GAO

United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-275860

January 31, 1997

The Honorable Henry J. Hyde
Chairman, Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

The Defense of Marriage Act,[1] which became law on September 21 of last year, defines "marriage" as "a legal union between one man and one woman as husband and wife"; similarly it defines "spouse" as referring "only to a person of the opposite sex who is a husband or a wife." Because the Act makes both definitions apply "[i]n determining the meaning of any Act of Congress," it potentially affects the interpretation of a wide variety of federal laws in which marital status is a factor.

In connection with the enactment of the Defense of Marriage Act, you asked us, in your September 5, 1996, letter, to identify federal laws in which benefits, rights, and privileges are contingent on marital status. Your staff agreed that we should identify more generally all those laws in the United States Code in which marital status is a factor, even though some of these laws may not directly create benefits, rights, or privileges.

To find laws that meet these criteria, we conducted searches for various words or word stems ("marr," "spouse," "widow," etc.), chosen to elicit marital status, in several electronic databases that contain the text of federal laws. From the collection of laws in the United States Code that we found through those searches, we eliminated (1) laws that included one or more of our search terms but that were not relevant to your request[2] and (2) as agreed with your staff, any laws enacted after the Defense of Marriage Act. The result is a

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[1]Public Law 104-199, 110 Stat. 2419.

[2]For example, our search for the word stem "marr," designed to capture words such as "marriage" and "marry," also produced references to laws mentioning bone marrow transplants, the city of Marrakesh, and proper names containing the letters "marr."

collection of 1049 federal laws classified to the United States Code in which marital status is a factor.

This collection of laws is as complete and representative as can be produced by a global electronic search of the kind we conducted, but such a search has several limitations. Most significantly, it cannot capture every individual law in the United States Code in which marital status figures. However, we believe that the probability is high that it has identified those *programs* in the Code in which marital status is a factor.

Because of the inherent limitations of any computer search[3] and the many ways in which the laws in the United States Code may have dealt with marital status, the only way to create an exhaustive list of laws in the Code implicating marital status would be to read and analyze the Code in its entirety. We believe that such an effort would not generate substantially more useful information than we have provided here.

A second caveat concerning our data is that they include only laws classified to the United States Code. As you know, the Code is a compendium of "general and permanent" laws. Although appropriations and annual authorizations, for example, might contain references to marital status, they are typically in effect for a single year, and therefore do not appear in the Code.

Finally, no conclusions can be drawn, from our identification of a law as one in which marital status is a factor, concerning the effect of the law on married people versus single people. A particular law may create either advantages or disadvantages for those who are married, or may apply to both married and single people. For example, those who are unmarried fare better than their married counterparts under the so-called marriage penalty provisions of the tax laws, while married couples enjoy estate tax benefits not available to the unmarried. Other laws apply both to married and single people by virtue of terms like "survivors," "relatives," family," and "household."

The raw data produced by our searches were in a form that made them unwieldy and difficult to use. One reason for this is the sheer number of individual laws that we identified. Also, we conducted multiple searches in several databases, resulting in several separate lists in varying formats. Finally, the laws on the lists were organized as they are in the United States Code; for a reader attempting to understand what kinds of laws make

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[3]One such limitation results from the use of statutory definitions. Our search for occurrences of "spouse" would find a law defining "relative," for purposes of a program, as including a spouse. It would not find the laws in that program that, by referring to "relative," apply to a spouse. A search for "relative" does not solve this problem. That word is used commonly in senses unrelated to marital status (as are other terms such as "single"). A computer cannot distinguish between these senses; a lawyer would have to examine each occurrence of "relative" to determine whether it refers to marital status.

marital status a factor, that organization is not consistently helpful. Some of the Code's 50 titles contain laws on seemingly unrelated subjects. Title 42, under the broad designation "The Public Health and Welfare," includes laws ranging from Social Security to nuclear waste disposal to civil rights and privacy protection. Conversely, closely parallel provisions may appear in different titles: benefits for most federal civil servants are in Title 5, Government Organization and Employees, but similar provisions for Foreign Service officers are in Title 22, Foreign Relations and Intercourse.

To give readers a sense of the kinds of federal laws in which marital status is a factor, we classified the laws on the list into the following 13 categories[4]:

Social Security and Related Programs, Housing, and Food Stamps
Veterans' Benefits
Taxation
Federal Civilian and Military Service Benefits
Employment Benefits and Related Laws
Immigration, Naturalization, and Aliens
Indians
Trade, Commerce, and Intellectual Property
Financial Disclosure and Conflict of Interest
Crimes and Family Violence
Loans, Guarantees, and Payments in Agriculture
Federal Natural Resources and Related Laws
Miscellaneous Laws

While we believe this classification scheme is useful for organizing the hundreds of statutes on the list, and for representing the range of federal programs and activities in which the law makes marital status relevant, it should not be regarded as definitive. Other ways of categorizing these laws would be equally valid. Moreover, the categories we use are not mutually exclusive: many laws could arguably be in a different category. A general description of each category and a few examples of the laws it contains are in enclosure I. The full lists of statutes in each category are in enclosure II.

As arranged with your staff, unless you announce its contents earlier, we plan no further distribution of this letter for 7 days after its issue date. At that time, we will make copies available on request.

If you have any questions, please call me at (202) 512-8203 or Susan Poling, Assistant General Counsel, at (202) 512-2667.

Sincerely yours,

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[4]The order of the categories is not significant, except that the first four are those in which marital status is most pervasive, and are the largest.

Barry R. Bedrick
Associate General Counsel

Enclosures - 2

Categories of Laws Involving Marital Status

CATEGORY 1—SOCIAL SECURITY AND RELATED PROGRAMS, HOUSING, AND FOOD STAMPS

This category includes the major federal health and welfare programs, particularly those considered entitlements, such as Social Security retirement and disability benefits, food stamps, welfare, and Medicare and Medicaid.[1] Most of these laws are found in Title 42 of the United States Code, The Public Health and Welfare; food stamp legislation is in Title 7, Agriculture.

In many of these programs, recognition of the marital relationship is integral to the design of the program. For example, the law establishing the Old Age, Survivors, and Disability Insurance (OASDI) program (Social Security) is written in terms of the rights of husbands and wives, and widows and widowers. Once the law sets forth the basic right of an individual participant to retirement benefits, it prescribes in great detail the corresponding rights of the current or former spouse. Whether one is eligible for Social Security payments, and if so how much one receives, are both dependent on marital status. This is reflected in the provisions for what happens upon the death of a beneficiary: if certain conditions are met, then a spouse or a divorced spouse (as well as a widow or widower) has a right to payments based on the marriage, rather than on his or her own earnings.

The part of the Social Security Act that governs the OASDI program is unusual in that, unlike many other laws we have identified, it defines the terms "husband" and "wife." It does so in terms of state law: a person is the wife or husband of an insured individual for purposes of OASDI if "the courts of the State [of domicile] … would find that such applicant and such insured individual were validly married …" or, if not, that under the state's laws of intestate succession, the person would have the same status with respect to the individual's property as a wife or husband, widow or widower. Those 65 or older who are eligible for Social Security retirement benefits, or who have received Social Security disability benefits for at least 2 years, are also eligible for benefits under Medicare.

The Social Security Act also authorizes the Supplemental Security Income (SSI) program, for the needy aged, blind, and disabled. Under SSI, both the level of income to determine eligibility and the level of benefits for those who are eligible differ, depending whether the applicant has an eligible spouse or not. SSI defines "eligible spouse" as an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual. The SSI law goes on

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[1]The recently enacted welfare reform bill, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, greatly affected some of the provisions in this category, but the changes are not generally effective until July 1997. Where both the old and new provisions appear in the United States Code, we have included both—the ones in effect until July 1997 and the ones that take effect thereafter—in Enclosure II.

to say that, in determining whether two individuals are husband and wife, state law will generally apply, except that if a man and a woman have been determined to be husband and wife for purpose of OASDI or, if a man and woman are found to be holding themselves out to the community as husband and wife, they are also husband and wife for purposes of SSI.

Child support enforcement is another program, also established under the Social Security Act, that contains provisions affecting spouses. Its purpose is to provide help (1) in enforcing the support obligations of absent parents to their children and to the spouse with whom the children may be living, and (2) in obtaining child and spousal support. If an obligation has been established under state law for one spouse to support another, and if the supported spouse is receiving assistance under Medicaid (see below) or AFDC (Aid to Families with Dependent Children), then a state participating in the child support enforcement program must help enforce the support obligation.

Medicaid is a jointly funded federal-state entitlement program to provide medical assistance to qualifying low-income people, including those eligible for AFDC[2] and SSI, non-AFDC low-income children and pregnant women, and low-income Medicare beneficiaries. In determining a person's eligibility for Medicaid based on income, states may consider the spouse's financial responsibility for the person, but may not consider anyone else's financial responsibility. Spouses are considered "essential" to individuals receiving Medicaid benefits, and are therefore eligible for medical assistance themselves. The Medicaid statute also prescribes how to account for the income and resources of the spouse of an institutionalized person, for purposes of determining that person's eligibility for benefits.

In the broad federal program of housing assistance for low-income families the definition of "families" takes marital status into account. For some purposes, the term means families whose heads, or their spouses, are elderly, near-elderly, or disabled. However, the same provision includes a definition of families—"2 or more elderly persons, near-elderly persons, or persons with disabilities living together"—that does not require any marital relationship. The same law makes marital status a factor in determining whether a family qualifies for assistance in terms of income. Applicants may exclude $550 for each family member who is under 18, or is disabled or handicapped or a full-time student, but this exclusion does not apply to "the head of the household or his spouse." Also to be excluded is any payment by a member of the family for the support and maintenance of a spouse or former spouse who does not live in the household.

In the National Affordable Housing program, marital status also is significant. The program is intended to assist families, and particularly "first-time homebuyers," in buying homes. "First-time homebuyer" is defined, in part, as an individual "and his or her spouse" who have not owned a home during the preceding 3 years.

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[2]Under welfare reform, AFDC will be replaced by Temporary Assistance for Needy Families in July 1997. States will have the option of terminating Medicaid benefits for individuals who refuse to work.

In the Food Stamp program (also to be broadly affected by welfare reform), marital status is not central, but does play a role. Eligibility for benefits under the program is determined on the basis of households, and "household" includes not only spouses who live together, but also groups of individuals who live together and customarily buy and prepare food together.

CATEGORY 2—VETERANS' BENEFITS

Veterans' benefits, which are codified in Title 38 of the United States Code, include pensions, indemnity compensation for service-connected deaths, medical care, nursing home care, right to burial in veterans' cemeteries, educational assistance, and housing. Husbands or wives of veterans have many rights and privileges by virtue of the marital relationship.

A surviving spouse or child of a veteran is entitled to receive monthly dependency and indemnity compensation payments when the veteran's death was service-connected, and to receive a monthly pension when the veteran's death was not service-connected. If it is discovered that a veteran's marriage is invalid, the purported marriage may nevertheless be deemed valid under certain circumstances, as long as a "real" widow or widower does not ask for benefits.

Veterans who have at least a 30 percent disability are entitled to additional disability compensation if they have dependents. For this purpose a spouse is considered a dependent. A veteran's spouse may also receive compensation if a veteran disappears. On the other hand, a spouse's estate is considered along with the veteran's when the Secretary of Veterans Affairs determines whether it is reasonable that some part of the veteran's assets be used for the veteran's maintenance and whether the Secretary should discontinue paying the pension.

The spouses of certain veterans are entitled to medical care provided by the government. In determining, based on income and assets, whether a veteran has the ability to defray necessary home care and medical expenses, the property of the spouse of the veteran is included as an asset of the veteran. Spouses of veterans may be beneficiaries of National Service Life Insurance, and are also eligible for interment in national cemeteries if the veteran is eligible. The surviving spouse of a veteran who died of a service-connected disability is entitled to educational assistance for up to 45 months, and to job counseling, training, and placement services. Spouses and widows or widowers of certain veterans also enjoy preferences in federal employment.

CATEGORY 3—TAXATION

The distinction between married and unmarried status is pervasive in federal tax law; this is one of the largest categories, with 179 provisions. Tax law does not define such terms as "husband," "wife," or "married."

Marital status figures in federal tax law in provisions as basic as those giving married taxpayers the option to file joint or separate income tax returns. It is also seen in the related provisions prescribing different tax consequences depending on whether a taxpayer is married filing jointly,

married filing separately, unmarried but the head of a household, or unmarried and not the head of a household.

The different treatment in the tax code of married couples and single individuals gives rise to one of the most contentious tax policy issues, the so-called marriage penalty (and its counterpart, the marriage bonus). This issue comes into play in connection with income tax rates, the treatment of capital losses, credits for the elderly and disabled, taxation of Social Security benefits, and a number of other provisions of the tax code. In our report, Tax Administration: Income Tax Treatment of Married and Single Individuals,[3] we identified 59 provisions in income tax law under which tax liability depends in part on whether a taxpayer is married or single.

Marital status also plays a key role in the estate and gift tax laws and in the part of the tax code dealing with taxation on the sale of property. For estate tax purposes, property transferred to one spouse as the result of the death of another is deductible for purposes of determining the value of the decedent's estate. Gifts from one spouse to another are deductible for purposes of the gift tax. Gifts from one spouse to a third party are deemed to be from both spouses equally. The law permits transfers of property from one spouse to another (or to a former spouse if the transfer is incident to a divorce) without any recognition of gain or loss for tax purposes. These provisions permit married couples to transfer substantial sums to one another, and to third parties, without tax liability in circumstances in which single people would not enjoy the same privilege.

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

This category includes laws dealing with current and retired federal officers and employees, members of the Armed Forces, elected officials, and judges, in which marital status is a factor. Typically these laws address the various health, leave, retirement, survivor, and insurance benefits provided by the United States to those in federal service and their families.

Over 270 of the 1049 provisions we found fall in this category. They appear primarily in Title 5 of the United States Code, Government Organization and Employees, for civilian employees, and Title 10, Armed Forces, for military members. However, parallel provisions are found in 19 other titles covering, for example, Foreign Service officers (Title 22, Foreign Relations and Intercourse), Central Intelligence Agency employees (Title 50, War and National Defense), Lighthouse Service employees (Title 33, Navigation and Navigable Waters), and members of the Coast Guard (Title 14, Coast Guard).

Marital status is a factor in these laws in many ways. Among the laws governing federal employees and officers, it figures in the following provisions: a law establishing health benefits or survivor benefits for spouses; a law prescribing the order of precedence in payment of final paychecks and life insurance benefits of employees or officers who die without having designated

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[3]GAO/GGD-96-175, September 3, 1996.

a beneficiary; and a law determining the rights of current or former spouses to a retirement annuity after the death of an employee.

In addition, under provisions for reimbursement of employees' expenses in connection with a government-ordered relocation, spouses are eligible for per diem allowances or subsistence payments. Federal civil service employees are entitled to unpaid leave in order to care for a spouse with a serious health problem, and an employee disabled by work-related injuries receives augmented compensation if he or she is married.

A different set of laws governs military personnel and their families. Some of the provisions unique to military service include: employment assistance and transitional services for spouses of members being separated from military service; continued commissary privileges for dependents, including spouses, of members separated for spousal or child abuse, and the right of minor spouses of overseas military personnel to free secondary education through the Defense Department school system.

CATEGORY 5—EMPLOYMENT BENEFITS AND RELATED LAWS

Marital status comes into play in many different ways in federal laws relating to employment in the private sector. Most such laws appear in Title 29 of the United States Code, Labor. However, others are in Title 30, Mineral Lands and Mining; Title 33, Navigation and Navigable Waters; and Title 45, Railroads.

This category includes laws that address the rights of employees under employer-sponsored employee benefit plans; that provide for continuation of employer-sponsored health benefits after events like the death or divorce of the employee; and that give employees the right to unpaid leave in order to care for a seriously ill spouse. In addition, Congress has extended special benefits in connection with certain occupations, like mining and public safety. The spouse of a coal miner who dies of black lung disease is entitled to benefits, for example. The surviving spouse of a public safety officer killed in the line of duty is eligible for a death benefit of up to $100,000.

Spouses are sometimes excluded from coverage as employees under certain laws. For example, under the National Labor Relations Act, an individual working for his or her spouse does not come within the definition of "employee," and therefore does not have the right, available under the Act to other employees, to organize or to engage in collective bargaining. If the only regular employees of a business are the owner and his or her spouse, then the business is not subject to regulation of wages and hours under the Fair Labor Standards Act of 1938 (FLSA). Similarly, the spouse or other family member of an employer working in agriculture is not covered under FLSA requirements like minimum wage.

Some laws protect the interests of one spouse when the other becomes eligible for some benefit. The Employee Retirement Income Security Act prohibits an employee from changing

beneficiaries in a retirement plan or from waiving the joint and survivor annuity form of retirement benefit, without the written consent of his or her spouse.

The Railroad Retirement Act confers many rights on retired railroad employees and their spouses. Spouses may be eligible for annuities and lump sum benefits. Congress has also enacted a workers' compensation law for longshore and harbor workers that establishes survivor benefits for spouses.

CATEGORY 6—IMMIGRATION, NATURALIZATION, AND ALIENS

This category includes laws governing the conditions under which noncitizens may enter and remain in the United States, be deported, or become citizens. Most are found in Title 8, Aliens and Nationality.

The law gives special consideration to spouses of immigrants and aliens in a wide variety of circumstances. Under immigration law, aliens may receive special status by virtue of their employment, and that treatment may extend to their spouses. For example, the spouses of aliens who come to the United States on a temporary basis (to work as registered nurses, seasonal agricultural workers, or in certain specialty occupations), and who meet other criteria, are not subject to the worldwide numerical limitations on levels of immigration. Also, spouses of aliens granted asylum can be given the same status if they accompany or join their spouses.

Spouses of aliens do not enjoy favored immigration status in all circumstances. Posthumous citizenship is authorized for noncitizen members of the armed forces who die during hostilities, but not for their spouses. When the government revokes the citizenship of someone because it was obtained through misconduct, and that person's spouse derived his or her citizenship from the marriage, the spouse's citizenship will also be revoked.

Some provisions of immigration law are designed to prevent misuse of marital status. The law calls for termination of the permanent resident status of an alien granted on the basis of marriage, if it is determined that the marriage was for the purpose of procuring the alien's entry to the United States, or if the marriage is annulled or terminated (other than through the death of a spouse) within two years.

The Congress recently limited the eligibility of qualified aliens for certain federal programs—such as SSI, Temporary Assistance for Needy Families (which will replace AFDC), and Social Services block grants—but it made a few exceptions, one of which directly benefits spouses of veterans. Aliens who are serving on active duty in the Armed Forces or who are honorably discharged veterans, and their spouses, remain eligible for these benefits in the same manner as a citizen. Federal law also provides that the incomes of the sponsor of an immigrant, and of the sponsor's spouse, are to be taken into account in determining the immigrant's eligibility for means-tested public benefits.

CATEGORY 7—INDIANS

The indigenous peoples of the United States have long had a special legal relationship with the federal government through treaties and laws that are classified to Title 25, Indians. Various laws set out the rights to tribal property of white men marrying Indian women, or of Indian women marrying white men, the evidence that is required, and the rights of children born of marriages between white men and Indian women.[4]

The law also establishes Indians' rights to develop descent and distribution rights regarding their property as long as they include certain provisions. Most relevant to this discussion is the right of a surviving spouse who is neither an Indian nor a member of the deceased spouse's tribe to elect a life estate in property that he or she is occupying at the time of the death of the other spouse. Another law governing rights of Navajo and Hopi Indians gives relocation benefits to spouses who relinquish their life estates.

Health services can also be made available to otherwise ineligible spouses of an eligible Indian if all such spouses are made eligible by an appropriate resolution of the governing body of the tribe. Health professionals seeking positions in the Indian Health Service and their spouses may be reimbursed for actual and reasonable expenses incurred in traveling to and from their homes to an area in which they could be assigned to allow them to evaluate the area with respect to the assignment.

CATEGORY 8—TRADE, COMMERCE, AND INTELLECTUAL PROPERTY

This category includes provisions concerning foreign or domestic business and commerce, from the following titles of the United States Code: Bankruptcy, Title 11; Banks and Banking, Title 12; Commerce and Trade, Title 15; Copyrights, Title 17; and Customs Duties, Title 19.

Federal law prescribes the right of debtors to seek bankruptcy protection and the rights of creditors when their debtors adopt that strategy. It expressly permits spouses to file jointly for bankruptcy protection. This may benefit both the debtors and their creditors: the married couple pays only one filing fee and creditors file only one claim.

Bankruptcy law prescribes how to distribute the assets of a bankrupt person, assigns specific priorities to different classes of creditors, and permits a bankrupt debtor to be "discharged" (i.e., released) from the obligation to repay certain debts. A former spouse of the debtor making a claim in a bankruptcy proceeding for payments pursuant to a divorce decree or separation agreement is given a higher priority than some other creditors. Also, a discharge in bankruptcy generally does not relieve a debtor of the obligation to pay alimony or support to a spouse or former spouse in connection with a divorce decree or separation agreement.

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[4]The laws in this category dealing with marriage that use the terms "Indian" and "white" are more than 100 years old, and have not been amended since their enactment in 1888.

The National Housing Act addresses the rights of mortgage borrowers. Banks often use a so-called due-on-sale clause in mortgage agreements that permits them to declare the loan payable in full if the borrower sells the property without their consent. The Act prohibits use of the due-on-sale clause in case of transfers of residential property from one spouse to another.

For some purposes, the laws regulating investment companies and advisers apply not only to the advisers themselves, but also to what the law terms "interested persons." "Interested persons" is defined to include the spouses of certain persons, of their parents, and of their children.

The Consumer Credit Protection Act regulates some aspects of garnishment of wages, a legal process whereby a creditor collects a debt by having the debtor's employer pay part of the debtor's wages directly to the creditor. The Act establishes that at most 25 percent of the disposable earnings of an individual can be withheld through garnishment. However, if the purpose of the garnishment is to enforce an order for the support of a spouse, the maximum is 60 percent or, if the wage earner is supporting a spouse (not the former spouse for whose benefit the support order was issued), 50 percent.

The Copyright Act gives renewal rights and termination rights, in some circumstances, to the widow or widower of the creator of a copyrighted work. The law defines "widow or widower" as the creator's surviving spouse under the law of the creator's domicile at the time of his or her death, whether or not the spouse subsequently remarries.

The amount of customs duty on imported merchandise depends on its value. Under the law, the actual transaction value—that is, how much the buyer paid the seller—may be used to establish value if the buyer and seller are not "related." For this purpose, spouses are deemed to be related. Also, certain countries that deny or restrict the ability of their citizens to emigrate in order to join "close relatives" in the United States can be penalized by the imposition of restrictions on their trade with the United States. "Close relative," for purposes of this law, includes a spouse.

Under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993, the federal government provides a mechanism for financing programs to strengthen the market for cut flowers and greens, through an assessment of "handlers" of these products whose annual sales exceed $750,000. Marital status comes into play in determining whether a handler meets the $750,000 threshold: for this purpose, sales by one spouse are attributed to the other.

CATEGORY 8—FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

Federal law imposes obligations on Members of Congress, employees or officers of the federal government, and members of the boards of directors of some government-related or government-chartered entities, to prevent actual or apparent conflicts of interest. These individuals are required to disclose publicly certain gifts, interests, and transactions. Many of these requirements, which are found in 16 different titles of the United States Code, apply also to the individual's spouse.

The law regulates the conditions under which gifts from foreign governments and international organizations may be accepted by spouses of employees of the Postal Service, the Postal Rate Commission, certain government contractors, employees of the District of Columbia government, members of the uniformed services, Members of Congress, the President, and the Vice President. Employees of executive, legislative, and judicial agencies may not appoint relatives, including spouses, to agencies in which they serve or exercise control. The spouses of members of the Senate may not accept, in any calendar year, gifts worth more than $250, without getting a waiver.

Elsewhere in the Code are rules intended to prevent conflicts of interest on the part of members of various councils and boards. For instance, members of the boards of directors of the National Sheep Industry Improvement Center and the Alternative Agricultural Research and Commercialization Corporation are prohibited from participating in any matter pending before either board in which a spouse holds an interest. The law governing the members of Regional Fishery Management Councils is somewhat different. Members are required to disclose and make available for public inspection any financial interests they or their spouses might have in an activity that the councils might undertake.

Another variation in the treatment of conflict of interest involving spouses appears in connection with the National Foundation for Biomedical Research. Instead of prescribing conflict of interest rules for the Foundation, the Congress directed it to devise its own standards. However, those standards must ensure that officers, employees and agents of the Foundation (including members of the Board), and their spouses, avoid encumbrances that could result in a financial conflict of interest or a divided allegiance.

CATEGORY 10—CRIMES AND FAMILY VIOLENCE

This category includes laws that implicate marriage in connection with criminal justice or family violence. The nature of these provisions varies greatly. Some deal with spouses as victims of crimes, others with spouses as perpetrators. These laws are found primarily in Title 18, Crimes and Criminal Procedure, but some, dealing with crime prevention and family violence, are in Title 42, The Public Health and Welfare.

Attempting to influence a United States official through threats directed at a spouse is a federal crime, as are killing, or attempting to kill, foreign officials or their spouses, or threatening to kill certain persons protected by the Secret Service, such as major presidential candidates and their spouses.

Under federal criminal statutes, spouses and others have some protections against domestic violence. It is a federal crime for a person to travel across a state line with the intent to injure a spouse or "intimate partner" if that person intentionally commits a crime of violence and causes bodily injury to the spouse or intimate partner. The term "spouse or intimate partner" is broadly defined to include a former spouse, someone who "shares a child in common" with the abuser, and someone who "cohabits or has cohabited with the abuser as a spouse."

In some cases, marriage can be a factor in triggering criminal liability. For example, a widow's or widower's entitlement to federal employee survivor payments ceases upon remarriage; such a widow or widower who remarries and continues to accept payment may, if found guilty, be fined or imprisoned.

Claiming marital status that does not exist can also be a crime. Falsely representing oneself to be the spouse or surviving spouse of an individual in order to elicit information about the Social Security number, date of birth, employment, wages, or benefits of that individual, is a felony.

Comprehensive crime control legislation directed the Attorney General to study the means by which abusive spouses obtain information concerning the addresses or locations of estranged or former spouses, despite the desire of the victims to have the information withheld. Congress also has charged the National Commission on Crime Prevention and Control to evaluate the adequacy of federal and state laws on sexual assault and the need for a more uniform statutory response to sex offenses. This mandate specifically addresses sexual assaults and other sex offenses committed by offenders who are known, or related by blood or marriage, to the victim.

Criminal justice grants are given to encourage arrest of domestic violence offenders; "domestic violence" includes an act of violence by a current or former spouse. Another provision gives nationals of the United States who are victims of acts of terrorism committed outside the United States, and their survivors, including spouses, a statutory right to bring a civil action for treble damages.

CATEGORY 11—LOANS, GUARANTEES, AND PAYMENTS IN AGRICULTURE

Under many federal loan programs, a spouse's income, business interests, or assets are taken into account for purposes of determining a person's eligibility to participate in the program. In other instances, marital status is a factor in determining the amount of federal assistance to which a person is entitled, or the repayment schedule.

Education loan programs are found primarily in Title 20, Education; housing loan programs for veterans are found in Title 38, Veterans' Benefits. Title 7, Agriculture, includes provisions governing agricultural price supports and loan programs that are affected by the spousal relationship.

Under the federal family education loan program, the income and assets of an independent student's spouse are attributed to the student for purposes of determining whether the student is eligible for a loan and, if so, the amount. Married couples may consolidate their separate student loans into one if they agree to be jointly and severally liable for repayment of the consolidated loan, without regard either to the amounts of the respective loan obligations to be consolidated or to any subsequent change in their marital status. Under the federal direct student loan program, the Secretary of Education, in order to determine the annual repayment amount when repayment is contingent on the borrower's income, may obtain information regarding the income not only of

the borrower but also of the borrower's spouse. Repayment schedules are generally based on the adjusted gross income of both spouses.

Many of the laws governing veterans' benefits implicate marital status. Eligibility for assistance in borrowing for housing extends to the surviving spouses of veterans who die from a service-connected disability, and to the spouses of certain veterans who, for more than 90 days, have been missing in action, captured by hostile forces, or forcibly detained by a foreign government.

The laws governing agriculture include provisions for price supports and loan programs that are affected by marital status. For example, the law limits the amount of certain crop support payments that any one person can receive. For this purpose, a husband and wife are considered to be one person, except to the extent each may have owned property individually before the marriage. Also, agricultural loans for real estate, operating expenses, and emergencies may be made to "family farms," defined as those farms in which a majority interest is held by individuals related by marriage or blood.

CATEGORY 12—FEDERAL NATURAL RESOURCES AND RELATED LAWS

Federal law gives special rights to spouses in connection with a variety of transactions involving federal lands and other federal property. These transactions include purchase and sale of land by the federal government and lease by the government of water and mineral rights.

When the government purchases land for national battlefields, monuments, seashores, or parks, the law commonly allows those from whom the land is purchased and their spouses to continue to use and occupy it during their lifetimes. For example, those owning houses (and their spouses) when the Stones River National Battlefield and Sleeping Bear Dunes National Lakeshore were created have life estates in the land. Although these laws affect relatively few individuals, we found more than 40 such provisions in Title 16, Conservation.

In addition to playing a role under these provisions for the government to buy land, spousal relationship has also been a factor in determining priorities among potential buyers when the government is selling federal lands. For example, when Congress decided in 1955 to terminate ownership of land used by the Atomic Energy Commission and sell it to local entities and private parties, it generally barred any transfer of priorities for purchase, but allowed a husband and wife to exercise a priority in their joint names.

The marital relationship may affect whether an individual can be considered a surface mine owner with whom the Secretary of Labor can negotiate a lease. To be designated a surface mine owner, an individual must hold legal or equitable title to the land for a 3-year period and his or her principal residence must be on the land. In computing the 3-year period, the Secretary may include periods during which a relative by blood or marriage, including a spouse, owned the land.

Under laws governing reclamation and irrigation of lands by the federal government, the basic unit of ownership is 160 irrigable acres. Under certain conditions, if the death of a spouse causes lands in private ownership to become excess lands (having more than 160 acres) but those lands were eligible to receive water from a project under the Federal reclamation laws without a recordable contract, the Secretary of the Interior is authorized to furnish water to them, without requiring the contract, as long as the lands are owned by the surviving spouse. If the surviving spouse remarries, the exception no longer applies, and lands in excess of 160 irrigable acres are appraised in the usual manner.

CATEGORY 13—MISCELLANEOUS

This category comprises laws that do not fit readily in any of the other categories and that in our judgment did not warrant a separate category. It is a heterogeneous mix of provisions from 14 titles of the United States Code.

Fourteen statutes in the Code that prohibit discrimination on the basis of marital status are listed in this category. For example, such discrimination is prohibited in executive agencies, and is unlawful for a creditor in private financial transactions.

This category includes the laws chartering various patriotic societies, such as the Veterans of Foreign Wars, that have as one of their purposes to assist the widows and children of servicemen or others. The Gold Star Wives of America and Navy Wives Clubs of America have one of our search terms in their titles.

We also included in this category laws related to the federal financing of presidential election campaigns. To be eligible for federal funds, candidates may not spend more than $50,000 of their own money or that of members of their immediate families for their campaigns. A spouse or a close relative's spouse is deemed to be a member of the candidate's immediate family for this purpose.

Tables of Laws in the United States Code Involving Marital Status, by Category

CATEGORY 1—SOCIAL SECURITY AND RELATED PROGRAMS, HOUSING, AND FOOD STAMPS

Title 7—Agriculture	
Chapter 5—Food Stamp Program	
§ 2012	Definitions
§ 2014	Eligible households
§ 2020	Administration
§ 2030	Washington Family Independence Demonstration Project
§ 2031	Food stamp portion of Minnesota Family Investment Plan
Title 42—The Public Health And Welfare	
Chapter 7—Social Security **Subchapter II—Federal Old-Age, Survivors, And Disability Insurance Benefits**	
§ 402	Old-age and survivors insurance benefit payments
§ 403	Reduction of insurance benefits
§ 404	Overpayments and underpayments
§ 405	Evidence, procedure, and certification for payments
§ 409	"Wages" defined
§ 410	Definitions relating to employment
§ 411	Definitions relating to self-employment
§ 413	Quarter and quarter of coverage
§ 415	Computation of primary insurance amount
§ 416	Additional definitions
§ 422	Rehabilitation services
§ 423	Disability insurance benefit payments
§ 425	Additional rules relating to benefits based on disability
§ 426	Entitlement to hospital insurance benefits
§ 426-1	End stage renal disease program
§ 427	Transitional insured status for purposes of old-age and survivors benefits
§ 428	Benefits at age 72 for certain uninsured individuals
Subchapter IV—Grants To States For Aid And Services To Needy Families With Children And For Child-Welfare Services **Part A—Aid To Families With Dependent Children [Effective until July 1, 1997]**	
§ 602	State plans for aid and services to needy families with children; contents; approval by Secretary; records and reports; treatment of earned income advances
§ 606	Definitions
§ 607	Dependent children of unemployed parents
§ 615	Attribution of income and resources of sponsor and spouse to alien
Part A—Block Grants To States For Temporary Assistance For Needy Families [Effective on July 1, 1997]	
§ 601	Purpose

§ 604	Use of grants
§ 607	Mandatory work requirements
§ 608	Prohibitions; requirements
§ 611	Data collection and reporting
§ 613	Research, evaluations, and national studies
	Part D—Child Support And Establishment Of Paternity
§ 651	Authorization of appropriations
§ 652	Duties of Secretary
§ 653	Federal Parent Locator Service
§ 654	State plan for child and spousal support
§ 659	Enforcement of individual's legal obligations to provide child support or make alimony payments
§ 661	Regulations pertaining to garnishments [Public Law 104-193 provides for repeal of this section, effective February 22, 1997.]
§ 662	Definitions
§ 664	Collection of past-due support from Federal tax refunds
§ 665	Allotments from pay for child and spousal support owed by members of uniformed services on active duty
§ 666	Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement
	Part E—Federal Payments For Foster Care And Adoption Assistance
§ 679a	National Adoption Information Clearinghouse
	Subchapter V—Maternal And Child Health Services Block Grant
§ 710	Separate program for abstinence education
	Subchapter VII—Administration
§ 907a	National Commission on Social Security
	Subchapter XI—General Provisions, Peer Review, And Administrative Simplification **Part A—General Provisions**
§ 1319	Federal participation in payments for repairs to home owned by recipient of aid or assistance
§ 1320a-6	Adjustments in SSI benefits on account of retroactive benefits under subchapter II
§ 1320b-1	Notification of Social Security claimant with respect to deferred vested benefits
§ 1320b-9	National Commission on Children
	Subchapter XVI—Supplemental Security Income For Aged, Blind, And Disabled **Part A—Determination Of Benefits**
§ 1382	Eligibility for benefits
§ 1382a	Income; earned and unearned income defined; exclusions from income
§ 1382b	Resources
§ 1382c	Definitions
§ 1382d	Rehabilitation services for blind and disabled individuals
§ 1382g	Payments to State for operation of supplementation program
§ 1382h	Benefits for individuals who perform substantial gainful activity despite severe medical impairment
§ 1382j	Attribution of sponsor's income and resources to aliens
	Part B—Procedural And General Provisions

CATEGORY 1—SOCIAL SECURITY AND RELATED PROGRAMS, HOUSING, AND FOOD STAMPS

§ 1383	Procedure for payment of benefits
§ 1383c	Eligibility for medical assistance of aged, blind, or disabled individuals under State's medical assistance plan
Subchapter XVIII—Health Insurance For Aged And Disabled Part A—Hospital Insurance Benefits For Aged And Disabled	
§ 1395i-2	Hospital insurance benefits for uninsured elderly individuals not otherwise eligible
Part B—Supplementary Medical Insurance Benefits For Aged And Disabled	
§ 1395p	Enrollment periods
§ 1395r	Amount of premiums for individuals enrolled under this part
§ 1395s	Payment of premiums
Part C—Miscellaneous Provisions	
§ 1395y	Exclusions from coverage and medicare as secondary payer
§ 1395gg	Overpayment on behalf of individuals and settlement of claims for benefits on behalf of deceased individuals
§ 1395mm	Payments to health maintenance organizations and competitive medical plans
Subchapter XIX—Grants To States For Medical Assistance Programs	
§ 1396a	State plans for medical assistance
§ 1396b	Payment to States
§ 1396d	Definitions
§ 1396p	Liens, adjustments and recoveries, and transfers of assets
§ 1396r	Requirements for nursing facilities
§ 1396r-5	Treatment of income and resources for certain institutionalized spouses
§ 1396u-1	Assuring coverage for certain low-income families
§ 1396v	References to laws directly affecting medicaid program
Chapter 8—Low-Income Housing Subchapter I—General Program Of Assisted Housing	
§ 1437a	Rental payments
Chapter 8A—Slum Clearance, Urban Renewal, And Farm Housing Subchapter III—Farm Housing	
§ 1471	Financial assistance by Secretary of Agriculture
Chapter 32—Third Party Liability For Hospital And Medical Care	
§ 2651	Recovery by United States
Chapter 130—National Affordable Housing Subchapter I—General Provisions And Policies	
§ 12704	Definitions
§ 12713	Eligibility under first-time homebuyer programs
Subchapter III—National Homeownership Trust Demonstration	
§ 12852	Assistance for first-time homebuyers
§ 12854	Definitions
Subchapter IV—Hope For Homeownership Of Multifamily And Single Family Homes Part B—Hope For Homeownership Of Single Family Homes	
§ 12896	Definitions

Title 5—Government Organization And Employees	
Part III—Employees **Subpart A—General Provisions** **Chapter 21—Definitions**	
§ 2108	Veteran; disabled veteran; preference eligible
Title 38—Veterans' Benefits	
Part I—General Provisions **Chapter 1—General**	
§ 101	Definitions
§ 102	Dependent parents
§ 103	Special provisions relating to marriages
§ 113	Treatment of certain programs under sequestration procedures
Chapter 3—Department Of Veterans Affairs	
§ 306	Under Secretary for Health
Chapter 5—Authority And Duties Of The Secretary **Subchapter I—General Authorities**	
§ 503	Administrative error; equitable relief
§ 511	Decisions of the Secretary; finality
Part II—General Benefits **Chapter 11—Compensation For Service-Connected Disability Or Death** **Subchapter I—General**	
§ 1102	Special provisions relating to surviving spouses
Subchapter II—Wartime Disability Compensation	
§ 1115	Additional compensation for dependents
§ 1116	Presumptions of service connection for diseases associated with exposure to certain herbicide agents
Subchapter III—Wartime Death Compensation	
§ 1121	Basic entitlement
§ 1122	Rates of wartime death compensation
Subchapter V—Peacetime Death Compensation	
§ 1141	Basic entitlement
Subchapter VI—General Compensation Provisions	
§ 1158	Disappearance
Chapter 13—Dependency And Indemnity Compensation For Service-Connected Deaths **Subchapter I—General**	
§ 1302	Determination of pay grade
§ 1304	Special provisions relating to surviving spouses
Subchapter II—Dependency And Indemnity Compensation	
§ 1310	Deaths entitling survivors to dependency and indemnity compensation
§ 1311	Dependency and indemnity compensation to a surviving spouse
§ 1312	Benefits in certain cases of in-service or service-connected deaths
§ 1313	Dependency and indemnity compensation to children
§ 1314	Supplemental dependency and indemnity compensation to children

CATEGORY 2—VETERANS' BENEFITS

§ 1315	Dependency and indemnity compensation to parents
§ 1316	Dependency and indemnity compensation in cases of prior deaths
§ 1317	Restriction on payments under this chapter
§ 1318	Benefits for survivors of certain veterans rated totally disabled at time of death
	Subchapter III—Certifications
§ 1322	Certifications with respect to social security entitlement
	Chapter 15—Pension For Non-Service-Connected Disability Or Death Or For Service **Subchapter I—General**
§ 1503	Determinations with respect to annual income
§ 1505	Payment of pension during confinement in penal institutions
§ 1506	Resource reports and overpayment adjustments
§ 1507	Disappearance
	Subchapter II—Veterans' Pensions **Non-Service-Connected Disability Pension**
§ 1521	Veterans of a period of war
§ 1522	Net worth limitation
	Subchapter III—Pensions To Surviving Spouses And Children **Wars Before World War I**
§ 1532	Surviving spouses of Civil War veterans
§ 1533	Children of Civil War veterans
§ 1534	Surviving spouses of Indian War veterans
§ 1535	Children of Indian War veterans
§ 1536	Surviving spouses of Spanish-American War veterans
§ 1537	Children of Spanish-American War veterans
§ 1541	Surviving spouses of veterans of a period of war
§ 1542	Children of veterans of a period of war
§ 1543	Net worth limitation
	Chapter 17—Hospital, Nursing Home, Domiciliary, And Medical Care **Subchapter I—General**
§ 1701	Definitions
	Subchapter II—Hospital, Nursing Home, Or Domiciliary Care And Medical Treatment
§ 1713	Medical care for survivors and dependents of certain veterans
	Subchapter III—Miscellaneous Provisions Relating To Hospital And Nursing Home Care And Medical Treatment Of Veterans
§ 1722	Determination of inability to defray necessary expenses; income thresholds
§ 1729	Recovery by the United States of the cost of certain care and services
	Chapter 19—Insurance **Subchapter I—National Service Life Insurance**
§ 1901	Definitions
§ 1916	Insurance which matured before August 1, 1946
§ 1918	Assignments

§ 1922	Service disabled veterans' insurance
	Subchapter II—United States Government Life Insurance
§ 1953	Assignments
	Subchapter III—Servicemen's Group Life Insurance
§ 1965	Definitions
§ 1970	Beneficiaries; payment of insurance
	Chapter 23—Burial Benefits
§ 2307	Death from service-connected disability
	Chapter 24—National Cemeteries And Memorials
§ 2402	Persons eligible for interment in national cemeteries
	Part III—Readjustment And Related Benefits **Chapter 30—All-Volunteer Force Educational Assistance Program** **Subchapter II—Basic Educational Assistance**
§ 3017	Death benefit
	Chapter 32—Post-Vietnam Era Veterans' Educational Assistance **Subchapter II—Eligibility; Contributions; And Matching Fund**
§ 3224	Death of participant
	Chapter 34—Veterans' Educational Assistance **Subchapter I—Purpose—Definitions**
§ 3452	Definitions
	Subchapter V—Special Assistance For The Educationally Disadvantaged
§ 3492	Tutorial assistance
	Chapter 35—Survivors' And Dependents' Educational Assistance **Subchapter I—Definitions**
§ 3500	Purpose
§ 3501	Definitions
	Subchapter II—Eligibility And Entitlement
§ 3511	Duration of educational assistance
§ 3512	Periods of eligibility
	Subchapter IV—Payments To Eligible Persons
§ 3534	Apprenticeship or other on-job training; correspondence courses
	Chapter 36—Administration Of Educational Benefits **Subchapter II—Miscellaneous Provisions**
§ 3680	Payment of educational assistance or subsistence allowances
§ 3686	Correspondence courses
	Chapter 41—Job Counseling, Training, And Placement Service For Veterans
§ 4101	Definitions
	Part IV—General Administrative Provisions **Chapter 51—Claims, Effective Dates, And Payments** **Subchapter I—Claims**
§ 5101	Claims and forms
§ 5105	Joint applications for social security and dependency and indemnity compensation

CATEGORY 2—VETERANS' BENEFITS

Subchapter II—Effective Dates	
§ 5110	Effective dates of awards
§ 5111	Commencement of period of payment
§ 5112	Effective dates of reductions and discontinuances
Subchapter III—Payment Of Benefits	
§ 5120	Payment of benefits; delivery
§ 5121	Payment of certain accrued benefits upon death of a beneficiary
§ 5123	Rounding down of pension rates
§ 5124	Acceptance of claimant's statement as proof of relationship
Chapter 53—Special Provisions Relating To Benefits	
§ 5303A	Minimum active-duty service requirement
§ 5304	Prohibition against duplication of benefits
§ 5307	Apportionment of benefits
§ 5310	Payment of benefits for month of death
§ 5311	Prohibition of certain benefit payments
§ 5313	Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony
Chapter 55—Minors, Incompetents, And Other Wards	
§ 5502	Payments to and supervision of fiduciaries
§ 5503	Hospitalized veterans and estates of incompetent institutionalized veterans
Chapter 61—Penal And Forfeiture Provisions	
§ 6103	Forfeiture for fraud
Part V—Boards, Administrations, And Services Chapter 72—United States Court Of Veterans Appeals Subchapter V—Retirement And Survivors Annuities	
§ 7297	Survivor annuities
Chapter 73—Veterans Health Administration—Organization And Functions Subchapter III—Protection Of Patient Rights	
§ 7332	Confidentiality of certain medical records
Chapter 74—Veterans Health Administration—Personnel Subchapter II—Collective Bargaining And Personnel Administration	
§ 7426	Retirement rights
Part VI—Acquisition And Disposition Of Property Chapter 85—Disposition Of Deceased Veterans' Personal Property Subchapter I—Property Left On Department Facility	
§ 8502	Disposition of unclaimed personal property
§ 8504	Disposition of other unclaimed property
Subchapter II—Death While Patient Of Department Facility	
§ 8520	Vesting of property left by decedents
§ 8521	Presumption of contract for disposition of personalty

CATEGORY 2—VETERANS' BENEFITS

Title 42—The Public Health And Welfare	
Chapter 7—Social Security **Subchapter II—Federal Old-Age, Survivors, And Disability Insurance Benefits**	
§ 417	Benefits for veterans

Title 26—Internal Revenue Code	
Subtitle A—Income Taxes **Chapter 1—Normal Taxes And Surtaxes** **Subchapter A—Determination Of Tax Liability** **Part I—Tax On Individuals**	
§ 1	Tax imposed
§ 2	Definitions and special rules
Part IV—Credits Against Tax **Subpart A—Nonrefundable Personal Credits**	
§ 21	Expenses for household and dependent care services necessary for gainful employment
§ 22	Credit for the elderly and the permanently and totally disabled
§ 23	Adoption expenses
Subpart C—Refundable Credits	
§ 32	Earned income
Subpart D—Business Related Credits	
§ 38	General business credit
§ 42	Low-income housing credit
§ 45A	Indian employment credit
Subpart E—Rules For Computing Investment Credit	
§ 50	Other special rules
Part VI—Alternative Minimum Tax	
§ 55	Alternative minimum tax imposed
Subchapter B—Computation Of Taxable Income **Part I—Definition Of Gross Income, Adjusted Gross Income, Taxable Income, Etc.**	
§ 61	Gross income defined
§ 62	Adjusted gross income defined
§ 63	Taxable income defined
§ 66	Treatment of community income
§ 68	Overall limitation on itemized deductions
Part II—Items Specifically Included In Gross Income	
§ 71	Alimony and separate maintenance payments
§ 72	Annuities; certain proceeds of endowment and life insurance contracts
§ 86	Social security and tier 1 railroad retirement benefits
Part III—Items Specifically Excluded From Gross Income	
§ 105	Amounts received under accident and health plans
§ 106	Contributions by employer to accident and health plans
§ 108	Income from discharge of indebtedness
§ 119	Meals or lodging furnished for the convenience of the employer
§ 120	Amounts received under qualified group legal services plans
§ 121	One-time exclusion of gain from sale of principal residence by individual who has attained age 55
§ 125	Cafeteria plans
§ 127	Educational assistance programs

§ 129	Dependent care assistance programs
§ 132	Certain fringe benefits
§ 135	Income from United States savings bonds used to pay higher education tuition and fees
	Part IV—Tax Exemption Requirements For State And Local Bonds
	Subpart A—Private Activity Bonds
§ 143	Mortgage revenue bonds: qualified mortgage bond and qualified veterans' mortgage bond
§ 147	Other requirements applicable to certain private activity bonds
	Part V—Deductions For Personal Exemptions
§ 151	Allowance of deductions for personal exemptions
§ 152	Dependent defined
§ 153	Cross references
	Part VI—Itemized Deductions For Individuals And Corporations
§ 162	Trade or business expenses
§ 163	Interest
§ 165	Losses
§ 170	Charitable, etc., contributions and gifts
§ 179	Election to expense certain depreciable business assets
§ 194	Amortization of reforestation expenditures
	Part VII—Additional Itemized Deductions For Individuals
§ 213	Medical, dental, etc., expenses
§ 215	Alimony, etc., payments
§ 217	Moving expenses
§ 219	Retirement savings
§ 220	Medical savings accounts
	Part IX—Items Not Deductible
§ 263A	Capitalization and inclusion in inventory costs of certain expenses
§ 267	Losses, expenses, and interest with respect to transactions between related taxpayers
§ 274	Disallowance of certain entertainment, etc., expenses
	Subchapter C—Corporate Distributions And Adjustments
	Part I—Distributions By Corporations
	Subpart A—Effects On Recipients
§ 303	Distributions in redemption of stock to pay death taxes
	Subpart C—Definitions; Constructive Ownership Of Stock
§ 318	Constructive ownership of stock
	Part II—Corporate Liquidations
	Subpart C—Collapsible Corporations
§ 341	Collapsible corporations

Part V—Carryovers	
§ 382	Limitation on net operating loss carryforwards and certain built-in losses following ownership change
Subchapter D—Deferred Compensation, Etc. Part I—Pension, Profit-Sharing, Stock Bonus Plans, Etc. Subpart A—General Rule	
§ 401	Qualified pension, profit-sharing, and stock bonus plans
§ 402	Taxability of beneficiary of employees' trust
§ 404	Deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan
§ 408	Individual retirement accounts
§ 409	Qualifications for tax credit employee stock ownership plans
Subpart B—Special Rules	
§ 411	Minimum vesting standards
§ 414	Definitions and special rules
§ 415	Limitations on benefits and contribution under qualified plans
§ 417	Definitions and special rules for purposes of minimum survivor annuity requirements
Subpart E—Treatment Of Transfers To Retiree Health Accounts	
§ 420	Transfers of excess pension assets to retiree health accounts
Part II—Certain Stock Options	
§ 424	Definitions and special rules
Subchapter E—Accounting Periods And Methods Of Accounting Part II—Methods Of Accounting Subpart A—Methods Of Accounting In General	
§ 447	Method of accounting for corporations engaged in farming
Subpart B—Taxable Year For Which Items Of Gross Income Included	
§ 453	Installment method
§ 453B	Gain or loss disposition of installment obligations
§ 457	Deferred compensation plans of State and local governments and tax-exempt organization
Subpart C—Taxable Year For Which Deductions Taken	
§ 464	Limitations on deductions for certain farming
§ 469	Passive activity losses and credits limited
Subchapter F—Exempt Organizations Part I—General Rule	
§ 501	Exemption from tax on corporations, certain trusts, etc.
§ 507	Termination of private foundation status
Subchapter G—Corporations Used To Avoid Income Tax On Shareholders Part II—Personal Holding Companies	
§ 544	Rules for determining stock ownership
Part III—Foreign Personal Holding Companies	
§ 554	Stock ownership

CATEGORY 3—TAXATION

	Subchapter I—Natural Resources **Part I—Deductions**
§ 613A	Limitations on percentage depletion in case of oil and gas wells
	Subchapter J—Estates, Trusts, Beneficiaries, And Decedents **Part I—Estates, Trusts, And Beneficiaries** **Subpart A—General Rules For Taxation Of Estates And Trusts**
§ 643	Definitions applicable to subparts A, B, C, and D
	Subpart E—Grantors And Others Treated As Substantial Owners
§ 672	Definitions and rules
§ 674	Power to control beneficial enjoyment
§ 675	Administrative powers
§ 677	Income for benefit of grantor
	Subpart F—Miscellaneous
§ 682	Income of an estate or trust in case of divorce, etc.
	Part II—Income In Respect Of Decedents
§ 691	Recipients of income in respect of decedents
	Subchapter K—Partners And Partnerships **Part I—Determination Of Tax Liability**
§ 704	Partner's distributive share
	Subchapter N—Tax Based On Income From Sources Within Or Without The United States **Part II—Nonresident Aliens And Foreign Corporations** **Subpart A—Nonresident Alien Individuals**
§ 871	Tax on nonresident alien individuals
§ 877	Expatriation to avoid tax
§ 879	Tax treatment of certain community income in the case of nonresident alien individuals
	Part III—Income From Sources Without The United States **Subpart B—Earned Income Of Citizens Or Residents Of United States**
§ 911	Citizens or residents of the United States living abroad
	Subpart D—Possessions Of The United States
§ 932	Coordination of United States and Virgin Islands income taxes
	Subchapter O—Gain Or Loss On Disposition Of Property **Part II—Basis Rules Of General Application**
§ 1014	Basis of property acquired from a decedent
§ 1015	Basis of property acquired by gifts and transfers in trust
	Part III—Common Nontaxable Exchanges
§ 1034	Rollover of gain on sale of principal residence
§ 1041	Transfers of property between spouses or incident to divorce
§ 1043	Sale of property to comply with conflict-of-interest requirements
§ 1044	Rollover of publicly traded securities gain into specialized small business investment companies
	Part VII—Wash Sales; Straddles
§ 1092	Straddles

Subchapter P—Capital Gains And Losses Part I—Treatment Of Capital Gains	
§ 1202	50-percent exclusion for gain from certain small business stock
Part II—Treatment Of Capital Losses	
§ 1211	Limitation on capital losses
Part IV—Special Rules For Determining Capital Gains And Losses	
§ 1233	Gains and losses from short sales
§ 1235	Sale or exchange of patents
§ 1239	Gain from sale of depreciable property between certain related taxpayers
§ 1244	Losses on small business stock
§ 1256	Section 1256 contracts marked to market
Part V—Special Rules For Bonds And Other Debt Instruments Subpart A—Original Issue Discount	
§ 1272	Current inclusion in income of original issue discount
Subchapter Q—Readjustment Of Tax Between Years And Special Limitations Part II—Mitigation Of Effect Of Limitations And Other Provisions	
§ 1313	Definitions
Subchapter S—Tax Treatment Of S Corporations And Their Shareholders Part I—In General	
§ 1361	S corporation defined
Subchapter V—Title 11 Cases	
§ 1398	Rules relating to individuals' title 11 cases
Chapter 2—Tax On Self-Employment Income	
§ 1402	Definitions
Chapter 6—Consolidated Returns Subchapter B—Related Rules Part II—Certain Controlled Corporations	
§ 1563	Definitions and special rules
Subtitle B—Estate And Gift Taxes Chapter 11—Estate Tax Subchapter A—Estates Of Citizens Or Residents Part I—Tax Imposed	
§ 2001	Imposition and rate of tax
Part II—Credits Against Tax	
§ 2012	Credit for gift tax
§ 2013	Credit for tax on prior transfers
§ 2014	Credit for foreign death taxes

Part III—Gross Estate	
§ 2032	Alternate valuation
§ 2032A	Valuation of certain farm, etc., real property
§ 2034	Dower or curtesy interests
§ 2035	Adjustments for gifts made within 3 years of decedent's death
§ 2037	Transfers taking effect at death
§ 2040	Joint interests
§ 2043	Transfers for insufficient consideration
Part IV—Taxable Estate	
§ 2053	Expenses, indebtedness, and taxes
§ 2056	Bequests, etc., to surviving spouse
§ 2056A	Qualified domestic trust
Subchapter B—Estates Of Nonresidents Not Citizens	
§ 2106	Taxable estate
Subchapter C—Miscellaneous	
§ 2206	Liability of life insurance beneficiaries
§ 2207	Liability of recipient of property over which decedent had power of appointment
§ 2207A	Right of recovery in the case of certain marital deduction property
Chapter 12—Gift Tax **Subchapter B—Transfers**	
§ 2513	Gift by husband or wife to third party
§ 2516	Certain property settlements
§ 2518	Disclaimers
Subchapter C—Deductions	
§ 2523	Gift to spouse
Chapter 13—Tax On Generation-Skipping Transfers **Subchapter B—Generation-Skipping Transfers**	
§ 2612	Taxable termination; taxable distribution; direct skip
Subchapter E—Applicable Rate; Inclusion Ratio	
§ 2642	Inclusion ratio
Subchapter F—Other Definitions And Special Rules	
§ 2651	Generation assignment
§ 2652	Other definitions
Chapter 14—Special Valuation Rules	
§ 2701	Special valuation rules in case of transfers of certain interests in corporations or partnerships
§ 2704	Treatment of certain lapsing rights and restrictions
Subtitle C—Employment Taxes **Chapter 21—Federal Insurance Contributions Act** **Subchapter C—General Provisions**	
§ 3121	Definitions

Chapter 22—Railroad Retirement Tax Act **Subchapter D—General Provisions**	
§ 3231	Definitions
Chapter 23—Federal Unemployment Tax Act	
§ 3306	Definitions
Chapter 24—Collection Of Income Tax At Source On Wages	
§ 3402	Income tax collected at source
§ 3405	Special rules for pensions, annuities, and certain other deferred income
Chapter 25—General Provisions Relating To Employment Taxes	
§ 3507	Advance payment of earned income credit
Subtitle D—Miscellaneous Excise Taxes **Chapter 40—General Provisions Relating To Occupational Taxes**	
§ 4905	Liability in case of death or change of location
Chapter 42—Private Foundations; And Certain Other Tax-exempt Organizations **Subchapter A—Private Foundations**	
§ 4942	Taxes on failure to distribute income
§ 4946	Definitions and special rules
Subchapter B—Black Lung Benefit Trusts	
§ 4951	Taxes on self-dealing
Subchapter D—Failure By Certain Charitable Organizations To Meet Certain Qualification Requirements	
§ 4958	Taxes on excess benefit transactions
Chapter 43—Qualified Pension, Etc., Plans	
§ 4975	Tax on prohibited transactions
§ 4980A	Tax on excess distributions from qualified retirement plans
§ 4980B	Failure to satisfy continuation coverage requirements of group health plans
Subtitle E—Alcohol, Tobacco, And Certain Other Excise Taxes **Chapter 51—Distilled Spirits, Wines, And Beer** **Subchapter A—Gallonage And Occupational Taxes** **Part II—Occupational Tax** **Subpart G—General Provisions**	
§ 5143	Provisions relating to liability for occupational taxes
Subtitle F—Procedure And Administration **Chapter 61—Information And Returns** **Subchapter A—Returns And Records** **Part II—Tax Returns Or Statements** **Subpart B—Income Tax Returns**	
§ 6012	Persons required to make returns of income
§ 6013	Joint returns of income tax by husband and wife
§ 6014	Income tax return--tax not computed by taxpayer
§ 6017	Self-employment tax returns
Part III—Information Returns **Subpart A—Information Concerning Persons Subject To Special Provisions**	

§ 6039C	Returns with respect to foreign persons holding direct investments in United States real property interests
	Subpart B—Information Concerning Transactions With Other Persons
§ 6046	Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock
	Subpart C—Information Regarding Wages Paid Employees
§ 6051	Receipts for employee
	Part VIII—Designation Of Income Tax Payments To Presidential Election Campaign Fund
§ 6096	Designation by individuals
	Subchapter B—Miscellaneous Provisions
§ 6103	Confidentiality and disclosure of returns and return information
	Chapter 62—Time And Place For Paying Tax **Subchapter B—Extensions Of Time For Payment**
§ 6166	Extension of time for payment of estate tax where estate consists largely of interest in closely held business
	Chapter 63—Assessment **Subchapter B—Deficiency Procedures In The Case Of Income, Estate, Gift, And Certain Excise Taxes**
§ 6212	Notice of deficiency
	Subchapter C—Tax Treatment Of Partnership Items
§ 6231	Definitions and special rules
	Chapter 64—Collection **Subchapter C—Lien For Taxes**
§ 6324	Special liens for estate and gift taxes
	Subchapter D—Seizure Of Property For Collection Of Taxes
§ 6334	Property exempt from levy
	Chapter 66—Limitations **Subchapter A—Limitations On Assessment And Collection**
§ 6504	Cross references
	Chapter 68—Additions To The Tax, Additional Amounts, And Assessable Penalties **Subchapter A—Additions To The Tax And Additional Amounts** **Part I—General Provisions**
§ 6654	Failure by individual to pay estimated income tax
	Part II—Accuracy-Related And Fraud Penalties
§ 6663	Imposition of fraud penalty

	Chapter 76—Judicial Proceedings **Subchapter B—Proceedings By Taxpayers And Third Parties**
§ 7428	Declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.
§ 7430	Awarding of costs and certain fees
	Chapter 77—Miscellaneous Provisions
§ 7508	Time for performing certain acts postponed by reason of service in combat zone
	Chapter 79—Definitions
§ 7701	Definitions
§ 7702B	Treatment of qualified long-term care insurance
§ 7703	Determination of marital status
	Chapter 80—General Rules **Subchapter C—Provisions Affecting More Than One Subtitle**
§ 7871	Indian tribal governments treated as States for certain purposes
§ 7872	Treatment of loans with below-market interest rates
§ 7873	Income derived by Indians from exercise of fishing rights
Subtitle I—Trust Fund Code **Chapter 98—Trust Fund Code** **Subchapter A—Establishment of Trust Funds**	
§ 9501	Black lung disability trust fund
Subtitle K—Group Health Plan Portability, Access, And Renewability Requirements **Chapter 100—Group Health Plan Portability, Access, And Renewability Requirements**	
§ 9801	Increased portability through limitation on preexisting condition exclusions

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

Title 2—The Congress	
Chapter 3—Compensation And Allowances Of Members	
§ 36a	Payment of sums due deceased Senators and Senate personnel
§ 38a	Disposition of unpaid salary and other sums on death of Representative or Resident Commissioner
Chapter 4—Officers And Employees Of Senate And House Of Representatives	
§ 121b	Senate Beauty Shop
§ 124	Arrangements for attendance at funeral of deceased House Members; payment of funeral expenses and expenses of attending funeral rites
§ 125	Gratuities for survivors of deceased House employees; computation
Chapter 16—Congressional Mailing Standards	
§ 501	House Commission on Congressional Mailing Standards
§ 502	Select Committee on Standards and Conduct of the Senate
Chapter 20—Emergency Powers To Eliminate Budget Deficits Subchapter I—Elimination Of Deficits In Excess Of Maximum Deficit Amount	
§ 905	Exempt programs and activities
Title 3—The President	
Chapter 2—Office And Compensation Of President	
§ 105	Assistance and services for the President
§ 106	Assistance and services for the Vice President
Chapter 4—Delegation Of Functions	
§ 301	General authorization to delegate functions; publication of delegations
Title 5—Government Organization And Employees	
Part III—Employees Subpart D—Pay And Allowances Chapter 55—Pay Administration Subchapter II—Withholding Pay	
§ 5520a	Garnishment of pay
Subchapter IV—Dual Pay And Dual Employment	
§ 5532	Employment of retired members of the uniformed services; reduction in retired or retainer pay
Subchapter VII—Payments To Missing Employees	
§ 5561	Definitions
§ 5567	Settlement of accounts
§ 5569	Benefits for captives
Subchapter VIII—Settlement Of Accounts	
§ 5582	Designation of beneficiary; order of precedence
§ 5583	Payment of money due; settlement of accounts
Subchapter IX—Severance Pay And Back Pay	
§ 5595	Severance pay

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

Chapter 57—Travel, Transportation, And Subsistence **Subchapter II—Travel And Transportation Expenses; New Appointees, Student Trainees, And Transferred Employees**	
§ 5724a	Relocation expenses of employees transferred or reemployed
§ 5724b	Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred
Chapter 59—Allowances **Subchapter III—Overseas Differentials And Allowances**	
§ 5924	Cost-of-living allowances
Subchapter IV—Miscellaneous Allowances	
§ 5942a	Separate maintenance allowance for duty at Johnston Island
Subpart E—Attendance And Leave **Chapter 63—Leave** **Subchapter V—Family And Medical Leave**	
§ 6382	Leave requirement
§ 6383	Certification
Subpart G—Insurance And Annuities **Chapter 81—Compensation For Work Injuries** **Subchapter I—Generally**	
§ 8101	Definitions
§ 8109	Beneficiaries of awards unpaid at death; order of precedence
§ 8110	Augmented compensation for dependents
§ 8116	Limitations on right to receive compensation
§ 8133	Compensation in case of death
§ 8135	Lump-sum payment
§ 8141	Civil Air Patrol volunteers
Subchapter II—Employees Of Nonappropriated Fund Instrumentalities	
§ 8173	Liability under this subchapter exclusive
Subchapter III—Law Enforcement Officers Not Employed By The United States	
§ 8191	Determination of eligibility
§ 8192	Benefits
§ 8193	Administration
Chapter 83—Retirement **Subchapter II—Forfeiture Of Annuities And Retired Pay**	
§ 8311	Definitions
§ 8312	Conviction of certain offenses
§ 8313	Absence from United States to avoid prosecution
§ 8314	Refusal to testify
§ 8315	Falsifying employment applications
§ 8317	Repayment of annuity or retired pay properly paid; waiver
§ 8318	Restoration of annuity or retired pay

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

Subchapter III—Civil Service Retirement	
§ 8331	Definitions
§ 8332	Creditable service
§ 8333	Eligibility for annuity
§ 8334	Deductions, contributions, and deposits
§ 8339	Computation of annuity
§ 8340	Cost-of-living adjustment of annuities
§ 8341	Survivor annuities
§ 8342	Lump-sum benefits; designation of beneficiary; order of precedence
§ 8343a	Alternative forms of annuities
§ 8344	Annuities and pay on reemployment
§ 8345	Payment of benefits; commencement, termination, and waiver of annuity
§ 8347	Administration; regulations
§ 8348	Civil Service Retirement and Disability Fund
§ 8349	Offset relating to certain benefits under the Social Security Act
§ 8351	Participation in the Thrift Savings Plan
Chapter 84—Federal Employees' Retirement System Subchapter I—General Provisions	
§ 8401	Definitions
§ 8402	Federal Employees' Retirement System; exclusions
Subchapter II—Basic Annuity	
§ 8411	Creditable service
§ 8416	Survivor reduction for a current spouse
§ 8417	Survivor reduction for a former spouse
§ 8418	Survivor elections; deposit; offsets
§ 8419	Survivor reductions; computation
§ 8420	Insurable interest reductions
§ 8420a	Alternative forms of annuities
§ 8422	Deductions from pay; contributions for military service
§ 8423	Government contributions
§ 8424	Lump-sum benefits; designation of beneficiary; order of precedence
Subchapter III—Thrift Savings Plan	
§ 8432	Contributions
§ 8434	Annuities: methods of payment; election; purchase
§ 8435	Protections for spouses and former spouses
§ 8437	Thrift Savings Fund
§ 8440a	Justices and judges
§ 8440b	Bankruptcy judges and magistrates
Subchapter IV—Survivor Annuities	
§ 8441	Definitions
§ 8442	Rights of a widow or widower
§ 8443	Rights of a child

§ 8444	Rights of a named individual with an insurable interest
§ 8445	Rights of a former spouse
	Subchapter VI—General and Administrative Provisions
§ 8461	Authority of the Office of Personnel Management
§ 8462	Cost-of-living adjustments
§ 8467	Court orders
§ 8468	Annuities and pay on reemployment
§ 8469	Withholding of State income taxes
	Subchapter VII—Federal Retirement Thrift Investment Management System
§ 8477	Fiduciary responsibilities; liability and penalties
	Chapter 87—Life Insurance
§ 8701	Definitions
§ 8705	Death claims; order of precedence; escheat
§ 8714c	Optional life insurance on family members
	Chapter 89—Health Insurance
§ 8901	Definitions
§ 8902	Contracting authority
§ 8902a	Debarment and other sanctions
§ 8903	Health benefits plans
§ 8905	Election of coverage
§ 8905a	Continued coverage
§ 8906	Contribution
§ 8908	Coverage of restored employees and survivor or disability annuitants
§ 8909	Employees Health Benefits Fund
§ 8913	Regulations
Title 8—Aliens and Nationality	
Chapter 12—Immigration And Nationality Subchapter II—Immigration Part IX—Miscellaneous	
§ 1353	Travel expenses and expense of transporting remains of officers and employees dying outside of United States
Title 10—Armed Forces	
Subtitle A—General Military Law Part I—Organization And General Military Powers Chapter 1—Definitions	
§ 101	Definitions
Part II—Personnel Chapter 37—General Service Requirements	
§ 654	Policy concerning homosexuality in the armed forces

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

Chapter 47—Uniform Code Of Military Justice Subchapter XII—United States Court Of Appeals For The Armed Forces	
§ 945	Art. 145. Annuities for judges and survivors
Chapter 53—Miscellaneous Rights And Benefits	
§ 1041	Replacement of certificate of discharge
§ 1052	Reimbursement for adoption expenses
§ 1056	Relocation assistance programs
§ 1059	Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits
Chapter 54—Commissary and Exchange Benefits	
§ 1062	Certain former spouses
Chapter 55—Medical And Dental Care	
§ 1072	Definitions
§ 1078a	Continued health benefits coverage
§ 1079	Contracts for medical care for spouses and children: plans
§ 1092	Studies and demonstration projects relating to delivery of health and medical care
Chapter 57—Decorations And Awards	
§ 1126	Gold star lapel button: eligibility and distribution
Chapter 58—Benefits And Services For Members Being Separated Or Recently Separated	
§ 1142	Preseparation counseling; transmittal of medical records to Department of Veterans Affairs
§ 1143	Employment assistance
§ 1144	Employment assistance, job training assistance, and other transitional services: Department of Labor
§ 1151	Assistance to separated members to obtain certification and employment as teachers or employment as teachers' aides
Chapter 71—Computation Of Retired Pay	
§ 1408	Payment of retired or retainer pay in compliance with court orders
Chapter 73—Annuities Based On Retired Or Retainer Pay Subchapter I—Retired Serviceman's Family Protection Plan	
§ 1431	Election of annuity: members of armed forces
§ 1433	Mental incompetency of member
§ 1434	Kinds of annuities that may be elected
§ 1435	Eligible beneficiaries
Subchapter II—Survivor Benefit Plan	
§ 1447	Definitions
§ 1448	Application of Plan
§ 1450	Payment of annuity: beneficiaries
§ 1451	Amount of annuity
§ 1452	Reduction in retired pay
§ 1455	Regulations

Subchapter III—Supplemental Survivor Benefit Plan	
§ 1456	Supplemental spouse coverage: establishment of plan; definitions
§ 1457	Supplemental spouse coverage: payment of annuity; amount
§ 1458	Supplemental spouse coverage: eligible participants; elections of coverage
§ 1459	Former spouse coverage: special rules
§ 1460	Supplemental spouse coverage: reductions in retired pay
§ 1460a	Incorporation of certain administrative provisions
Chapter 74—Department Of Defense Military Retirement Fund	
§ 1461	Establishment and purpose of Fund; definition
§ 1463	Payments from the Fund
§ 1465	Determination of contributions to the Fund
§ 1466	Payments into the Fund
Chapter 75—Death Benefits	
§ 1475	Death gratuity: death of members on active duty or inactive duty training and of certain other persons
§ 1476	Death gratuity: death after discharge or release from duty or training
§ 1477	Death gratuity: eligible survivors
§ 1479	Death gratuity: delegation of determinations, payments
§ 1482	Expenses incident to death
§ 1489	Death gratuity: members and employees dying outside the United States while assigned to intelligence duties
Chapter 76—Missing Persons	
§ 1513	Definitions
Chapter 79—Correction Of Military Records	
§ 1552	Correction of military records: claims incident thereto
§ 1553	Review of discharge or dismissal
Chapter 81—Civilian Employees	
§ 1588	Authority to accept certain voluntary services
Chapter 88—Military Family Programs And Military Child Care Subchapter I—Military Family Programs	
§ 1784	Employment opportunities for military spouses
Subchapter II—Military Child Care	
§ 1792	Child care employees
Part III—Training And Education Chapter 107—Educational Assistance For Persons Enlisting For Active Duty	
§ 2147	Right of member after reenlisting to transfer entitlement to spouse or dependent children
§ 2148	Duration of entitlement
Part IV—Service, Supply, And Procurement Chapter 157—Transportation	
§ 2641	Transportation of certain veterans on Department of Defense aeromedical evacuation aircraft

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

Chapter 165—Accountability And Responsibility	
§ 2771	Final settlement of accounts: deceased members
Subtitle B—Army **Part IV—Service, Supply, And Procurement** **Chapter 445—Inquests; Disposition Of Effects Of Deceased Persons; Captured Flags**	
§ 4712	Disposition of effects of deceased persons by summary court-martial
Subtitle C—Navy And Marine Corps **Part IV—General Administration** **Chapter 651—Ships' Stores And Commissary Stores**	
§ 7601	Sales: members of the naval service and Coast Guard; widows and widowers; civilian employees and other persons
Subtitle D—Air Force **Part IV—Service, Supply, And Procurement** **Chapter 945—Inquests; Disposition Of Effects Of Deceased Persons**	
§ 9712	Disposition of effects of deceased persons by summary court-martial
Subtitle E—Reserve Components **Part I—Organization And Administration** **Chapter 1007—Administration Of Reserve Components**	
§ 10205	Members of Ready Reserve: requirement of notification of change of status
Part II—Personnel Generally **Chapter 1209—Active Duty**	
§ 12319	Ready Reserve: muster duty
Chapter 1214—Ready Reserve Mobilization Income Insurance	
§ 12530	Payment of benefits
Chapter 1223—Retired Pay For Nonregular Service	
§ 12731	Age and service requirements
Title 14—Coast Guard	
Part I—Regular Coast Guard **Chapter 13—Pay, Allowances, Awards, And Other Rights And Benefits**	
§ 487	Procurement and sale of stores to members and civilian employees
§ 498	Posthumous awards
§ 514	Reimbursement for adoption expenses
Part II—Coast Guard Reserve And Auxiliary **Chapter 21—Coast Guard Reserve** **Subchapter A—General**	
§ 707	Temporary members of the Reserve; disability or death benefits
Title 16—Conservation	
Chapter 24—Conservation And Protection Of Fur Seals **Subchapter II—Administration Of Pribilof Islands**	
§ 1168	Civil service retirement benefits
§ 1169a	Annuities and survivor annuities; recomputation

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

Title 20—Education	
Chapter 25A—Overseas Defense Dependents' Education	
§ 932	Definitions
Title 22—Foreign Relations and Intercourse	
Chapter 4—Passports	
§ 214	Fees for execution and issuance of passports; persons excused from payment
Chapter 34—The Peace Corps	
§ 2505	Peace Corps volunteer leaders; number; applicability of chapter; benefits
Chapter 38—Department Of State	
§ 2703	Services and facilities for employees at posts abroad
§ 2708	Reward; information; international terrorism
Chapter 48—Taiwan Relations	
§ 3310	Employment of United States Government agency personnel
Chapter 51—Panama Canal Subchapter I—Administration And Regulations Part 2—Employees Subpart IV—Retirement	
§ 3682	Cash relief to certain former employees
Chapter 52—Foreign Service Subchapter IV—Compensation	
§ 3968	Local compensation plans
§ 3973	Death gratuities
Subchapter VII—Career Development, Training, And Orientation	
§ 4026	Career counseling
Subchapter VIII—Foreign Service Retirement and Disability Part I—Foreign Service Retirement And Disability System	
§ 4044	Definitions
§ 4045	Contributions to the Fund
§ 4046	Computation of annuities
§ 4047	Payment of annuity
§ 4049	Death in service
§ 4054	Former spouses
§ 4055	Lump-sum payments
§ 4056	Creditable service
§ 4057	Extra credit for service at unhealthful posts
§ 4060	Assignment and attachment of moneys
§ 4066	Cost-of-living adjustment of annuities
§ 4068	Remarriage
§ 4069-1	Qualified former wives and husbands
§ 4069a	Retirement benefits for certain former spouses
§ 4069a-1	Retirement benefits for certain former spouses
§ 4069b	Survivor benefits for certain former spouses

§ 4069b-1	Survivor benefits for certain former spouses
§ 4069c	Health benefits for certain former spouses
§ 4069c-1	Health benefits for certain former spouses
Part II—Foreign Service Pension System	
§ 4071a	Definitions
§ 4071d	Entitlement to annuity
§ 4071j	Former spouses
§ 4071k	Spousal agreements
Subchapter IX—Travel, Leave, And Other Benefits	
§ 4084	Health care program
Subchapter XI—Grievances	
§ 4132	Grievances concerning former members or their survivors
Subchapter XII—Transition	
§ 4159	Survivor benefits for certain former spouses
Title 24—Hospitals And Asylums	
Chapter 10—Armed Forces Retirement Home Subchapter I—Establishment And Operation Of Retirement Home	
§ 420	Disposition of effects of deceased persons; unclaimed property
Title 26—Internal Revenue Code	
Subtitle F—Procedure And Administration Chapter 76—Judicial Proceedings Subchapter C—The Tax Court Part I—Organization And Jurisdiction	
§ 7448	Annuities to surviving spouses and dependent children of judges
Title 28—Judiciary And Judicial Procedure	
Part I—Organization Of Courts Chapter 7—United States Court Of Federal Claims	
§ 178	Retirement of judges of the Court of Federal Claims
Chapter 17—Resignation And Retirement Of Justices And Judges	
§ 376	Annuities for survivors of certain judicial officials of the United States
§ 377	Retirement of bankruptcy judges and magistrates
Part III—Court Officers And Employees Chapter 41—Administrative Office Of United States Courts	
§ 604	Duties of Director generally
§ 605	Budget estimates
Title 29—Labor	
Chapter 19—Job Training Partnership Subchapter IV—Federally Administered Programs Part B—Job Corps	
§ 1706	Application of provisions of Federal law

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

Title 31—Money and Finance	
Subtitle I—General **Chapter 7—General Accounting Office** **Subchapter V—Annuities**	
§ 771	Definitions
§ 772	Annuity of the Comptroller General
§ 773	Election of survivor benefits
§ 774	Survivor annuities
§ 775	Refunds
§ 776	Payment of survivor benefits
§ 777	Annuity increases
Subtitle III—Financial Management **Chapter 33—Depositing, Keeping, And Paying Money** **Subchapter II—Payments**	
§ 3330	Payment of Department of Veterans Affairs checks for the benefit of individuals in foreign countries
Chapter 37—Claims **Subchapter III—Claims Against The United States Government**	
§ 3721	Claims of personnel of agencies and the District of Columbia government for personal property damage or loss
Title 32—National Guard	
Chapter 1—Organization	
§ 101	Definitions
Chapter 7—Service, Supply, And Procurement	
§ 714	Final settlement of accounts: deceased members
Title 33—Navigation And Navigable Waters	
Chapter 16—Lighthouses	
§ 771	Benefits for surviving spouses of Lighthouse Service employees; death of employee during retirement; amount of payment
§ 772	Death of employee due to non-service-connected causes after 15 years' service; amount of payment
Chapter 17—National Ocean Survey **Subchapter I—General Provisions**	
§ 857-4	Commissary privileges
§ 857a	Rights, benefits, privileges, and immunities; exercise of authority by Secretary of Commerce or designee
Title 37—Pay And Allowances Of The Uniformed Services	
Chapter 7—Allowances	
§ 401	Definitions
§ 403b	Cost-of-living allowance in the continental United States
§ 406	Travel and transportation allowances: dependents; baggage and household effects
§ 411h	Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members
§ 423	Validity of allowance payments based on purported marriages

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

§ 430	Travel and transportation: dependent children of members stationed overseas
Chapter 10—Payments To Missing Persons	
§ 551	Definitions
§ 557	Settlement of accounts
Chapter 19—Administration	
§ 1011	Mess operation: reimbursement of expenses
Title 39—Postal Service	
Part IV—Mail Matter **Chapter 32—Penalty And Franked Mail**	
§ 3210	Franked mail transmitted by the Vice President, Members of Congress, and congressional officials
§ 3214	Mailing privilege of former President; surviving spouse of former President
§ 3216	Reimbursement for franked mailings
§ 3218	Franked mail for survivors of Members of Congress
Title 40—Public Buildings, Property, And Works	
Chapter 2—Capitol Building And Grounds	
§ 166b-4	Gratuities for survivors of deceased employees under jurisdiction of Architect of Capitol
§ 184g	House of Representatives Child Care Center
§ 214d	Senate Employee Child Care Center benefits
Title 42—The Public Health and Welfare	
Chapter 6A—The Public Health Service **Subchapter I—Administration And Miscellaneous Provisions** **Part A—Administration**	
§ 213	Military benefits
§ 213a	Rights, benefits, privileges, and immunities for commissioned officers or beneficiaries; exercise of authority by Secretary or designee
Subchapter II—General Powers And Duties **Part C—Hospitals, Medical Examinations, And Medical Care**	
§ 253a	Medical services to retired personnel of National Oceanic and Atmospheric Administration
Chapter 11—Compensation For Disability Or Death To Persons Employed At Military, Air, And Naval Bases Outside United States	
§ 1652	Computation of benefits; application to aliens and nonnationals
Chapter 20—Elective Franchise **Subchapter I-G—Registration And Voting By Absent Uniformed Services Voters And Overseas Voters In Elections For Federal Office**	
§ 1973ff-6	Definitions
Chapter 23—Development And Control Of Atomic Energy **Division B—United States Enrichment Corporation** **Subchapter VIII—United States Enrichment Corporation Privatization**	
§ 2297h-8	Employee protections

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

Title 50—War and National Defense	
Chapter 15—National Security **Subchapter I—Coordination For National Security**	
§ 403k	Authority to pay death gratuities
§ 403n	Special provisions for spouses of Central Intelligence Agency employees applicable to Agency participants in Civil Service Retirement and Disability System
§ 403p	Health benefits for certain former spouses of Central Intelligence Agency employees
§ 403s	Special rules for disability retirement and death-in-service benefits with respect to certain employees
Chapter 38—Central Intelligence Agency Retirement And Disability **Subchapter I—Definitions**	
§ 2002	Definitions relating to participants and annuitants
Subchapter II—Central Intelligence Agency Retirement And Disability System **Part B—Contributions**	
§ 2021	Contributions to fund
Part C—Computation Of Annuities	
§ 2031	Computation of annuities
§ 2032	Annuities for former spouses
§ 2033	Election of survivor benefits for certain former spouses divorced as of November 15, 1982
§ 2034	Survivor annuity for certain other former spouses
§ 2035	Retirement annuity for certain former spouses
§ 2036	Survivor annuities for previous spouses
Part D—Benefits Accruing To Certain Participants	
§ 2051	Retirement for disability or incapacity; medical examination; recovery
§ 2052	Death in service
§ 2056	Eligibility for annuity
Part E—Lump-Sum Payments	
§ 2071	Lump-sum payments
Part F—Period Of Service For Annuities	
§ 2082	Prior service credit
Part G—Moneys	
§ 2093	Payment of benefits
§ 2094	Attachment of moneys
Part J—Cost-Of-Living Adjustment Of Annuities	
§ 2131	Cost-of-living adjustment of annuities
Part K—Conformity With Civil Service Retirement System	
§ 2141	Authority to maintain existing areas of conformity between Civil Service and Central Intelligence Agency Retirement and Disability Systems
§ 2143	Alternative forms of annuities
Subchapter III—Participation In Federal Employees' Retirement System	
§ 2154	Special rules for former spouses

CATEGORY 4—FEDERAL CIVILIAN AND MILITARY SERVICE BENEFITS

Title 50—Appendix	
Soldiers' And Sailors' Civil Relief Act Of 1940	
Article III—Rent, Installment Contracts, Mortgages, Liens, Assignments, Leases	
§ 530	Eviction or distress during military service; stay; penalty for noncompliance; allotment of pay for payment
Article V—Taxes And Public Lands	
§ 563	Death or incapacity during or resulting from service as affecting rights; perfection of rights
Article VII—Further Relief	
§ 591	Power of attorney

Title 16—Conservation	
Chapter 31—Marine Mammal Protection **Subchapter II—Conservation And Protection Of Marine Mammals**	
§ 1383a	Interim exemption for commercial fisheries
Title 29—Labor	
Chapter 7—Labor-Management Relations **Subchapter II—National Labor Relations**	
§ 152	Definitions
Chapter 8—Fair Labor Standards	
§ 203	Definitions
§ 213	Exemptions
Chapter 18—Employee Retirement Income Security Program **Subchapter I—Protection Of Employee Benefit Rights** **Subtitle A—General Provisions**	
§ 1002	Definitions
Subtitle B—Regulatory Provisions **Part 1—Reporting And Disclosure**	
§ 1021	Duty of disclosure and reporting
Part 2—Participation And Vesting	
§ 1053	Minimum vesting standards
§ 1055	Requirement of joint and survivor annuity and preretirement survivor annuity
§ 1056	Form and payment of benefits
Part 6—Continuation Coverage And Additional Standards For Group Health Plans	
§ 1162	Continuation coverage
§ 1163	Qualifying event
§ 1166	Notice requirements
§ 1167	Definitions and special rules
Part 7—Group Health Plan Portability, Access, And Renewability Requirements	
§ 1181	Increased portability through limitation on preexisting condition exclusion
Subchapter III—Plan Termination Insurance **Subtitle B—Coverage**	
§ 1322	Single-employer plan benefits guaranteed
Subtitle C—Terminations	
§ 1350	Missing participants
Chapter 19—Job Training Partnership	
§ 1503	Definitions
Subchapter II—Training Services For The Disadvantaged **Part C—Youth Training Program**	
§ 1644	Program design

Subchapter IV—Federally Administered Programs Part B—Job Corps	
§ 1699	Allowances and support
Part E—Labor Market Information	
§ 1752	Cooperative labor market information program
Chapter 28—Family And Medical Leave	
§ 2601	Findings and purposes
Subchapter I—General Requirements For Leave	
§ 2611	Definitions
§ 2612	Leave requirement
§ 2613	Certification
§ 2614	Employment and benefits protection
Title 30—Mineral Lands And Mining	
Chapter 22—Mine Safety And Health Subchapter II—Interim Mandatory Health Standards	
§ 843	Medical examinations
Subchapter IV—Black Lung Benefits Part A—General Provisions	
§ 901	Congressional findings and declaration of purpose; short title
§ 902	Definitions
§ 903	Field offices
Part B—Claims For Benefits Filed On Or Before December 31, 1973	
§ 921	Regulations and presumptions
§ 922	Payment of benefits
§ 923	Filing of notice of claim
§ 924	Time for filing claims
Part C—Claims For Benefits After December 31, 1973	
§ 931	Benefits under State workmen's compensation laws
§ 932	Failure to meet workmen's compensation requirements
Title 33—Navigation And Navigable Waters	
Chapter 18—Longshore And Harbor Workers' Compensation	
§ 902	Definitions
§ 905	Exclusiveness of liability
§ 906	Compensation
§ 908	Compensation for disability
§ 909	Compensation for death
§ 910	Determination of pay
§ 931	Penalty for misrepresentation
§ 933	Compensation for injuries where third persons are liable

Title 42—The Public Health And Welfare	
Chapter 6A—Public Health Service **Subchapter XX—Requirements For Certain Group Health Plans For Certain State And Local Employees**	
§ 300bb-3	Qualifying event
§ 300bb-6	Notice requirements
§ 300bb-8	Definitions
Subchapter XXV—Assuring Portability, Availability, And Renewability Of Health Insurance Coverage **Part A—Group Market Reforms** **Subpart 1—Portability, Access, And Renewability Requirements**	
§ 300gg	Increased portability through limitation on preexisting condition exclusions
Chapter 12—Compensation For Injury, Death, Or Detention Of Employees Of Contractors With The United States Outside United States **Subchapter I—Compensation, Reimbursement, Etc., By Secretary Of Labor**	
§ 1701	Compensation for injury or death resulting from war-risk hazard
Chapter 46—Justice System Improvement **Subchapter XII—Public Safety Officers' Death Benefits**	
§ 3796	Payment of death benefits
Subchapter XII-K—Family Support	
§ 3796jj-2	Uses of funds
Title 45—Railroads	
Chapter 2—Liability For Injuries To Employees	
§ 51	Liability of common carriers by railroad, in interstate or foreign commerce, for injuries to employees from negligence; employee defined
§ 52	Carriers in Territories or other possessions of United States
§ 59	Survival of right of action of person injured
Chapter 9—Retirement Of Railroad Employees **Subchapter IV—Railroad Retirement Act Of 1974**	
§ 231a	Annuity eligibility requirements
§ 231b	Computation of annuities
§ 231c	Computation of spouse and survivor annuities
§ 231d	Annuity beginning and ending dates
§ 231e	Lump sum payments
§ 231f	Railroad Retirement Board
§ 231m	Assignability; exemption from levy
§ 231r	Automatic benefit eligibility requirement adjustments
Chapter 11—Railroad Unemployment Insurance	
§ 352	Benefits

CATEGORY 5—EMPLOYMENT BENEFITS AND RELATED LAWS

Title 46—Shipping	
Subtitle II—Vessels And Seamen **Part G—Merchant Seamen Protection And Relief** **Chapter 103—Foreign And Intercoastal Voyages**	
§ 10315	Allotments
Chapter 107—Effects Of Deceased Seamen	
§ 10709	Distribution
Chapter 111—Protection And Relief	
§ 11109	Attachment of wages
Title 49—Transportation	
Subtitle VII—Aviation Programs **Part A—Air Commerce And Safety** **Subpart II—Economic Regulation** **Chapter 415—Pricing**	
§ 41511	Special prices for foreign air transportation
Title 50—War And National Defense	
Title 50—Appendix	
National Emergency And War Shipping Acts; March 24, 1943	
§ 1291	Rights of American seamen on privately owned and operated American vessels extended to seamen employed through the War Shipping Administration; exceptions; definitions

Title 8—Aliens And Nationality	
Chapter 12—Immigration And Nationality Subchapter I—General Provisions	
§ 1101	Definitions
Subchapter II—Immigration Part I—Selection System	
§ 1151	Worldwide level of immigration
§ 1152	Numerical limitations on individual foreign states
§ 1153	Allocation of immigrant visas
§ 1154	Procedure for granting immigrant status
§ 1157	Annual admission of refugees and admission of emergency situation refugees
§ 1158	Asylum procedure
§ 1159	Adjustment of status of refugees
Part II—Admission Qualifications For Aliens; Travel Control Of Citizens And Aliens	
§ 1182	Excludable aliens
§ 1184	Admission of nonimmigrants
§ 1184a	Philippine Traders as nonimmigrants
§ 1186a	Conditional permanent resident status for certain alien spouses and sons and daughters
§ 1186b	Conditional permanent resident status for certain alien entrepreneurs, spouses, and children
Part III—Issuance Of Entry Documents	
§ 1201	Issuance of visas
§ 1202	Application for visas
Part IV—Provisions Relating To Entry And Exclusion	
§ 1221	Lists of alien and citizen passengers arriving and departing
Part V—Deportation; Adjustment Of Status	
§ 1251	Deportable aliens
§ 1254	Suspension of deportation
§ 1255	Adjustment of status of nonimmigrant to that of person admitted for permanent residence
Part VIII—General Penalty Provisions	
§ 1325	Improper entry by alien
§ 1328	Importation of alien for immoral purpose
Subchapter III—Nationality And Naturalization Part I—Nationality At Birth And Collective Naturalization	
§ 1401	Nationals and citizens of United States at birth
Part II—Nationality Through Naturalization	
§ 1422	Eligibility for naturalization
§ 1427	Requirements of naturalization
§ 1430	Married persons and employees of certain nonprofit organizations
§ 1435	Former citizens regaining citizenship
§ 1440-1	Posthumous citizenship through death while on active-duty service in the armed forces during World War I, World War II, the Korean hostilities, the Vietnam hostilities, or in other periods of military hostilities

§ 1444	Photographs; number
§ 1449	Certificate of naturalization; contents
§ 1451	Revocation of naturalization
§ 1452	Certificates of citizenship or U.S. non-citizen national status; procedure
§ 1454	Documents and copies issued by Attorney General
	Part III—Loss Of Nationality
§ 1489	Application of treaties; exceptions
	Subchapter IV—Refugee Assistance
§ 1522	Authorization for programs for domestic resettlement of and assistance to refugees
	Chapter 14—Restricting Welfare And Public Benefits For Aliens **Subchapter I—Eligibility For Federal Benefits**
§ 1612	Limited eligibility of qualified aliens for certain Federal programs
§ 1613	Five-year limited eligibility of qualified aliens for Federal means-tested public benefit
	Subchapter II—Eligibility For State And Local Public Benefits Programs
§ 1622	State authority to limit eligibility of qualified aliens for State public benefits
	Subchapter III—Attribution Of Income And Affidavits Of Support
§ 1631	Federal attribution of sponsor's income and resources to alien
§ 1632	Authority for States to provide for attribution of sponsors income and resources to the alien with respect to State programs
	Subchapter IV—General Provisions
§ 1645	Qualifying quarters
Title 22—Foreign Relations And Intercourse	
	Chapter 69A—Cuban Liberty And Democratic Solidarity (Libertad) **Subchapter IV—Exclusion Of Certain Aliens**
§ 6091	Exclusion from the United States of aliens who have confiscated property of United States nationals or who traffic in such property
Title 42—The Public Health And Welfare	
	Chapter 8—Low-Income Housing
§ 1436a	Restriction on use of assisted housing by non-resident aliens

CATEGORY 7—INDIANS

Title 25—Indians	
Chapter 5—Protection Of Indians	
§ 181	Rights of white men marrying Indian women; tribal property
§ 182	Rights of Indian women marrying white men; tribal property
§ 183	Marriage of white men to Indian women; evidence
§ 184	Rights of children born of marriages between white men and Indian women
Chapter 10—Descent And Distribution; Heirs Of Allottee	
§ 371	Descent of land
Chapter 14—Miscellaneous **Subchapter X—Klamath Tribe: Disposition Of Certain Tribal Funds**	
§ 541	Creation of individual credits; authorized purchases
§ 544	Creation of individual credits; authorized purchases
Subchapter XVII—Yakima Tribes	
§ 607	Divestment of inheritance of non-members
Subchapter XXII—Navajo And Hopi Tribes: Settlement Of Rights And Interests	
§ 640d-28	Life estates
Subchapter XLVI—Ponca Tribe Of Nebraska: Termination Of Federal Supervision	
§ 973	Distribution of assets
Chapter 18—Indian Health Care **Subchapter I—Indian Health Professional Personnel**	
§ 1616b	Recruitment activities
Subchapter VI—Miscellaneous	
§ 1680c	Health services for ineligible persons
Chapter 21—Indian Child Welfare	
§ 1903	Definitions
Chapter 24—Indian Land Consolidation	
§ 2205	Descent and distribution of trust or restricted or controlled lands; tribal ordinance barring nonmembers of tribe or non-Indians from inheritance by devise or descent; limitation on life estate
Chapter 34—Indian Child Protection And Family Violence Prevention	
§ 3202	Definitions

CATEGORY 8—TRADE, COMMERCE, AND INTELLECTUAL PROPERTY

Title 7—Agriculture	
Chapter 74—Floral Research And Consumer Information	
§ 4311	Exemption from assessments
Chapter 97—Fresh Cut Flowers And Fresh Cut Greens Promotion And Information	
§ 6805	Exclusion; determinations
Title 11—Bankruptcy	
Chapter 1—General Provisions	
§ 101	Definition
§ 109	Who may be a debtor
Chapter 3—Case Administration **Subchapter I—Commencement Of A Case**	
§ 302	Joint cases
Subchapter IV—Administrative Powers	
§ 362	Automatic stay
§ 363	Use, sale, or lease of property
Chapter 5—Creditors, The Debtor, And The Estate **Subchapter I—Creditors And Claims**	
§ 507	Priorities
Subchapter II—Debtor's Duties And Benefits	
§ 522	Exemptions
§ 523	Exceptions to discharge
§ 524	Effect of discharge
Subchapter III—The Estate	
§ 541	Property of the estate
§ 547	Preferences
Chapter 7—Liquidation **Subchapter II—Collection, Liquidation, And Distribution of the estate**	
§ 726	Distribution of property of the estate
Chapter 11—Reorganization **Subchapter I—Officers And Administration**	
§ 1114	Payment of insurance benefits to retired employees
Title 12—Banks And Banking	
Chapter 12—Federal Savings Associations	
§ 1467a	Regulations of holding companies
Chapter 13—National Housing	
§ 1701j-3	Preemption of due-on-sale prohibitions
§ 1701x	Assistance with respect to housing for low- and moderate-income families
Subchapter II—Mortgage Insurance	
§ 1715m	Mortgage insurance for servicemen
§ 1715v	Insurance of mortgages for housing for elderly persons
§ 1715z-1	Rental and cooperative housing for lower income families
§ 1715z-12	Single-family mortgage insurance on Hawaiian home lands

§ 1715z-20	Demonstration program of insurance of home equity conversion mortgages for elderly homeowners
	Subchapter V—Miscellaneous
§ 1735f-5	Prohibition against discrimination on account of sex in extension of mortgage assistance; consideration of combined income of husband and wife for purpose of extending mortgage credit; definitions
	Chapter 17—Bank Holding Companies
§ 1843	Interests in nonbanking organizations
Title 15—Commerce And Trade	
	Chapter 2D—Investment Companies And Advisers **Subchapter I—Investment Companies**
§ 80a-2	Definitions
§ 80a-3	Definition of investment company
	Chapter 14A—Aid To Small Business
§ 633	Small Business Administration
	Chapter 22—Trademarks **Subchapter I—The Principal Register**
§ 1052	Trademarks registrable on principal register; concurrent registration
	Chapter 41—Consumer Credit Protection **Subchapter II—Restrictions On Garnishment**
§ 1673	Restriction on garnishment
	Subchapter IV—Equal Credit Opportunity
§ 1691c	Administrative enforcement
§ 1691d	Applicability of other laws
	Subchapter V—Debt Collection Practices
§ 1692	Congressional findings and declaration of purpose
§ 1692c	Communication in connection with debt collection
	Chapter 42—Interstate Land Sales
§ 1702	Exemptions
Title 17—Copyrights	
	Chapter 1—Subject Matter And Scope Of Copyright
§ 101	Definitions
	Chapter 2—Copyright Ownership And Transfer
§ 203	Termination of transfers and licenses granted by the author
	Chapter 3—Duration Of Copyright
§ 304	Duration of copyright: Subsisting copyrights
Title 19—Customs Duties	
	Chapter 4—Tariff Act Of 1930 **Subtitle III—Administrative Provisions** **Part I—Definitions And National Customs Automation Program** **Subpart A—Definitions**
§ 1401a	Value
	Subtitle IV—Countervailing And Antidumping Duties **Part IV—General Provisions**

§ 1677	Definitions; special rules
Chapter 12—Trade Act Of 1974 **Subchapter IV—Trade Relations With Countries Not Currently Receiving Nondiscriminatory Treatment**	
§ 2439	Freedom to emigrate to join very close relative in United States
Chapter 14—Convention On Cultural Property	
§ 2606	Import restrictions
Chapter 21—North American Free Trade **Subchapter II—Customs Provisions**	
§ 3332	Rules of origin
Subchapter III—Application Of Agreement To Sectors And Services **Part C—Temporary Entry Of Business Persons**	
§ 3401	Temporary entry

CATEGORY 9—FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

Title 2—The Congress	
Chapter 3—Compensation And Allowances Of Members	
§ 31-2	Gifts and travel
Chapter 11—Citizens' Commission On Public Service And Compensation	
§ 352	Membership
Title 5—Government Organization And Employees	
Part III—Employees **Subpart B—Employment And Retention** **Chapter 31—Authority For Employment** **Subchapter I—Employment Authorities**	
§ 3110	Employment of relatives; restrictions
Subpart F—Labor-Management And Employee Relations **Chapter 73—Suitability, Security, And Conduct** **Subchapter IV—Foreign Gifts And Decorations**	
§ 7342	Receipt and disposition of foreign gifts and decorations
Subchapter V—Misconduct	
§ 7351	Gifts to superiors
Title 5—Appendix 4	
Ethics in Government Act of 1978 **Title I—Financial Disclosure Requirements Of Federal Personnel**	
§ 102	Contents of reports
§ 109	Definitions
Title V—Government-Wide Limitations On Outside Earned Income And Employment	
§ 501	Outside earned income limitation
Title 7—Agriculture	
Chapter 50—Agricultural Credit **Subchapter IV—Administrative Provisions**	
§ 1986	Conflicts of interests
§ 2008j	National Sheep Industry Improvement Center
Chapter 88—Research **Subchapter VI—Alternative Agricultural Research And Commercialization**	
§ 5903	Board of directors, employees, and facilities
Title 10—Armed Forces	
Subtitle E—Reserve Components **Part IV—Training For Reserve Components And Educational Assistance Programs** **Chapter 1606—Educational Assistance For Members Of The Selected Reserve**	
§ 16131	Educational assistance program: establishment; amount
Title 12—Banks And Banking	
Chapter 27—Real Estate Settlement Procedures	
§ 2602	Definitions

Title 16—Conservation	
Chapter 38—Fishery Conservation And Management Subchapter IV—National Fishery Management Program	
§ 1852	Regional Fishery Management Councils
Title 18—Crimes And Criminal Procedure	
Part I—Crimes Chapter 93—Public Officers And Employees	
§ 1910	Nepotism in appointment of receiver or trustee
Title 22—Foreign Relations And Intercourse	
Chapter 52—Foreign Service Subchapter III—Appointments	
§ 3944	Chiefs of Mission
Title 28—Judiciary And Judicial Procedure	
Part I—Organization Of Courts Chapter 21—General Provisions Applicable To Courts And Judges	
§ 455	Disqualification of justice, judge, or magistrate
§ 458	Relative of justice or judge ineligible to appointment
Part III—Court Officers And Employees Chapter 43—United States Magistrates	
§ 631	Appointment and tenure
Title 29—Labor	
Chapter 11—Labor-Management Reporting And Disclosure Procedure	**Subchapter III—Reporting By Labor Organizations, Officers And Employees Of Labor Organizations, And Employers**
§ 432	Report of officers and employees of labor organizations
Title 31—Money And Finance	
Subtitle II—The Budget Process Chapter 13—Appropriations Subchapter III—Limitations, Exceptions, And Penalties	
§ 1353	Acceptance of travel and related expenses from non-Federal sources
Title 33—Navigation And Navigable Waters	
Chapter 18—Longshore And Harbor Workers' Compensation	
§ 940	Deputy commissioners
Title 40—Public Buildings, Property, And Works	
Title 40—Appendix	
Appalachian Regional Development Act Of 1965 Title I—The Appalachian Regional Commission	
§ 108	Personal financial interests

CATEGORY 9—FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

Title 42—The Public Health And Welfare	
Chapter 6A—Public Health Service **Subchapter III—National Research Institutes** **Part I—National Foundation For Biomedical Research**	
§ 290b	Establishment and duties of Foundation
Subchapter XI—Health Maintenance Organizations	
§ 300e-17	Financial disclosure
Chapter 7—Social Security **Subchapter XI—General Provisions, Peer Review, And Administrative Simplification** **Part B—Peer Review Of Utilization And Quality Of Health Care Services**	
§ 1320c-3	Functions of peer review organizations
Title 43—Public Lands	
Chapter 4—District Land Offices	
§ 100	Disqualification
Title 50—War And National Defense	
Chapter 15—National Security **Subchapter VI—Access To Classified Information**	
§ 435	Procedures

CATEGORY 10—CRIMES AND FAMILY VIOLENCE

Title 10—Armed Forces	
Subtitle A—General Military Law **Part II—Personnel** **Chapter 47—Uniform Code Of Military Justice** **Subchapter X—Punitive Articles**	
§ 920	Art. 120. Rape and carnal knowledge
Title 18—Crimes And Criminal Procedure	
Part I—Crimes **Chapter 7—Assault**	
§ 115	Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member
Chapter 11—Bribery, Graft, And Conflicts Of Interest	
§ 203	Compensation to Members of Congress, officers, and others in matters affecting the Government
§ 205	Activities of officers and employees in claims against and other matters affecting the Government
§ 208	Acts affecting a personal financial interest
Chapter 41—Extortion And Threats	
§ 879	Threats against former Presidents and certain other persons protected by the Secret Service
Chapter 44—Firearms	
§ 921	Definitions
Chapter 51—Homicide	
§ 1116	Murder or manslaughter of foreign officials, official guests, or internationally protected persons
Chapter 53—Indians	
§ 1169	Reporting of child abuse
Chapter 93—Public Officers And Employees	
§ 1921	Receiving Federal employees' compensation after marriage
Chapter 109A—Sexual Abuse	
§ 2243	Sexual abuse of a minor or ward
Chapter 110A—Domestic Violence	
§ 2261	Interstate domestic violence
§ 2262	Interstate violation of protection order
§ 2265	Full faith and credit given to protection orders
§ 2266	Definitions
Chapter 113B—Terrorism	
§ 2333	Civil remedies
Part II—Criminal Procedure **Chapter 203—Arrest And Commitment**	
§ 3056	Powers, authorities, and duties of United States Secret Service
Chapter 227—Sentences **Subchapter B—Probation**	
§ 3561	Sentence of probation
Part III—Prisons And Prisoners **Chapter 305—Commitment And Transfer**	

§ 4082	Commitment to Attorney General; residential treatment centers; extension of limits of confinement; work furlough
Title 21—Food And Drugs	
Chapter 13—Drug Abuse Prevention And Control Subchapter I—Control And Enforcement Part D—Offenses And Penalties	
§ 862	Denial of Federal benefits to drug traffickers and possessors
Title 28—Judiciary And Judicial Procedure	
Part VI—Particular Proceedings Chapter 176—Federal Debt Collection Procedure Subchapter A—Definitions And General Provisions	
§ 3014	Exempt property
Subchapter D—Fraudulent Transfers Involving Debts	
§ 3301	Definitions
Title 42—The Public Health And Welfare	
Chapter 6A—Public Health Service Subchapter II—General Powers And Duties Part J—Prevention And Control Of Injuries	
§ 280b-1a	Interpersonal violence within families and among acquaintances
Chapter 7—Social Security Subchapter II—Federal Old-Age, Survivors, And Disability Insurance Benefits	
§ 408	Penalties
Subchapter XI—General Provisions, Peer Review, And Administrative Simplification Part A—General Provisions	
§ 1307	Penalty for fraud
Subchapter XVI—Supplemental Security Income For Aged, Blind, And Disabled Part B—Procedural And General Provisions	
§ 1383a	Fraudulent acts; penalties; restitution
Chapter 21A—Privacy Protection Subchapter II—Attorney General Guidelines	
§ 2000aa-11	Guidelines for Federal officers and employees
Chapter 42—Narcotic Addict Rehabilitation Subchapter II—Civil Commitment Of Persons Not Charged With Any Criminal Offense	
§ 3411	Definitions
Chapter 46—Justice System Improvement Subchapter V—Bureau Of Justice Assistance Grant Programs Part A—Drug Control And System Improvement Grant Program	
§ 3751	Description of drug control and system improvement grant program
Subchapter XII-H—Grants To Combat Violent Crimes Against Women	
§ 3796gg-1	State grants
§ 3796gg-2	Definitions
Subchapter XII-I—Grants To Encourage Arrest Policies	
§ 3796hh	Grants

CATEGORY 10—CRIMES AND FAMILY VIOLENCE

§ 3796hh-4	Definitions
Chapter 110—Family Violence Prevention And Services	
§ 10402	State grants authorized
§ 10408	Definitions
§ 10415	Model State leadership grants for domestic violence intervention
Chapter 112—Victim Compensation And Assistance	
§ 10602	Crime victim compensation
§ 10603	Crime victim assistance
§ 10607	Services to victims
Chapter 113—State Justice Institute	
§ 10701	Definitions
Chapter 136—Violent Crime Control And Law Enforcement Subchapter II—Crime Prevention Part B—Local Crime Prevention Block Grant Program	
§ 13751	Payments to local governmeents
Subchapter III—Violence Against Women Part D—Equal Justice For Women In The Courts Act Subpart 1—Education And Training For Judges And Court Personnel In State Courts	
§ 13992	Training provided by grants
Part E—Violence Against Women Act Improvements	
§ 14014	Report on confidentiality of addresses for victims of domestic violence
Subchapter XII—Presidential Summit On Violence And National Commission On Crime Prevention And Control	
§ 14194	Responsibilities of the Commission

Title 7—Agriculture	
Chapter 3—Grain Standards	
§ 87f-1	Registration requirements
Chapter 35—Agricultural Adjustment Act Of 1938 **Subchapter II—Loans, Parity Payments, Consumer Safeguards, Marketing Quotas, And Marketing Certificates** **Part A—Definitions, Loans, Parity Payments, And Consumer Safeguards**	
§ 1308	Payment limitations: production flexibility contracts, marketing loan gains and deficiencies, contract commodities and oilseeds; regulations
§ 1308-1	Prevention of creation of entities to qualify as separate persons; payments limited to active farmers
Chapter 35A—Price Support Of Agricultural Commodities **Subchapter III—Nonbasic Agricultural Commodities**	
§ 1446	Price support levels for designated nonbasic agricultural commodities
Chapter 50—Agricultural Credit **Subchapter I—Real Estate Loans**	
§ 1922	Persons eligible for loans
Subchapter II—Operating Loans	
§ 1941	Persons eligible for loans
Subchapter III—Emergency Loans	
§ 1961	Eligibility for loans
Subchapter IV—Administrative Provisions	
§ 1991	Definitions
§ 2000	Homestead protection
§ 2001	Debt restructuring and loan servicing
Title 15—Commerce And Trade	
Chapter 14A—Aid To Small Business	
§ 636	Additional powers
Chapter 14B—Small Business Investment Program **Subchapter V—Loans To State And Local Development Companies**	
§ 697	Development company debentures
Title 20—Education	
Chapter 28—Higher Education Resources And Student Assistance **Subchapter IV—Student Assistance** **Part B—Federal Family Education Loan Program**	
§ 1071	Statement of purpose; nondiscrimination; and appropriations authorized
§ 1078-3	Federal consolidation loans
Part C—William D. Ford Federal Direct Loan Program	
§ 1087e	Terms and conditions of loans
Part E—Need Analysis	
§ 1087nn	Determination of expected family contribution; data elements
§ 1087oo	Family contribution for dependent students
§ 1087pp	Family contribution for independent students without dependents other than a spouse
§ 1087qq	Family contribution for independent students with dependents other than a spouse

§ 1087ss	Simplified needs test
§ 1087uu-1	Native American students
§ 1087vv	Definitions
Subchapter V—Educator Recruitment, Retention, And Development Part C—Teacher Scholarships And Fellowships Subpart 1—Paul Douglas Teacher Scholarships	
§ 1104g	Exceptions to repayment provisions
Subchapter IX—Graduate Programs Part E—Faculty Development Fellowship Program	
§ 1134r-5	Exceptions to repayment provisions
Chapter 57—James Madison Memorial Fellowship Program	
§ 4506	Recipient's eligibility
Title 38—Veterans' Benefits	
Part III—Readjustment And Related Benefits Chapter 37—Housing And Small Business Loans Subchapter I—General	
§ 3701	Definitions
§ 3702	Basic entitlement
§ 3704	Restrictions on loans
Subchapter II—Loans	
§ 3710	Purchase or construction of homes
§ 3712	Loans to purchase manufactured homes and lots
Subchapter III—Administrative Provisions	
§ 3726	Withholding of payments, benefits, etc.
§ 3729	Loan fee
Part IV—General Administrative Provisions Chapter 53—Special Provisions Relating To Benefits	
§ 5302	Waiver of recovery of claims by the United States
Title 42—The Public Health And Welfare	
Chapter 6A—Public Health Service Subchapter II—General Powers And Duties Part D—Primary Health Care Subpart II—National Health Service Corps Program	
§ 254h-1	Facilitation of effective provision of Corps services
Subpart III—Scholarship Program And Loan Repayment Program	
§ 254*l*-1	National Health Service Corps Loan Repayment Program
Chapter 8A—Slum Clearance, Urban Renewal, And Farm Housing Subchapter III—Farm Housing	
§ 1472	Loans for housing and buildings on adequate farms

Title 16—Conservation	
Chapter 1—National Parks, Military Parks, Monuments, And Seashores Subchapter VI—Sequoia And Yosemite National Parks	
§ 45f	Mineral King Valley addition authorized
Subchapter VII—Redwood National Park	
§ 79d	Acquisition of lands
Subchapter X—North Cascades National Park	
§ 90b-2	Owner's retention of right of use and occupancy for agricultural, residential, or commercial purposes for life or term of years; transfer or assignment of right; termination of use and
Subchapter XVIII—Saratoga National Historical Park	
§ 159g	Acquisition of lands
Subchapter XIX—Voyageurs National Park	
§ 160c	Acquisition of improved property
Subchapter XXIII—Abraham Lincoln Birthplace National Historic Site	
§ 218	Addition of land
Subchapter XXV—Jean Lafitte National Historical Park Part A—Generally	
§ 230b	Owner's retention of right of use and occupancy for residential purposes for life or fixed term of years; election of term; fair market value; transfer, assignment or termination; "improved property" defined
Subchapter XXVII—Olympic National Park	
§ 251h	Property retention rights; compensation at fair market value; "improved property" defined
Subchapter XLIV—Virgin Islands National Park	
§ 398d	Acquisition of lands, waters, and interests therein
Subchapter LIV—Everglades National Park	
§ 410r-3	Acceptance of additional lands; lands acquired as part of park; reimbursement of revolving fund
Subchapter LV—Minute Man National Historical Park	
§ 410t	Acquisition and transfer of lands; private owner's retention of right of use and occupancy
§ 410x-1	Residential occupancy
Subchapter LVIII—Valley Forge National Historical Park	
§ 410aa-1	Lands and property
Subchapter LIX-C—San Antonio Missions National Historical Park	
§ 410ee	Establishment
Subchapter LIX-D—Channel Islands National Park	
§ 410ff-1	Acquisition of property
Subchapter LIX-T—Marsh-Billings National Historical Park	
§ 410vv-6	Reservation of use and occupancy
Subchapter LX—National Military Parks	
§ 425m	Retained rights
§ 426n	Boundary revision of Stones River National Battlefield
§ 429b-2	Retention of right of use and occupation of improved property by owner

Subchapter LXI—National And International Monuments And Memorials	
§ 433k	Whitman Mission National Historic Site; acquisition of land; establishment, supervision and maintenance
§ 441*l*	Exchange of lands; transfer from Federal agency to administrative jurisdiction of Secretary; terms and conditions of purchase
§ 450e-1	Appomattox Court House National Historical Park
Subchapter LXIII—National Seashore Recreational Areas	
§ 459b-3	Acquisition by condemnation
§ 459c-5	Owner's reservation of right of use and occupancy for fixed term of years or life
§ 459e-1	Acquisition of property
§ 459g-1	Acquisition of property
§ 459h-1	Acquisition of property
§ 459i-3	Acquisition of property
§ 459j-2	Improved property
Subchapter LXIX—Outdoor Recreation Programs Part B—Land And Water Conservation Fund	
§ 460*l*-6a	Admission and special recreation use fees
Subchapter LXX—Ozark National Scenic Riverways	
§ 460m-2	Reservation of use and occupancy of improved property for noncommercial residential purposes; term; valuation
Subchapter LXXI—Buffalo National River	
§ 460m-9	Acquisition of lands and waters
Subchapter LXXI-A—New River Gorge National River	
§ 460m-16	Acquisition of property
Subchapter LXXIII—Delaware Water Gap National Recreation Area	
§ 460o-1	Acquisition of lands
Subchapter LXXV—Whiskeytown-Shasta-Trinity National Recreation Area	
§ 460q-1	Acquisition of property
Subchapter LXXIX—Indiana Dunes National Lakeshore	
§ 460u-5	Owner's retention of right of use and occupancy for residential purposes
Subchapter LXXXI—Apostle Islands National Lakeshore	
§ 460w-3	Retention rights of owners of improved property
Subchapter LXXXII—Sleeping Bear Dunes National Lakeshore	
§ 460x-9	Right of retention of residential use in improved lands
Subchapter LXXXIV—Oregon Dunes National Recreation Area	
§ 460z-6	Land acquisition in recreation area; donation and exchange; railway right-of-way; retention rights of owners of improved property
Subchapter LXXXVI—Golden Gate National Recreation Area	
§ 460bb-2	Acquisition policy
Subchapter LXXXIX—Big South Fork National River And Recreation Area	
§ 460ee	Establishment
Subchapter XC—Cuyahoga Valley National Recreation Area	
§ 460ff-1	Acquisition of land

	Subchapter XCII—Chickasaw National Recreation Area
§ 460hh-1	Acquisition of property
	Subchapter XCIII—Chattahoochee River National Recreation Area
§ 460ii-1	Acquisition of property
	Subchapter XCV—Santa Monica Mountains National Recreation Area
§ 460kk	Establishment
	Subchapter CXII—Grand Island National Recreation Area
§ 460aaa-2	Administration
§ 460aaa-3	Acquisition
	Chapter 6—Game And Bird Preserves; Protection
§ 698b	Right of use and occupancy of improved property on Big Thicket Preserve
§ 698h	Right of use and occupancy of improved property on Big Cypress Preserve and Addition
	Chapter 28—Wild And Scenic Rivers
§ 1277	Land acquisition
	Chapter 31—Marine Mammal Protection **Subchapter II—Conservation And Protection Of Marine Mammals**
§ 1379	Transfer of management authority
	Chapter 51—Alaska National Interest Lands Conservation **Subchapter II—Subsistence Management And Use**
§ 3113	Definitions
	Subchapter VI—Administrative Provisions
§ 3192	Land acquisition authority
	Chapter 59—Wetlands Resources **Subchapter II—Revenues For Refuge Operations And The Migratory Bird Conservation Fund**
§ 3911	Sale of admission permit at certain refuge units
Title 30—Mineral Lands And Mining	
	Chapter 2—Mineral Lands And Regulations In General
§ 28f	Fee
	Chapter 25—Surface Mining Control And Reclamation **Subchapter VII—Administrative And Miscellaneous Provisions**
§ 1304	Surface owner protection
Title 42—The Public Health And Welfare	
	Chapter 24—Disposal Of Atomic Energy Communities **Subchapter I—General Provisions**
§ 2304	Definitions
	Subchapter III—Classification Of Property And Priorities
§ 2333	Transfer of priorities
Title 43—Public Lands	
	Chapter 12—Reclamation And Irrigation Of Lands By Federal Government **Subchapter I-A—Reclamation Reform**
§ 390bb	Definitions

Chapter 12—Reclamation And Irrigation Of Lands By Federal Government Subchapter V—Administration Of Existing Projects	
§ 423h	Delivery of water to excess lands upon death of spouse
Subchapter VII—Exchange And Amendment Of Farm Units	
§ 451a	Persons eligible for benefits
§ 451c	Cancellation of charges or liens; credits
Chapter 33—Alaska Native Claims Settlement	
§ 1606	Regional Corporations

CATEGORY 13—MISCELLANEOUS Laws

Title 5—Government Organization And Employees	
Part I—The Agencies Generally	
Chapter 5—Administrative Procedure	
Subchapter II—Administrative Procedure	
§ 552a	Records maintained on individuals
Part III—Employees	
Subpart F—Labor-Management And Employee Relations	
Chapter 71—Labor-Management Relations	
Subchapter I—General Provisions	
§ 7103	Definitions; application
Subchapter II—Rights And Duties Of Agencies And Labor Organizations.	
§ 7116	Unfair labor practices
Chapter 72—Antidiscrimination; Right To Petition Congress	
Subchapter I—Antidiscrimination In Employment	
§ 7202	Marital status
§ 7204	Other prohibitions
Title 10—Armed Forces	
Subtitle A—General Military Law	
Part II—Personnel	
Chapter 88—Military Family Programs And Military Child Care	
Subchapter I—Military Family Programs	
§ 1787	Reporting of child abuse
Title 12—Banks And Banking	
Chapter 31—National Consumer Cooperative Bank	
Subchapter I—Establishment And Operation	
§ 3015	Eligibility Of cooperatives
Chapter 32—Foreign Bank Participation In Domestic Markets	
§ 3106a	Compliance With State And Federal Laws
Title 15—Commerce And Trade	
Chapter 14A—Aid To Small Business	
§ 633	Small Business Administration
Chapter 41—Consumer Credit Protection	
Subchapter IV—Equal Credit Opportunity	
§ 1691	Scope of prohibition
Title 20—Education	
Chapter 44—Vocational Education	
Subchapter I—Vocational Education Assistance To The States	
Part B—State Organizational And Planning Responsibilities	
§ 2323	State plans
Subchapter V—General Provisions	
Part C—Definitions	
§ 2471	Definitions

Chapter 70—Strengthening And Improvement Of Elementary And Secondary Schools	
Subchapter I—Helping Disadvantaged Children Meet High Standards	
Part C—Education Of Migratory Children	
§ 6399	Definitions
Title 22—Foreign Relations And Intercourse	
Chapter 52—Foreign Service	
Subchapter I—General Provisions	
§ 3901	Congressional findings and objectives
§ 3905	Personnel actions
Subchapter X—Labor-Management Relations	
§ 4102	Definitions
§ 4115	Unfair labor practices
Chapter 58—Diplomatic Security	
Subchapter IV—Diplomatic Security Program	
§ 4860	Reimbursement of Department of the Treasury
Title 24—Hospitals And Asylums	
Chapter 9—Hospitalization Of Mentally Ill Nationals Returned From Foreign Countries	
§ 325	Examination of persons admitted
§ 326	Release of patient
Title 26—Internal Revenue Code	
Subtitle H—Financing Of Presidential Election Campaigns	
Chapter 95—Presidential Election Campaign Fund	
§ 9004	Entitlement of eligible candidates to payments
Chapter 96—Presidential Primary Matching Payment Account	
§ 9035	Qualified campaign expense limitations
Title 31—Money And Finance	
Subtitle I—General	
Chapter 7—General Accounting Office	
Subchapter III—Personnel	
§ 732	Personnel management system
Title 36—Patriotic Societies And Observances	
Chapter 3B—Marine Corps League	
§ 57a	Purposes of corporation
Chapter 7A—Veterans Of Foreign Wars Of The United States	
§ 113	Purposes of corporation
Chapter 9—National Observances	
§ 169j-3	Members of Commission
Chapter 27—Legion Of Valor Of The United States Of America	
§ 633	Principles and objects of corporation
Chapter 32—Veterans Of World War I Of The United States Of America	
§ 763	Objects and purposes of corporation
Chapter 33—The Congressional Medal Of Honor Society Of The United States Of America	

§ 793	Objects and purposes of corporation
§ 799	Distribution of income or assets to members; loans
Chapter 35—Blinded Veterans Association	
§ 859	Distribution of income or assets to members; loans
Chapter 39—Agricultural Hall Of Fame	
§ 977	Governing body
Chapter 40—National Woman's Relief Corps, Auxiliary To The Grand Army Of The Republic	
§ 1005	Membership
Chapter 42—Audits Of Federally Chartered Corporations	
§ 1101	"Private corporations established under Federal law" defined
Chapter 48—Gold Star Wives Of America	
§ 1601	Charter
§ 1602	Powers of corporation
Chapter 53—American Ex-Prisoners Of War	
§ 2103	Objects and purposes of corporation
Chapter 58—Catholic War Veterans Of The United States Of America, Inc.	
§ 2603	Objects and purposes of corporation
Chapter 60—Navy Wives Clubs Of America	
§ 2801	Recognition as corporation and grant of Federal charter
§ 2802	Powers of corporation
§ 2803	Objects and purposes of corporation
Chapter 71—Army And Navy Union Of The United States	
§ 3903	Objects and purposes of corporation
Chapter 72—Non-Commissioned Officers Association Of The United States Of America, Inc.	
§ 4003	Objects and purposes of corporation
Chapter 75—Aviation Hall Of Fame	
§ 4307	Board of trustees
§ 4309	Board of nominations; composition; duties
Chapter 83—Retired Enlisted Association, Incorporated	
§ 5103	Objects and purposes of corporation
Chapter 84—National Fallen Firefighters Foundation	
§ 5201	Establishment and purposes of Foundation
Title 42—The Public Health And Welfare	
Chapter 6A—Public Health Service Subchapter II—General Powers And Duties Part L—Services For Children Of Substance Abusers	
§ 280d	Grants for services for children of substance abusers
Subchapter XVIII—Adolescent Family Life Demonstration Projects	
§ 300z	Findings and purposes
Subchapter XXIV—HIV Health Care Services Program Part B—Care Grant Program Subpart I—General Grant Provisions	
§ 300ff-27a	Spousal notification

Part C—Early Intervention Services Subpart I—Formula Grants For States	
§ 300ff-48	Testing and other early intervention services for State prisoners
Chapter 13—School Lunch Programs	
§ 1766	Child and adult care food program
Chapter 21—Civil Rights Subchapter I—Generally	
§ 1986	Action for neglect to prevent
Chapter 35—Programs For Older Americans Subchapter III—Grants For State And Community Programs On Aging Part A—General Provisions	
§ 3027	State plans
Subchapter IV—Training, Research, And Discretionary Projects And Programs Part B—Research, Demonstrations, And Other Activities	
§ 3035a	Demonstration projects
Chapter 62—Intergovernmental Personnel Program Subchapter II—Strengthening State And Local Personnel Administration	
§ 4728	Transfer of functions
Chapter 94—Low-Income Energy Assistance Subchapter II—Low-Income Home Energy Assistance	
§ 8624	Applications and requirements
Chapter 105—Community Services Programs Subchapter II-B—Child Care And Development Block Grant	
§ 9858n	Definitions
Chapter 120—Enterprise Zone Development	
§ 11504	Waiver or modification of housing and community development rules in enterprise zones
Chapter 129—National And Community Service Subchapter I—National And Community Service State Grant Program Division F—Administrative Provisions	
§ 12639	Evaluation
Title 46—Shipping	
Subtitle II—Vessels And Seamen Part G—Merchant Seamen Protection And Relief Chapter 113—Official Logbooks	
§ 11301	Logbook and entry requirements
Title 46—Appendix	
Chapter 21—Death On The High Seas By Wrongful Act	
§ 761	Right of action; where and by whom brought

Title 48—Territories And Insular Possessions	
Chapter 4—Puerto Rico **Subchapter I—General Provisions**	
§ 736	Puerto Rican law modified
Chapter 8—Guano Islands	
§ 1413	Completion of proof on death of discoverer
§ 1415	Restrictions upon exportation
§ 1418	Employment of land and naval forces in protection of rights
Chapter 12—The Virgin Islands **Subchapter II—Bill Of Rights**	
§ 1561	Rights and prohibitions
Title 50—War And National Defense	
Title 50—Appendix	
Trading With The Enemy Act Of 1917	
§ 9	Claims to property transferred to custodian; notice of claim; filing; return of property; suits to recover; sale of claimed property in time of war or during national emergency
§ 31	"Member of the former ruling family" defined
§ 32	Return of property
Military Selective Service Act; June 24, 1948	
§ 456	Deferments and exemptions from training and service
Restitution For World War II Internment Of Japanese-Americans And Aleuts **Title I—United States Citizens Of Japanese Ancestry And Resident Japanese Aliens**	
§ 1989b-4	Restitution
§ 1989b-7	Definitions
War Claims Act; July 3, 1948 **Title I**	
§ 2004	Internees
§ 2005	Prisoners of war
§ 2015	Retention benefits to merchant seamen
§ 2016	Philippines
Title II	
§ 2017a	Claims authorized
§ 2017c	Nationality of claimants
Organic Laws Of The United States	
Ordinance Of 1787: The Northwest Territorial Government	