based in the civilian service of the Government. Credit may not be allowed for a period of separation from the service in excess of 3 calendar days. The service includes—

(1) employment as a substitute in the postal field service;

(2) service in the Pan American Sanitary Bureau;

(3) subject to sections 8334(c) and 8339(h) of this title, service performed before July 10, 1960, as an employee of a county committee established under section 590h (b) of title 16 or of a committee or an association of producers described by section 610(b) of title 7;

(4) service as a student-employee as defined by section 5351 of this title only if he later becomes subject to this subchapter; and

(5) a period of satisfactory service of a volunteer or volunteer leader under chapter 34 of title 22 only if he later becomes subject to this subchapter.

The Civil Service Commission shall accept the certification of the Secretary of Agriculture or his designee concerning service for the purpose of this subchapter of the type performed by an employee named by paragraph (3) of this subsection. For the purpose of paragraph (5) of this subsection—

(A) a volunteer and a volunteer leader are deemed receiving pay during their service at the respective rates of readjustment allowances payable under sections 2504(c) and 2505(1) of title 22; and
(B) the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and the termination of that service by the President or by death or resignation.

(c) Except as provided by subsection (d) of this section, an employee or Member shall be allowed credit for periods of military service before the date of the separation on which title to annuity is based. However, if an employee or Member is awarded retired pay on account of military service, his military service may not be credited unless the retired pay is awarded—

(1) on account of a service-connected disability—
   (A) incurred in combat with an enemy of the United States; or
   (B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38; or

(2) under chapter 67 of title 10.

(d) For the purpose of section 8339(c) (1) of this title, a Member—

(1) shall be allowed credit only for periods of military service not exceeding 5 years, plus military service performed by the Member on leaving his office, for the purpose of performing military service, during a war or national emergency proclaimed by the President or declared by Congress and before his final separation from service as Member; and

(2) may not receive credit for military service for which credit is allowed for purpose of retired pay under other statute.

(e) This subchapter does not affect the right of an employee or Member to retired pay, pension, or compensation in addition to an annuity payable under this subchapter.

(f) Credit shall be allowed for leaves of absence without pay granted an employee while performing military service or while receiving benefits under subchapter I of chapter 81 of this title. Except for a substitute in the postal field service, credit may not be allowed for so much of other leaves of absence without pay as exceeds 6 months in the aggregate in a calendar year.

(g) An employee who during the period of a war, or of a national emergency as proclaimed by the President or declared by Congress, leaves his position to enter the military service is deemed, for the purpose of this subchapter, as not separated from his civilian position because of that military service, unless he applies for and receives a lump-sum credit under this subchapter. However, the employee is deemed as not retaining his civilian position after December 31, 1956, or after the expiration of 5 years of that military service, whichever is later.

(h) An employee who—

(1) has at least 5 years' Member service; and

(2) serves as a Member at any time after August 2, 1946;

may not be allowed credit for service which is used in the computation of an annuity under section 8339(c) of this title.

(i) An individual who qualifies as an employee under section 8331(1)(E) of this title is entitled to credit for his service as a United States Commissioner, which is not credited for the purpose of this subchapter for service performed by him in a capacity other than Commissioner, on the basis of—

(1) 1/313 of a year for each day on which he performed service as a Commissioner before July 1, 1946; and
(2) 1/260 of a year for each day on which he performed service as a Commissioner after June 30, 1945.

Credit for service performed as Commissioner may not exceed 313 days in a year before July 1, 1945, or 260 days in a year after June 30, 1945. For the purpose of this subchapter, the employment and pay of a Commissioner is deemed on a daily basis when actually employed.

(j) Notwithstanding any other provision of this section, military service, except military service covered by military leave with pay from a civilian position, performed by an individual after December 1956, and the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22, shall be excluded in determining the aggregate period of service on which an annuity payable under this subchapter to the individual or to his widow or child is based, if the individual, widow, or child is entitled, or would on proper application be entitled, at the time of that determination, to monthly old-age or survivors benefits under section 402 of title 42 based on the individual's wages and self-employment income. If the military service or service as a volunteer or volunteer leader under chapter 34 of title 22 is not excluded by the preceding sentence, but on becoming 62 years of age, the individual or widow becomes entitled, or would on proper application be entitled, to the described benefits, the Civil Service Commission shall redetermine the aggregate period of service on which the annuity is based, effective as of the first day of the month in which he or she becomes 62 years of age, so as to exclude that service. The Secretary of Health, Education, and Welfare, on request of the Commission, shall inform the Commission whether or not the individual, widow, or child is entitled at any named time to the described benefits. For the purpose of this subsection, the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and termination of that service by the President or by death or resignation.

§ 8333. Eligibility for annuity

(a) An employee must complete at least 5 years of civilian service before he is eligible for an annuity under this subchapter.

(b) An employee or Member must complete, within the last 2 years before any separation from service, except a separation because of death or disability, at least 1 year of creditable civilian service during which he is subject to this subchapter before he or his survivors are eligible for annuity under this subchapter based on the separation. If an employee or Member, except an employee or Member separated from the service because of death or disability, fails to meet the service requirement of the preceding sentence, the amounts deducted from his pay during the service for which no eligibility for annuity is established based on the separation shall be returned to him on the separation. Failure to meet this service requirement does not deprive the individual or his survivors of annuity rights which attached on a previous separation.

(c) A Member or his survivor is eligible for an annuity under this subchapter only if the amounts named by section 8334 of this title have been deducted or deposited with respect to his last 5 years of civilian service.

§ 8334. Deductions, contributions, and deposits

(a) The employing agency shall deduct and withhold 6 1/2 percent of the basic pay of an employee and 7 1/2 percent of the basic pay of
a Member, and an equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee. The amounts so deducted and withheld, together with the amounts so contributed, shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States may prescribe. Deposits made by an employee or Member under this section also shall be credited to the Fund.

(b) Each employee or Member is deemed to consent and agree to these deductions from basic pay. Notwithstanding any law or regulation affecting the pay of an employee or Member, payment less these deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to the benefits to which the employee or Member is entitled under this subchapter.

(c) Each employee or Member credited with civilian service after July 31, 1920, for which retirement deductions or deposits have not been made, may deposit with interest an amount equal to the following percentages of his basic pay received for that service:

<table>
<thead>
<tr>
<th>Percentage of basic pay</th>
<th>Service period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee</td>
<td></td>
</tr>
<tr>
<td>2 1/2</td>
<td>August 1, 1920, to June 30, 1926.</td>
</tr>
<tr>
<td>3 1/2</td>
<td>July 1, 1920, to June 30, 1922.</td>
</tr>
<tr>
<td>5</td>
<td>July 1, 1922, to June 30, 1945.</td>
</tr>
<tr>
<td>6</td>
<td>July 1, 1945, to October 31, 1956.</td>
</tr>
<tr>
<td>6 1/2</td>
<td>After October 31, 1956.</td>
</tr>
<tr>
<td>Member for Member service</td>
<td></td>
</tr>
<tr>
<td>2 1/2</td>
<td>August 1, 1920, to June 30, 1926.</td>
</tr>
<tr>
<td>3 1/2</td>
<td>July 1, 1920, to June 30, 1922.</td>
</tr>
<tr>
<td>5</td>
<td>July 1, 1922, to August 1, 1946.</td>
</tr>
<tr>
<td>6</td>
<td>August 2, 1946, to October 31, 1956.</td>
</tr>
<tr>
<td>7 1/2</td>
<td>After October 31, 1956.</td>
</tr>
</tbody>
</table>

(d) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which he may be allowed credit under this subchapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

(e) Interest under subsection (c) or (d) of this section is computed from the mid-point of each service period included in the computation, or from the date refund was paid, to the date of deposit or commencing date of annuity, whichever is earlier. The interest is computed at the rate of 4 percent a year to December 31, 1947, and 3 percent a year thereafter compounded annually. The deposit may be made in one or more installments. Interest may not be charged for a period of separation from the service which began before October 1, 1956.

(f) Under such regulations as the Civil Service Commission may prescribe, amounts deducted under subsection (a) of this section and deposited under subsections (c) and (d) of this section shall be entered on individual retirement records.

(g) Deposit may not be required for—
(1) service before August 1, 1920;
(2) military service; or
(3) service for the Panama Railroad Company before January 1, 1924.
(h) For the purpose of survivor annuity, deposits authorized by subsections (c) and (d) of this section may also be made by the survivor of an employee or Member.

§ 8335. Mandatory separation

(a) Except as otherwise provided by this section, an employee who becomes 70 years of age and completes 15 years of service shall be automatically separated from the service. The separation is effective on the last day of the month in which the employee becomes 70 years of age or completes 15 years of service if then over that age, and pay ends from that day.

(b) The employing office shall notify each employee under its direction of the date of his separation from the service at least 60 days in advance thereof, and subsection (a) of this section does not take effect without the consent of the employee until 60 days after he is so notified.

(c) The President, by Executive order, may exempt an employee from automatic separation under this section when in his judgment the public interest so requires.

(d) The automatic separation provisions of this section do not apply to—

(1) an individual named by a statute providing for the continuance of the individual in the service;

(2) a Member;

(3) a Congressional employee; or

(4) an employee in the judicial branch appointed to hold office for a definite term of years.

(e) This section applies to an employee of The Alaska Railroad in Alaska, and to an employee who is a citizen of the United States employed on the Isthmus of Panama by the Panama Canal Company or the Canal Zone Government, who becomes 62 years of age and completes 15 years of service in Alaska or on the Isthmus of Panama.

§ 8336. Immediate retirement

(a) An employee who is separated from the service after becoming 60 years of age and completing 30 years of service is entitled to an annuity.

(b) An employee who is separated from the service after becoming 55 years of age (but before becoming 60 years of age) and completing 30 years of service is entitled to a reduced annuity.

(c) An employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including an employee engaged in this activity who is transferred to a supervisory or administrative position, who is separated from the service after becoming 50 years of age and completing 20 years of service in the performance of these duties is entitled to an annuity if the head of his agency recommends his retirement and the Civil Service Commission approves that recommendation. The head of the agency and the Commission shall consider fully the degree of hazard to which the employee is subjected in the performance of his duties, instead of the general duties of the class of the position held by the employee. For the purpose of this subsection, "detention" includes the duties of—

(1) employees of the Bureau of Prisons and Federal Prison Industries, Incorporated;

(2) employees of the Public Health Service assigned to the field service of the Bureau of Prisons or of the Federal Prison Industries, Incorporated;
(3) employees in the field service at Army or Navy disciplinary barracks or at confinement and rehabilitation facilities operated by any of the armed forces; and

(4) employees of the Department of Corrections of the District of Columbia, its industries and utilities;

whose duties in connection with individuals in detention suspected or convicted of offenses against the criminal laws of the United States or of the District of Columbia or offenses against the punitive articles of the Uniform Code of Military Justice (chapter 47 of title 10) require frequent (as determined by the appropriate administrative authority with the concurrence of the Commission) direct contact with these individuals in their detention, direction, supervision, inspection, training, employment, care, transportation, or rehabilitation.

(d) An employee who is involuntarily separated from the service, except by removal for cause on charges of misconduct or delinquency, after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to a reduced annuity.

(e) An employee who is separated from the service after becoming 62 years of age and completing 5 years of service is entitled to an annuity.

(f) A Member who is separated from the service after becoming 62 years of age and completing 5 years of civilian service or after becoming 60 years of age and completing 10 years of Member service is entitled to an annuity. A Member who is separated from the service after becoming 55 years of age (but before becoming 60 years of age) and completing 30 years of service is entitled to a reduced annuity. A Member who is separated from the service, except by resignation or expulsion, after completing 25 years of service or after becoming 50 years of age and (1) completing 20 years of service or (2) serving in 9 Congresses is entitled to a reduced annuity.

(g) An annuity or reduced annuity authorized by this section is computed under section 8339 of this title.

§ 8337. Disability retirement

(a) An employee who completes 5 years of civilian service and is found by the Civil Service Commission to have become disabled shall be retired on his own application or on application by his agency. A Member who completes 5 years of Member service and is found by the Commission to have become disabled shall be retired on his own application. An annuity authorized by this section is computed under section 8339 of this title.

(b) A claim may be allowed under this section only if the application is filed with the Commission before the employee or Member is separated from the service or within 1 year thereafter. This time limitation may be waived by the Commission for an employee or Member who at the date of separation from service or within 1 year thereafter is mentally incompetent, if the application is filed with the Commission within 1 year from the date of restoration of the employee or Member to competency or the appointment of a fiduciary, whichever is earlier.

(c) An annuitant receiving disability retirement annuity from the Fund shall be examined under the direction of the Commission—

(1) at the end of 1 year from the date of the disability retirement; and

(2) annually thereafter until he becomes 60 years of age; unless his disability is permanent in character. If the annuitant fails to submit to examination as required by this section, payment of
the annuity shall be suspended until continuance of the disability is satisfactorily established.

(d) If an annuitant receiving disability retirement annuity from the Fund, before becoming 60 years of age, recovers from his disability, payment of the annuity terminates on reemployment by the Government or 1 year after the date of the medical examination showing the recovery, whichever is earlier. If an annuitant receiving disability retirement annuity from the Fund, before becoming 60 years of age, is restored to an earning capacity fairly comparable to the current rate of pay of the position occupied at the time of retirement, payment of the annuity terminates on reemployment by the Government or 1 year after the end of the calendar year in which earning capacity is so restored, whichever is earlier. Earning capacity is deemed restored if in each of 2 succeeding calendar years the income of the annuitant from wages or self-employment or both equals at least 80 percent of the current rate of pay of the position occupied immediately before retirement.

(e) If an annuitant whose annuity is terminated under subsection (d) of this section is not reemployed in a position within the purview of this subchapter, he is deemed, except for service credit, to have been involuntarily separated from the service for the purpose of this subchapter as of the date of termination of the disability annuity, and after that termination is entitled to annuity under the applicable provisions of this subchapter. If an annuitant whose annuity is heretofore or hereafter terminated because of an earning capacity provision of this subchapter or an earlier statute—

(1) is not reemployed in a position within the purview of this subchapter; and

(2) has not recovered from the disability for which he was retired;

his annuity shall be restored at the same rate effective the first of the year following any calendar year in which his income from wages or self-employment or both is less than 80 percent of the current rate of pay of the position occupied immediately before retirement. If an annuitant whose annuity is heretofore or hereafter terminated because of a medical finding that he has recovered from disability is not reemployed in a position within the purview of this subchapter, his annuity shall be restored at the same rate effective from the date of medical examination showing a recurrence of the disability. The second and third sentences of this subsection do not apply to an individual who has become 62 years of age and is receiving or is eligible to receive annuity under the first sentence of this subsection.

(f) An individual is not entitled to receive an annuity under this subchapter and compensation for injury or disability to himself under subchapter I of chapter 81 of this title covering the same period of time. This provision does not bar the right of a claimant to the greater benefit conferred by either subchapter for any part of the same period of time. Neither this provision nor any provision of subchapter I of chapter 81 of this title denies to an individual an annuity accruing to him under this subchapter on account of service performed by him, or denies any concurrent benefit to him under subchapter I of chapter 81 of this title on account of the death of another individual.

(g) The right of an individual entitled to an annuity under this subchapter is not affected because he has received a lump-sum payment for compensation under section 8135 of this title. However, if the annuity is payable on account of the same disability for which compensation under section 8135 of this title has been paid, so much of
the compensation as has been paid for a period extended beyond the date the annuity becomes effective, as determined by the Department of Labor, shall be refunded to that Department to be covered into the Employees' Compensation Fund. Before the individual may receive the annuity he shall—

(1) refund to the Department of Labor the amount representing the commuted compensation payments for the extended period; or

(2) authorize the deduction of that amount from the annuity payable to him under this subchapter, which amount shall be transmitted to the Department of Labor for reimbursement to the Employees' Compensation Fund.

Deductions from the annuity may be made from accrued and accruing payments. When the Department of Labor finds that the financial circumstances of the annuitant warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as that Department determines.

§ 8338. Deferred retirement

(a) An employee who is separated from the service or transferred to a position not within the purview of this subchapter after completing 5 years of civilian service is entitled to an annuity beginning at the age of 62 years.

(b) A Member who, after December 31, 1955, is separated from the service as a Member after completing 5 years of civilian service is entitled to an annuity beginning at the age of 62 years. A Member who is separated from the service after completing 10 or more years of Member service is entitled to an annuity beginning at the age of 60 years. A Member who is separated from the service after completing 20 or more years of service, including 10 or more years of Member service, is entitled to a reduced annuity beginning at the age of 50 years.

(c) An annuity or reduced annuity authorized by this section is computed under section 8339 of this title.

§ 8339. Computation of annuity

(a) Except as otherwise provided by this section, the annuity of an employee retiring under this subchapter is—

(1) \( \frac{11}{2} \) percent of his average pay multiplied by so much of his total service as does not exceed 5 years; plus

(2) \( \frac{13}{4} \) percent of his average pay multiplied by so much of his total service as exceeds 5 years but does not exceed 10 years; plus

(3) 2 percent of his average pay multiplied by so much of his total service as exceeds 10 years.

However, when it results in a larger annuity, 1 percent of his average pay plus $25 is substituted for the percentage specified by paragraph (1), (2), or (3) of this subsection, or any combination thereof.

(b) The annuity of a Congressional employee, or former Congressional employee, retiring under this subchapter is computed under subsection (a) of this section, except, if he has had—

(1) at least 5 years' service as a Congressional employee or Member or any combination thereof; and

(2) deductions withheld from his pay or has made deposit covering his last 5 years of civilian service;

his annuity is computed, with respect to so much of his service as a Congressional employee and his military service as does not exceed a
total of 15 years and any Member service, by multiplying 2½ percent of his average pay by the years of that service.

(c) The annuity of a Member, or former Member with title to Member annuity, retiring under this subchapter is computed under subsection (a) of this section, except, if he has had at least 5 years' service as a Member or Congressional employee or any combination thereof, his annuity is computed with respect to—

(1) his service as a Member and so much of his military service as is creditable for the purpose of this paragraph; and

(2) so much of his Congressional employee service as does not exceed 15 years;

by multiplying 2½ percent of his average pay by the years of that service.

(d) The annuity of an employee retiring under section 8336(c) of this title is 2 percent of his average pay multiplied by his total service.

(e) The annuity computed under subsections (a)-(d) of this section may not exceed 80 percent of—

(1) the average pay of the employee; or

(2) the final basic pay of the Member.

(f) The annuity of an employee or Member retiring under section 8337 of this title is at least the smaller of—

(1) 40 percent of his average pay; or

(2) the sum obtained under subsections (a)-(c) of this section after increasing his service of the type last performed by the period elapsing between the date of separation and the date he becomes 60 years of age.

However, this subsection does not increase the annuity of a survivor.

(g) The annuity computed under subsections (a)-(c) and (e) of this section for an employee retiring under section 8336 (b) or (d) of this title, or a Member retiring under the second or third sentence of section 8336(f) of this title or the third sentence of section 8338(b) of this title, is reduced by 1/12 of 1 percent for each full month not in excess of 60 months, and 1/6 of 1 percent for each full month in excess of 60 months, the employee or Member is under 60 years of age at the date of separation.

(h) The annuity computed under subsections (a)-(g) of this section is reduced by 10 percent of a deposit described by section 8334(c) of this title remaining unpaid, unless the employee or Member elects to eliminate the service involved for the purpose of annuity computation.

(i) The annuity computed under subsections (a)-(h) of this section (excluding any increase because of retirement under section 8337 of this title) for a married employee or Member retiring under this subchapter, or any portion of that annuity designated in writing for the purpose of section 8341(b) of this title by the employee or Member at the time of retirement, is reduced by 2½ percent of so much thereof as does not exceed $3,600 and by 10 percent of so much thereof as exceeds $3,600, unless the employee or Member notifies the Civil Service Commission in writing at the time of retirement that he does not desire his spouse to receive an annuity under section 8341(b) of this title.

(j) At the time of retiring under section 8336 or 8338 of this title, an unmarried employee or Member who is found to be in good health by the Commission may elect a reduced annuity instead of an annuity computed under subsections (a)-(h) of this section and name in writing an individual having an insurable interest in the employee or Member to receive an annuity under section 8341(c) of this title after

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the death of the retired employee or Member. The annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual named is younger than the retiring employee or Member. However, the total reduction may not exceed 40 percent.

(k) The annuity computed under subsections (a)–(j) of this section for an employee who is a citizen of the United States is increased by §836 for each year of service in the employ of—

(1) the Alaska Engineering Commission, or The Alaska Railroad, in Alaska between March 12, 1914, and July 1, 1923; or

(2) the Isthmian Canal Commission, or the Panama Railroad Company, on the Isthmus of Panama between May 4, 1904, and April 1, 1914.

§ 8340. Cost-of-living adjustment of annuities

(a) After January 1 of each year the Civil Service Commission shall determine the percent change in the price index from the later of 1962 or the year preceding the most recent cost-of-living adjustment to the latest complete year. On the basis of this determination, and effective April 1 of any year after the price index change equals a rise of at least 3 percent, each annuity payable from the Fund which has a commencing date earlier than January 2 of the preceding year shall be increased by the percent rise in the price index adjusted to the nearest 1/10 of 1 percent.

(b) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) Effective from the date of the first increase under this section, an annuity payable from the Fund to an annuitant's survivor (except a child entitled under section 8341(e) of this title), which annuity commenced the day after the death of the annuitant, shall be increased as provided by subsection (a) of this section if the commencing date of annuity to the annuitant was earlier than January 2 of the year preceding the first increase.

(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (except a child entitled under section 8341(e) of this title), which annuity commences the day after the death of the annuitant and after the effective date of the first increase under this section, shall be increased by the total percent increase the annuitant was receiving under this section at death.

(3) For the purpose of computing an annuity which commences after the effective date of the first increase under this section to a child under section 8341(e) of this title, the items $600, $720, $1,800, and $2,160 appearing in section 8341(e) of this title shall be increased by the total percent increase allowed and in force under this section, and, in case of a deceased annuitant, the items 40 percent and 50 percent appearing in section 8341(e) of this title shall be increased by the total percent increase allowed and in force under this section to the annuitant at death. Effective from the date of the first increase under this section, this paragraph applies as if the first increase were in effect with respect to computation of the annuity of a child under section 8341(e) of this title which commenced between January 2 of the year preceding the first increase and the effective date of the first increase.
(c) This section does not authorize an increase in an additional annuity purchased at retirement by voluntary contributions.

(d) The monthly installment of annuity after adjustment under this section is fixed at the nearest dollar.

§ 8341. Survivor annuities

(a) For the purpose of this section—

(1) "widow" means the surviving wife of an employee or Member who—

(A) was married to him for at least 2 years immediately before his death; or

(B) is the mother of issue by that marriage;

(2) "widower" means the surviving husband of an employee or Member who—

(A) was married to her for at least 2 years immediately before her death; or

(B) is the father of issue by that marriage;

(3) "dependent widower" means a widower who—

(A) is incapable of self-support because of mental or physical disability; and

(B) received more than half his support from the employee or Member; and

(4) "child" means—

(A) an unmarried child under 18 years of age, including

(i) an adopted child, and (ii) a stepchild or recognized natural child who received more than half his support from and lived with the employee or Member in a regular parent-child relationship;

(B) such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age 18; or

(C) such unmarried child between 18 and 21 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

For the purpose of this paragraph and subsection (e) of this section, a child whose 21st birthday occurs before July 1 or after August 31 of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become 21 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 4 months and if he shows to the satisfaction of the Civil Service Commission that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

(b) If an employee or Member dies after having retired under this subchapter and is survived by a spouse to whom he was married at the time of retirement, the spouse is entitled to an annuity equal to 55 percent of an annuity computed under section 8339(a)-(h) of this title as may apply with respect to the annuitant, or of such portion thereof as may have been designated for this purpose under section 8339(i) of this title, unless the employee or Member has notified the Commission in writing at the time of retirement that he does not
desire his spouse to receive this annuity. The annuity of the spouse commences on the day after the retired employee or Member dies. This annuity and the right thereto terminate on the last day of the month before the spouse dies or remarries.

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

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

(1) the widow or dependent widower dies or remarries; or
(2) the dependent widower becomes capable of self-support.

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

(A) 40 percent of the average pay of the employee or Member divided by the number of children;
(B) $600; or
(C) $1,800 divided by the number of children.

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

(i) 50 percent of the average pay of the employee or Member divided by the number of children;
(ii) $720; or
(iii) $2,160 divided by the number of children.

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

(A) becomes 18 years of age unless incapable of self-support;  
(B) becomes capable of self-support after age 18; or
(C) dies or marries.

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

(i) ceases to be such a student;  
(ii) becomes 21 years of age; or
(iii) dies or marries.

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

(f) If a Member heretofore or hereafter separated from the service with title to deferred annuity from the Fund hereafter dies before having established a valid claim for annuity and is survived by a
spouse to whom married at the date of separation, the surviving spouse—

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

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

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

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

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

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

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

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

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

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

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

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

(d) If an employee or Member dies—

1. without a survivor; or

2. with a survivor or survivors and the right of all survivors terminates before a claim for survivor annuity is filed;

or if a former employee or Member not retired dies, the lump-sum credit shall be paid.

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

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

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

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

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

(i) An employee who—

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

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

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

§ 8343. Additional annuities; voluntary contributions

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

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

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

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

(c) A retiring employee or Member may elect a reduced additional annuity instead of the additional annuity described by subsection (b) of this section and designate in writing an individual to receive after his death an annuity of 50 percent of his reduced additional annuity. The additional annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual designated is younger than the retiring employee or Member. However, the total reduction may not exceed 40 percent.
(d) A present or former employee or Member is entitled to be paid the voluntary contribution account if he files application for payment with the Commission before receiving an additional annuity. An individual who has been paid the voluntary contribution account may not again deposit additional sums under this section until, after a separation from the service of more than 3 calendar days, he again becomes subject to this subchapter.

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

§ 8344. Annuities and pay on reemployment

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

1. a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;
2. an annuitant whose annuity is based on an involuntary separation from the service other than an automatic separation; or
3. a Member receiving annuity from the Fund;

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

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

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

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

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

(ii) who is separated after October 3, 1961, following a period of employment on a full-time basis which began before October 1, 1966.

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

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

1. the retired Member or Member separated with title to immediate or deferred annuity, who serves at any time after sep-
aration as a Member in an appointive position in which he is within the purview of this subchapter, is entitled, if he so elects, to have his Member annuity computed or recomputed as if the service had been performed before his separation as a Member and the annuity as so computed or recomputed is effective—

(A) the day Member annuity commences; or
(B) the day after the date of separation from the appointive position;
whichever is later;

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

(A) his annuity continues during the employment and is not increased as a result of service performed during that employment;
(B) retirement deductions may not be withheld from his pay;
(C) an amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay; and
(D) the amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund;

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

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

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

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

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

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

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

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

(e) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is con-
stituted guardian or other fiduciary by the law of the State of residence
of the claimant or is otherwise legally vested with the care of the
claimant or his estate. If a guardian or other fiduciary of the indi-
vidual under legal disability has not been appointed under the law
of the State of residence of the claimant, payment may be made to any
person who, in the judgment of the Commission, is responsible for
the care of the claimant, and the payment bars recovery by any other
person.

§ 8346. Exemption from legal process; recovery of payments

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

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

§ 8347. Administration; regulations

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

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

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

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

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

(f) The Commission shall select three actuaries, to be known as the
Board of Actuaries of the Civil Service Retirement System. The
Commission shall fix the pay of the members of the Board, except
members otherwise in the employ of the United States. The Board
shall report annually on the actuarial status of the System and furnish
its advice and opinion on matters referred to it by the Commission.
The Board may recommend to the Commission and to Congress
such changes as in the Board's judgment are necessary to protect the public interest and maintain the System on a sound financial basis. The Commission shall keep, or cause to be kept, such records as it considers necessary for making periodic actuarial valuations of the System. The Board shall make actuarial valuations every 5 years, or oftener if considered necessary by the Commission.

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

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

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

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

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

§ 8348. Civil Service Retirement and Disability Fund

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

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

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

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

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

(f) The Civil Service Commission shall submit estimates of the appropriations necessary to finance the Fund on a normal cost plus interest basis and to carry out this subchapter.
(g) Money now or hereafter contained in the Fund may not be used to pay an increase in annuity benefits or a new annuity benefit under this subchapter or an earlier statute which is authorized by amendment thereof until and unless an appropriation is made to the Fund in an amount which the Commission estimates to be sufficient to prevent an immediate increase in the unfunded accrued liability of the Fund.

CHAPTER 85—UNEMPLOYMENT COMPENSATION
SUBCHAPTER I—EMPLOYEES GENERALLY

§ 8501. Definitions
For the purpose of this subchapter—

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

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

(B) as a member of the armed forces;

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

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

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

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

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

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

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

(J) by an individual employed under a Federal relief program to relieve him from unemployment;
(K) as a member of a State, county, or community committee under the Agricultural Stabilization and Conservation Service or of any other board, council, committee, or other similar body, unless the board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

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

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

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

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

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

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

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

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

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

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

§ 8502. Compensation under State agreement

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

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

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

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

(c) In the case of the Commonwealth of Puerto Rico, the agreement shall provide that compensation will be paid by the Commonwealth to a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to the Commonwealth (but only in the case of weeks of unemployment beginning before January 1, 1966), in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to him under the unemployment compensation law of the District of
Columbia if his Federal service and Federal wages had been included as employment and wages under that law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages. In applying this subsection, employment and wages under the unemployment compensation law of the Commonwealth may not be combined with Federal service or Federal wages.

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

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

§ 8503. Compensation absent State agreement

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

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

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

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

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

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

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

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

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

§ 8504. Assignment of Federal service and wages

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

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

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

(3) if his first claim is filed—

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

(B) while he is residing in the Virgin Islands;

his Federal service and Federal wages shall be assigned to the one in which he resides.

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

§ 8505. Payments to States

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

(b) Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, the sum that the Secretary estimates the State is entitled to receive under this subchapter for each calendar month. The sum shall be reduced or increased by the amount which the Secretary finds that his estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical, sampling, or other method agreed on by the Secretary and the State agency.
(c) The Secretary, from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office, shall pay the State in accordance with the certification from the funds for carrying out the purposes of this subchapter.

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

(e) An agreement may—

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

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

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

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

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

§ 8506. Dissemination of information

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

(1) whether or not the Federal employee has performed Federal service;

(2) the periods of Federal service;

(3) the amount of Federal wages; and

(4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regulations of the Secretary. The regulations shall include provision for correction by the employing agency of errors and omissions. Findings made in accordance with the regulations are final and conclusive for the purpose of sections 8502(d) and 8503(c) of this title. This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this chapter.

(b) The agency administering the unemployment compensation law of a State shall furnish the Secretary such information as he con-
siders necessary or appropriate in carrying out this subchapter. The information is deemed the report required by the Secretary for the purpose of section 503(a)(6) of title 42.

§ 8507. False statements and misrepresentations

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

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

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

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

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

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

§ 8508. Regulations

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

SUBCHAPTER II—EX-SERVICEMEN

§ 8521. Definitions; application

(a) For the purpose of this subchapter—

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

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

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

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

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

(2) “Federal wages” means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compen-
sation for the benefit year. The Secretary of Labor shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind.

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

§ 8522. Assignment of Federal service and wages

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

§ 8523. Dissemination of information

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

(b) Subject to correction of errors and omissions as prescribed by regulations of the Secretary, the following are final and conclusive for the purpose of sections 8502 (d) and 8503 (c) of this title:
   (1) Findings by an agency of the United States made in accordance with subsection (a) of this section with respect to—
      (A) whether or not an individual has met any condition specified by section 8521 (a) (1) of this title;  
      (B) the periods of Federal service; and  
      (C) the pay grade of the individual at the time of his latest discharge or release from Federal service.
   (2) The schedules of pay and allowances prescribed by the Secretary under section 8521 (a) (2) of this title.

§ 8524. Accrued leave

For the purpose of this subchapter, a payment for unused accrued leave under section 501 (b) of title 37 at the termination of Federal service is deemed—
   (1) to continue that Federal service during the period after the termination with respect to which the individual received the payment; and  
   (2) Federal wages, subject to regulations prescribed by the Secretary of Labor concerning allocation over the period after termination.

§ 8525. Effect on other statutes

(a) An individual eligible to receive a mustering-out payment under chapter 43 of title 38 is not entitled to compensation under this subchapter with respect to weeks of unemployment completed—
   (1) within 30 days after his discharge or release if he receives $100 in mustering-out payments;  
   (2) within 60 days after his discharge or release if he receives $200 in mustering-out payments; or  
   (3) within 90 days after his discharge or release if he receives $300 in mustering-out payments.
(b) An individual is not entitled to compensation under this sub-
chapter for any period with respect to which he receives—

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

CHAPTER 87—LIFE INSURANCE

§ 8701. Definition

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

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

but does not include—

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

(b) Notwithstanding subsection (a) of this section, the employ-
ment of a teacher in the recess period between two school years in a
position other than a teaching position in which he served immedi-
ately before the recess period does not qualify the individual as an
employee for the purpose of this chapter. For the purpose of this
subsection, “teacher” and “teaching position” have the meanings given
them by section 901 of title 20.
§ 8702. Automatic coverage

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

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

§ 8703. Benefit certificate

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

§ 8704. Group insurance; amounts

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

<table>
<thead>
<tr>
<th>Annual Pay</th>
<th>Group Life Insurance</th>
<th>Group Accidental Death and Dismemberment Insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than $0</td>
<td>$1,000</td>
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(b) Subject to the conditions and limitations approved by the Civil Service Commission which are contained in the policy purchased by the Commission, the group accidental death and dismemberment insurance provides payment as follows:

<table>
<thead>
<tr>
<th>Loss</th>
<th>Amount payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss of life</td>
<td>Full amount shown in the schedule in subsection (a) of this section.</td>
</tr>
<tr>
<td>Loss of one hand or of one foot or loss of sight of one eye</td>
<td>One-half the amount shown in the schedule in subsection (a) of this section.</td>
</tr>
<tr>
<td>Loss of two or more such members</td>
<td>Full amount shown in the schedule in subsection (a) of this section.</td>
</tr>
</tbody>
</table>
For any one accident the aggregate amount of group accidental death and dismemberment insurance that may be paid may not exceed the amount shown in the schedule in subsection (a) of this section.

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

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

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

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

§ 8705. Death claims; order of precedence; escheat

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

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

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

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

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

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

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

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

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

(d) If, within 4 years after the death of the employee, payment has not been made under this section and no claim for payment by a person entitled under this section is pending, the amount payable escheats to the credit of the Employees' Life Insurance Fund.
§ 8706. Termination of insurance

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

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

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

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

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

§ 8707. Employee deductions; withholding

During each period in which an employee is insured under a policy of insurance purchased by the Civil Service Commission under section 8709 of this title, an amount determined by the Commission shall be withheld from the pay of the employee as his share of the cost of his group life and accidental death and dismemberment insurance. The amount may not exceed the rate of 2.5 cents biweekly for each $1,000 of his group life insurance. The amount withheld on an employee paid on other than a biweekly basis is determined at a proportional rate adjusted to the nearest cent.

§ 8708. Government contributions

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

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

§ 8709. Insurance policies

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

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

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

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

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

§ 8710. Reinsurance

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

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

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

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

However, the amount retained by or ceded to a company may not exceed 25 percent of the amount of the company's total life insurance in force in the United States on the determination date.
(d) A fraternal benefit association which is—
   (1) licensed to transact life insurance under the laws of a State or the District of Columbia; and
   (2) engaged in issuing insurance certificates on the lives of employees of the United States exclusively;

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

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

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

§ 8711. Basic tables of premium rates
(a) A policy purchased under this chapter shall include, for the first policy year, basic tables of premium rates as follows:
   (1) For group life insurance, a schedule of basic premium rates by age which the Civil Service Commission determines to be consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers.
   (2) For group accidental death and dismemberment insurance, a basic premium rate which the Commission determines is consistent with the lowest rate generally charged for new group accidental death and dismemberment policies issued to large employers.

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

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

(c) The policy shall provide that if the Commission determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any later year of insurance thereunder would not be possible except at a disproportionately high expense, the Commission may approve the determination of a tentative average group life premium rate, for the first or any later policy year, instead of using the actual age distribution. The Commission, on request by the company issuing the policy, shall redetermine the tentative average premium rate during any policy year, if experience indicates that the assumptions made in determining that rate were incorrect for that year.
(d) The policy shall stipulate the maximum expense and risk charges for the first policy year. The Commission shall determine these charges on a basis consistent with the general level of charges made by life insurance companies under policies of group life and accidental death and dismemberment insurance issued to large employers. The maximum charges continue from year to year, except that the Commission may redetermine them for any year either by agreement with the company issuing the policy or on written notice given to the company at least 1 year before the beginning of the year for which the redetermined maximum charges will be effective.

§ 8712. Annual accounting; special contingency reserve

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

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

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

§ 8713. Advisors

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

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

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

§ 8714. Employees' Life Insurance Fund

(a) The amounts withheld from employees under section 8707 of this title and the sums contributed from appropriations and funds
under section 8708 of this title shall be deposited in the Treasury of the United States to the credit of the Employees' Life Insurance Fund. The Fund is available without fiscal year limitation for—

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

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

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

§ 8715. Jurisdiction of courts

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

§ 8716. Regulations

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

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

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

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

(c) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this chapter to an individual named by section 8701(a)(8) of this title.

CHAPTER 89—HEALTH INSURANCE

See.
8901. Definitions.
8902. Contracting authority.
8903. Health benefits plans.
8904. Types of benefits.
8905. Election of coverage.
8906. Contributions.
8907. Information to employees.
8908. Coverage of restored employee.
8909. Employees Health Benefits Fund.
8910. Studies, reports, and audits.
8911. Advisory committee.
8912. Jurisdiction of courts.
8913. Regulations.
§ 8901. Definitions.

For the purpose of this chapter—

(1) "employee" means—

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

but does not include—

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

(2) "Government" means the Government of the United States and the government of the District of Columbia;

(3) "annuitant" means—

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

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

(4) "service", as used by paragraph (3) of this section, means service which is creditable under subchapter III of chapter 83 of this title;
(5) "member of family" means the spouse of an employee or
annuitant and an unmarried child under 21 years of age,
including—
(A) an adopted child; and
(B) a stepchild, foster child, or recognized natural child
who lives with the employee or annuitant in a regular parent-
child relationship;
or such an unmarried child regardless of age who is incapable of
self-support because of mental or physical disability which
existed before age 21;
(6) "health benefits plan" means a group insurance policy or
contract, medical or hospital service agreement, membership or
subscription contract, or similar group arrangement provided by
a carrier for the purpose of providing, paying for, or reimbursing
expenses for health services;
(7) "carrier" means a voluntary association, corporation, part-
nership, or other nongovernmental organization which is lawfully
engaged in providing, paying for, or reimbursing the cost of,
health services under group insurance policies or contracts, medi-
cal or hospital service agreements, membership or subscription
contracts, or similar group arrangements, in consideration of
premiums or other periodic charges payable to the carrier, includ-
ning a health benefits plan duly sponsored or underwritten by an
employee organization; and
(8) "employee organization" means an association or other
organization of employees which is national in scope, or in which
membership is open to all employees of a Government agency
who are eligible to enroll in a health benefits plan under this
chapter, and which, before January 1, 1964, applied to the Com-
misson for approval of a plan provided under section 8903(3)
of this title.

§ 8902. Contracting authority

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

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

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

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

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

(d) Each contract under this chapter shall contain a detailed
statement of benefits offered and shall include such maximums, limi-
tations, exclusions, and other definitions of benefits as the Commission
considers necessary or desirable.
(e) The Commission may prescribe reasonable minimum standards for health benefits plans described by section 8903 of this title and for carriers offering the plans. Approval of a plan may be withdrawn only after notice and opportunity for hearing to the carrier concerned without regard to subchapter II of chapter 5 and chapter 7 of this title. The Commission may terminate the contract of a carrier effective at the end of the contract term, if the Commission finds that at no time during the preceding two contract terms did the carrier have 300 or more employees and annuitants, exclusive of family members, enrolled in the plan.

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

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

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

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

§ 8903. Health benefits plans

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

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

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

(3) Employee Organization Plans.—Employee organization plans which offer benefits of the types referred to by section 8904 (3) of this title, which are sponsored or underwritten, and are administered, in whole or substantial part, by employee organiza-
tions, which are available only to individuals, and members of their families, who at the time of enrollment are members of the organization.

(4) **Comprehensive Medical Plans.**—

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

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

§ 8904. Types of benefits

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

(1) **Service Benefit Plan.**—

(A) Hospital benefits.

(B) Surgical benefits.

(C) In-hospital medical benefits.

(D) Ambulatory patient benefits.

(E) Supplemental benefits.

(F) Obstetrical benefits.

(2) **Indemnity Benefit Plan.**—

(A) Hospital care.

(B) Surgical care and treatment.

(C) Medical care and treatment.

(D) Obstetrical benefits.

(E) Prescribed drugs, medicines, and prosthetic devices.

(F) Other medical supplies and services.

(3) **Employee Organization Plans.**—Benefits of the types named under paragraph (1) or (2) of this section or both.

(4) **Comprehensive Medical Plans.**—Benefits of the types named under paragraph (1) or (2) of this section or both.

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

§ 8905. Election of coverage

(a) An employee may enroll in an approved health benefits plan described by section 8903 of this title either as an individual or for self and family.
(b) An annuitant who at the time he becomes an annuitant was enrolled in a health benefits plan under this chapter—

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

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

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

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

(2) as a member of the family of an employee or annuitant;

may continue his enrollment under the conditions of eligibility prescribed by regulations of the Commission.

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

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

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

§ 8906. Contributions

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

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

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

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

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

(d) The amount necessary to pay the total charge for enrollment, after the Government contribution is deducted, shall be withheld from the pay of each enrolled employee and from the annuity of each enrolled annuitant. The withholding for an annuitant shall be the same as that for an employee enrolled in the same health benefits plan and level of benefits.
(e) An employee enrolled in a health benefits plan under this chapter who is placed in a leave without pay status may have his coverage and the coverage of members of his family continued under the plan for not to exceed 1 year under regulations prescribed by the Commission. The regulations may provide for the waiving of contributions by the employee and the Government.

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

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

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

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

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

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

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

§ 8907. Information to employees

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

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

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

(2) procedure for obtaining benefits; and

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

§ 8908. Coverage of restored employee

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

§ 8909. Employees Health Benefits Fund

(a) There is in the Treasury of the United States an Employees Health Benefits Fund which is administered by the Civil Service Commission. The contributions of employees, annuitants, and the Govern-
ment described by section 8906 of this title shall be paid into the Fund. The Fund is available—

(1) without fiscal year limitation for all payments to approved health benefits plans; and

(2) to pay expenses for administering this chapter within the limitations that may be specified annually by Congress.

(b) Portions of the contributions made by employees, annuitants, and the Government shall be regularly set aside in the Fund as follows:

(1) A percentage, not to exceed 1 percent of all contributions, determined by the Commission to be reasonably adequate to pay the administrative expenses made available by subsection (a) of this section.

(2) For each health benefits plan, a percentage, not to exceed 3 percent of the contributions toward the plan, determined by the Commission to be reasonably adequate to provide a contingency reserve.

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

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

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

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

§ 8910. Studies, reports, and audits

(a) The Civil Service Commission shall make a continuing study of the operation and administration of this chapter, including surveys and reports on health benefits plans available to employees and on the experience of the plans.
(b) Each contract entered into under section 8902 of this title shall contain provisions requiring carriers to—

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

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

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

§ 8911. Advisory committee

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

§ 8912. Jurisdiction of courts

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

§ 8913. Regulations

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

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

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

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

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

(d) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this chapter to an individual named by section 8901(1)(H) of this title.
Sec. 2. (a) Section 42 of title 4, United States Code, is amended to read as follows:

"§ 42. Same; custody and use of

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

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

"111. Same; taxation affecting Federal employees; income tax."

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

"§ 111. Same; taxation affecting Federal employees; income tax

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

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

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

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

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

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

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

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

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

"1916. Unauthorized employment and disposition of lapsed appropriations.

"1917. Interference with civil service examinations.

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

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

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

"1921. Receiving Federal employees' compensation after marriage.

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

"1923. Fraudulent receipt of payments of missing persons."

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

"§ 1916. Unauthorized employment and disposition of lapsed appropriations

"Whoever—

"(1) violates the provision of section 3103 of title 5 that an individual may be employed in the civil service in an Executive
department at the seat of Government only for services actually rendered in connection with and for the purposes of the appropriation from which he is paid; or

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

"§ 1917. Interference with civil service examinations"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment authorized to be paid under chapter 85 of title 5 or under an agreement thereunder, shall be fined not more than $1,000 or imprisoned not more than one year, or both.
"§ 1920. False statement to obtain Federal employees' compensation

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

"§ 1921. Receiving Federal employees' compensation after marriage

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

"§ 1922. False or withheld report concerning Federal employees' compensation

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

"§ 1923. Fraudulent receipt of payments of missing persons

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

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

(2) chapter 10 of title 37;

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

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

"4010. Acquisition of additional land.

4011. Disposition of cash collections for meals, laundry, etc."

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

"§ 4010. Acquisition of additional land

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

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

"Collections in cash for meals, laundry, barber service, uniform equipment, and other items for which payment is made originally from appropriations for the maintenance and operation of Federal penal and correctional institutions, may be deposited in the Treasury to the credit of the appropriation currently available for those items when the collection is made."
SEC. 4. (a) The analysis of title 28, United States Code, is amended by striking out:

"II. UNITED STATES ATTORNEYS AND MARSHALS---------------------- 501"

and inserting in place thereof:

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

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

"PART II—DEPARTMENT OF JUSTICE

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

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

"PART II—DEPARTMENT OF JUSTICE

"CHAPTER

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

"CHAPTER 31—THE ATTORNEY GENERAL

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

"§ 501. Executive department

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

"§ 502. Seal

"The Attorney General shall have a seal for the Department of Justice. The design of the seal is subject to the approval of the President.
"§ 503. Attorney General
"The President shall appoint, by and with the advice and consent of the Senate, an Attorney General of the United States. The Attorney General is the head of the Department of Justice.

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

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

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

"§ 507. Assistant Attorney General for Administration
"(a) The Attorney General shall appoint, with the approval of the President, an Assistant Attorney General for Administration, who shall perform such duties as the Attorney General may prescribe.
"(b) The position of Assistant Attorney General for Administration is in the competitive service.

"§ 508. Vacancies
"(a) In case of a vacancy in the office of Attorney General, or of his absence or disability, the Deputy Attorney General may exercise all the duties of that office, and for the purpose of section 3345 of title 5 the Deputy Attorney General is the first assistant to the Attorney General.
"(b) When, by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Assistant Attorneys General and the Solicitor General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General.

"§ 509. Functions of the Attorney General
"All functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General except the functions—
"(1) vested by subchapter II of chapter 5 of title 5 in hearing examiners employed by the Department of Justice;
"(2) of the Federal Prison Industries, Inc.;
"(3) of the Board of Directors and officers of the Federal Prison Industries, Inc.; and
"(4) of the Board of Parole.

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

"§ 511. Attorney General to advise the President
"The Attorney General shall give his advice and opinion on questions of law when required by the President.
§ 512. Attorney General to advise heads of executive departments

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

§ 513. Attorney General to advise Secretaries of military departments

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

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

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

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

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

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

§ 516. Conduct of litigation reserved to Department of Justice

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

§ 517. Interests of United States in pending suits

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

§ 518. Conduct and argument of cases

(a) Except when the Attorney General in a particular case directs otherwise, the Attorney General and the Solicitor General shall con-
duct and argue suits and appeals in the Supreme Court and suits in
the Court of Claims in which the United States is interested.

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

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

"§520. Transmission of petitions in Court of Claims; statement
furnished by departments
"(a) In suits against the United States in the Court of Claims
founded on a contract, agreement, or transaction with an executive de-
partment or military department, or a bureau, officer, or agent thereof,
or when the matter or thing on which the claim is based has been
passed on and decided by an executive department, military depart-
ment, bureau, or officer authorized to adjust it, the Attorney General
shall send to the department, bureau, or officer a printed copy of the
petition filed by the claimant, with a request that the department,
bureau, or officer furnish to the Attorney General all facts, circum-
stances, and evidence concerning the claim in the possession or knowl-
edge of the department, bureau, or officer.

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

"§ 521. Publication and distribution of opinions
"The Attorney General, from time to time—

"(1) shall cause to be edited, and printed in the Government
Printing Office, such of his opinions as he considers valuable for
preservation in volumes; and
“(2) may prescribe the manner for the distribution of the volumes. Each volume shall contain headnotes, an index, and such footnotes as the Attorney General may approve.

§ 522. Report of business and statistics

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

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

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

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

§ 523. Requisitions

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

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

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

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

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

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

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

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

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

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

“(2) at the request and on behalf of the Director of the Administrative Office of the United States Courts, the clerks of the United States courts and of the district courts of the Canal Zone and the Virgin Islands, probation officers, referees, trustees and receivers in bankruptcy, United States commissioners, and court reporters;
for which purpose all the official papers, records, dockets, and accounts of these officers, without exception, may be examined by agents of the Attorney General at any time.

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

"CHAPTER 33—FEDERAL BUREAU OF INVESTIGATION"

"Sec.
"§ 531. Federal Bureau of Investigation.
"§ 532. Director of Federal Bureau of Investigation.
"§ 533. Investigative and other officials; appointment.
"§ 534. Acquisition, preservation, and exchange of identification records; appointment of officials.
"§ 535. Investigation of crimes involving Government officers and employees; limitations.
"§ 536. Positions in excepted service.
"§ 537. Expenses of unforeseen emergencies of a confidential nature.

"§ 531. Federal Bureau of Investigation
"The Federal Bureau of Investigation is in the Department of Justice.

"§ 532. Director of the Federal Bureau of Investigation
"The Attorney General may appoint a Director of the Federal Bureau of Investigation. The Director of the Federal Bureau of Investigation is the head of the Federal Bureau of Investigation.

"§ 533. Investigative and other officials; appointment
"The Attorney General may appoint officials—

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

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

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

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

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

"(a) The Attorney General shall—

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

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

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

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

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

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

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

"(2) without limiting the authority to investigate any matter
which is conferred on them or on a department or agency of the Government.

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

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

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

"(c) This section does not limit—

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

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

"§ 536. Positions in excepted service

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

"§ 537. Expenses of unforeseen emergencies of a confidential character

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

"CHAPTER 35—UNITED STATES ATTORNEYS

"Sec.

"541. United States attorneys.

"542. Assistant United States attorneys.

"543. Special attorneys.

"544. Oath of office.

"545. Residence.

"546. Vacancies.

"547. Duties.

"548. Salaries.

"549. Expenses.

"550. Clerical assistants and messengers.

"§ 541. United States attorneys

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

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

"(c) Each United States attorney is subject to removal by the President.
§ 542. Assistant United States attorneys
(a) The Attorney General may appoint one or more assistant United States attorneys in any district when the public interest so requires.
(b) Each assistant United States attorney is subject to removal by the Attorney General.

§ 543. Special attorneys
(a) The Attorney General may appoint attorneys to assist United States attorneys when the public interest so requires.
(b) Each attorney appointed under this section is subject to removal by the Attorney General.

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

§ 545. Residence
(a) Each United States attorney and assistant United States attorney shall reside in the district for which he is appointed, except that these officers of the District of Columbia and the Southern District of New York may reside within 20 miles thereof.
(b) The Attorney General may determine the official stations of United States attorneys and assistant United States attorneys within the districts for which they are appointed.

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

§ 547. Duties
Except as otherwise provided by law, each United States attorney, within his district, shall—
(1) prosecute for all offenses against the United States;
(2) prosecute or defend for the Government, all civil actions, suits or proceedings in which the United States is concerned;
(3) appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to these officers, and by them paid into the Treasury;
(4) institute and prosecute proceedings for the collection of fines, penalties, and forfeitures incurred for violation of any revenue law, unless satisfied on investigation that justice does not require the proceedings; and
(5) make such reports as the Attorney General may direct.

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

§ 549. Expenses
Necessary office expenses of United States attorneys shall be allowed when authorized by the Attorney General.
"§ 550. Clerical assistants and messengers

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

"CHAPTER 37—UNITED STATES MARSHALS

"Sec.

"561. United States marshals.

"562. Deputy marshals and clerical assistants.

"563. Oath of office.

"564. Bond.

"565. Vacancies.

"566. Death of a marshal.

"567. Expenses of marshals.

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

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

"570. Power as sheriff.

"571. Disbursement of salaries and moneys.

"572. Collection of fees; accounting.

"573. Delivery of prisoners to successor.

"574. Delivery of unserved process to successor.

"575. Practice of law prohibited.

"§ 561. United States marshals

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

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

"(c) The Attorney General shall designate places within the district for the official station and offices of each marshal. Each marshal shall reside within the district for which he was appointed, except that the marshal for the District of Columbia and the Southern District of New York may reside within 50 miles thereof.

"§ 562. Deputy marshals and clerical assistants

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

"§ 563. Oath of office

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

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

"§ 564. Bond

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

"(b) The Attorney General may require the United States marshal for the Southern District of New York to be bonded in a sum not exceeding $75,000 and any other United States marshal to be bonded in a sum not exceeding $40,000.
“(c) A person injured by a breach of a United States marshal’s bond may sue thereon, in his own name, to recover his damages. Such an action shall be commenced within six years after the right accrues, but a person under legal disability may sue within three years after the removal of his disability. After judgment, the marshal’s bond shall remain as security until the whole penalty has been recovered.

§ 565. Vacancies

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

§ 566. Death of a marshal

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

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

§ 567. Expenses of marshals

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

“(1) his actual and necessary office expenses;

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

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

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

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

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

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

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

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

§ 570. Power as sheriff

“A United States marshal and his deputies, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.
§ 571. Disbursement of salaries and moneys

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

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

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

§ 572. Collection of fees; accounting

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

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

§ 573. Delivery of prisoners to successor

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

§ 574. Delivery of unserved process to successor

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

§ 575. Practice of law prohibited

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

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

"158. Orders of Federal Agencies; Review------------------------ 2341".

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

CHAPTER 158—ORDERS OF FEDERAL AGENCIES; REVIEW

Sec.
2341. Definitions.
2343. Venue.
2344. Review of orders; time; notice; contents of petitions; service.
2345. Prehearing conference.
2346. Certification of record on review.
2347. Petitions to review; proceedings.
2348. Representation in proceeding; intervention.
2349. Jurisdiction of the proceeding.
2350. Review in Supreme Court on certiorari or certification.
2351. Enforcement of orders by district courts.
2352. Rules.
"§ 2341. Definitions

"As used in this chapter—

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

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

"(3) ‘agency’ means—

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

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

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

"§ 2342. Jurisdiction of court of appeals

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

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

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

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

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

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

"§ 2343. Venue

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

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

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

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

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

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

"(4) the relief prayed.

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

"§ 2345. Prehearing conference

"The court of appeals may hold a prehearing conference or direct a judge of the court to hold a prehearing conference.
"§ 2346. Certification of record on review

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

"§ 2347. Petitions to review; proceedings

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

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

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

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

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

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

"(1) the additional evidence is material; and

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

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

"§ 2348. Representation in proceeding; intervention

"The Attorney General is responsible for and has control of the interests of the Government in all court proceedings under this chapter. The agency, and any party in interest in the proceeding before the agency whose interests will be affected if an order of the agency is or is not enjoined, set aside, or suspended, may appear as parties thereto of their own motion and as of right, and be represented by counsel in any proceeding to review the order. Communities, associations, corporations, firms, and individuals, whose interests are affected by the order of the agency, may intervene in any proceeding to review the order. The Attorney General may not dispose of or discontinue the proceeding to review over the objection of any party or intervenor, but any intervenor may prosecute, defend, or continue the proceeding unaffected by the action or inaction of the Attorney General.
§ 2349. Jurisdiction of the proceeding

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

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

§ 2350. Review in Supreme Court on certiorari or certification

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

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

§ 2351. Enforcement of orders by district courts

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

§ 2352. Rules

The several courts of appeals shall adopt and promulgate rules, subject to the approval of the Judicial Conference of the United States.
States, governing the practice and procedure, including prehearing conference procedure, in proceedings to review orders under this chapter.”

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

“10. PAYMENTS TO MISSING PERSONS----------------------------------- 551”.

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

“CHAPTER 10—PAYMENTS TO MISSING PERSONS

“Sec.

“§ 551. Definitions.

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

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

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

“§ 555. Secretarial review.

“§ 556. Secretarial determinations.

“§ 557. Settlement of accounts.

“§ 558. Income tax deferment.

§ 551. Definitions

“In this chapter—

“(1) ‘dependent’, with respect to a member of a uniformed service, means—

“(A) his wife;

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

“(C) his dependent mother or father;

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

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

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

“(A) missing;

“(B) missing in action;

“(C) interned in a foreign country;

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

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

“(3) ‘pay and allowances’ means—

“(A) basic pay;

“(B) special pay;

“(C) incentive pay;

“(D) basic allowance for quarters;

“(E) basic allowance for subsistence; and

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

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

“(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is, for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances, as defined in this chapter, to which he was entitled at the beginning of that period or may there-
after become entitled. However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay.

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

“(1) the Secretary concerned receives evidence that the member is dead; or
“(2) that his death is prescribed or determined under section 555 of this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(1) to the member's official residence of record;

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

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

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

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

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

"(1) reimbursement for the commercial cost of the transportation; or
“(2) a monetary allowance at the prescribed rate for all, or that part, of the travel for which transportation in kind is not furnished.

“(f) The Secretary concerned may store the household and personal effects of a member described in subsection (b) of this section until proper disposition can be made. The cost of the storage and transportation (including packing, crating, drayage, temporary storage, and unpacking) of household and personal effects shall be charged against appropriations currently available.

“(g) The Secretary concerned may, when he determines that there is an emergency and a sale would be in the best interests of the United States, provide for the public or private sale of motor vehicles and other bulky items of household and personal effects of a member described in subsection (b) of this section. Before a sale, and if practicable, a reasonable effort shall be made to determine the desires of the interested persons. The net proceeds received from the sale shall, under regulations prescribed by the Secretary concerned, be sent to the owner or other persons. If there are no such persons, or if they or their addresses are not known within one year from the date of sale, the net proceeds may be covered into the Treasury as miscellaneous receipts.

“(h) Claims for net proceeds that are covered into the Treasury under subsection (g) of this section may be filed with the General Accounting Office by the rightful owners, their heirs or next of kin, or their legal representatives at any time before the end of a 5-year period from the date the proceeds are covered into the Treasury. When a claim is filed, the General Accounting Office shall allow or disallow it. A claim that is allowed shall be paid from the appropriation for refunding money erroneously received and covered. If a claim is not filed before the end of the 5-year period from the date the proceeds are covered into the Treasury, it is barred from being acted on by the courts or the General Accounting Office.

“(i) This section does not amend or repeal—

“(1) section 2575, 2733, 4712, 4713, 6522, 9712, or 9713 of title 10;

“(2) section 507 of title 14; or

“(3) chapter 171 of title 28.

§ 555. Secretarial review

“(a) When a member of a uniformed service entitled to pay and allowances under section 552 of this title has been in a missing status, and the official report of his death or of the circumstances of his absence has not been received by the Secretary concerned, he shall, before the end of a 12-month period in that status, have the case fully reviewed. After that review and the end of the 12-month period in a missing status, or after a later review which shall be made when warranted by information received or other circumstances, the Secretary concerned, or his designee, may—

“(1) if the member can reasonably be presumed to be living, direct a continuance of his missing status; or

“(2) make a finding of death.

“(b) When a finding of death is made under subsection (a) of this section, it shall include the date death is presumed to have occurred for the purpose of—

“(1) ending the crediting of pay and allowances;
"(2) settlement of accounts; and
"(3) payment of death gratuities.

That date is—
"(A) the day after the day on which the 12-month period in a missing status ends; or
"(B) if the missing status has been continued under subsection (a) of this section, the day determined by the Secretary concerned, or his designee.

"(c) For the sole purpose of determining status under this section, a dependent of a member on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

"§ 556. Secretarial determinations
"(a) The Secretary concerned, or his designee, may make any determination necessary to administer this chapter and, when so made, it is conclusive as to—
"(1) death or finding of death;
"(2) the fact of dependency under this chapter;
"(3) the fact of dependency for the purpose of paying six months' death gratuities authorized by law;
"(4) the fact of dependency under any other law authorizing the payment of pay, allowances, or other emoluments to enlisted members of the armed forces, when the payments are contingent on dependency;
"(5) any other status covered by this chapter;
"(6) an essential date, including one on which evidence or information is received by the Secretary concerned; and
"(7) whether information received concerning a member of a uniformed service is to be construed and acted on as an official report of death.

"(b) When the Secretary concerned receives information that he considers establishes conclusively the death of a member of a uniformed service, he shall, notwithstanding any earlier action relating to death or other status of the member, act on it as an official report of death. After the end of the 12-month period in a missing status prescribed by section 555 of this title, the Secretary concerned, or his designee, shall, when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that a member in a missing status is dead, make a finding of death.

"(c) The Secretary concerned, or his designee, may determine the entitlement of a member to pay and allowances under this chapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that a member captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.
“(d) The Secretary concerned, or his designee, may, when warranted by the circumstances, reconsider a determination made under this chapter, and change or modify it.

“(e) When the account of a member has been charged or debited with an allotment paid under this chapter, the amount so charged or debited shall be recredited to the account of the member if the Secretary concerned, or his designee, determines that the payment was induced by fraud or misrepresentation to which the member was not a party.

“(f) Except an allotment for an unearned insurance premium, an allotment paid from pay and allowances of a member for the period he is entitled to pay and allowances under section 552 of this title may not be collected from the allottee as an overpayment when it was caused by delay in receiving evidence of death. An allotment payment for a period after the end of entitlement to pay and allowances under this chapter, or otherwise, which was caused by delay in receiving evidence of death, may not be collected from the allottee or charged against the pay of the deceased member.

“(g) The Secretary concerned, or his designee, may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

“(h) For the sole purpose of determining status under this section, a dependent of a member of a uniformed service on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

§ 557. Settlement of accounts

“(a) The Secretary concerned, or his designee, may settle the account of—

“(1) a member of a uniformed service for whose account payments have been made under sections 552, 553, and 555 of this title; and

“(2) a survivor of a casualty to a ship, station, or military installation which results in the loss or destruction of disbursing records.

That settlement is conclusive on the accounting officers of the United States in settling the accounts of disbursing officers.

“(b) Payment or settlement of an account made pursuant to a report, determination, or finding of death may not be recovered or reopened because of a later report or determination which fixes a date of death. However, an account shall be reopened and settled on the basis of a date of death so fixed which is later than that used as a basis for earlier settlements.

“(c) In the settlement of his accounts, a disbursing officer is entitled, if there is no fraud or criminality by him, to credit for an erroneous payment or overpayment he made in carrying out this chapter, except section 558. Unless there is fraud or criminality by him, recovery may not be made from a civilian officer or employee or a member of a uniformed service who authorizes a payment under this chapter, except section 558.
§ 558. Income tax deferment

"Notwithstanding any other provision of law, a Federal income tax return of, or the payment of a Federal income tax by, a member of a uniformed service who, at the time the return or payment would otherwise become due, is in a missing status, does not become due until the earlier of the following dates—

"(1) the fifteenth day of the third month in which he ceased (except by reason of death or incompetency) being in a missing status, unless before the end of that fifteenth day he is again in a missing status; or

"(2) the fifteenth day of the third month after the month in which an executor, administrator, or conservator of the estate of the taxpayer is appointed.

That due date is prescribed subject to the power of the Secretary of the Treasury or his delegate to extend the time for filing the return or paying the tax, as in other cases, and to assess and collect the tax as provided by sections 6851, 6861, and 6871 of title 26 in cases in which the assessment or collection is jeopardized and in cases of bankruptcy or receivership."

SEC. 6. (a) The analysis of chapter 95 of title 39, United States Code, is amended by adding the following:

"6216. Railroad operations, receipts and expenditures."

(b) Chapter 95 of title 39, United States Code, is amended by adding the following new section:

§ 6216. Railroad operations, receipts and expenditures

"The Postmaster General shall request all railroad companies transporting the mails to furnish, under seal, such data relating to the operating, receipts and expenditures of such roads as may, in his judgment, be deemed necessary to enable him to ascertain the cost of mail transportation and the proper compensation to be paid for the same. He shall, in his annual report to Congress, make such recommendations, founded on the information obtained under this section, as shall, in his opinion, be just and equitable."

SEC. 7. (a) The legislative purpose in enacting sections 1-6 of this Act is to restate, without substantive change, the laws replaced by those sections on the effective date of this Act. Laws effective after June 30, 1965, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1-6 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1-6 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1-6 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

(f) The enactment of this Act does not increase or decrease the pay, allowances, compensation, or annuity of any person.

(g) If a provision enacted by this Act is held invalid, all valid
provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications.

(h) Sections 1–6 of this Act shall be construed to apply to commissioned officers of the Public Health Service and commissioned officers of the Coast and Geodetic Survey to the same extent that the laws replaced by those sections applied to these officers immediately before the date of enactment of this Act.

Sec. 8. (a) The laws specified in the following schedule are repealed except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act and except as provided by section 7 of this Act.

(b) The right to a deferred annuity on satisfaction of the conditions attached thereto is continued notwithstanding the repeal of the law conferring the right.

(c) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

Schedule of Laws Repealed

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