

104TH CONGRESS
1ST SESSION

H. R. 1802

To reorganize the Federal administrative law judiciary, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1995

Mr. GEKAS (for himself, Mr. BARRETT of Wisconsin, Mr. BEVILL, Mr. BONILLA, Mr. BONO, Mr. CALVERT, Mr. FRANK of Massachusetts, Mr. KANJORSKI, Mr. KLECZKA, Mr. INGLIS of South Carolina, Mr. SOLOMON, and Mr. GILMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To reorganize the Federal administrative law judiciary, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reorganization of the
5 Federal Administrative Judiciary Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) in order to promote efficiency, productivity,
9 the reduction of administrative functions, and to

1 provide economies of scale and better public service
2 and public trust in the administrative resolution of
3 disputes, Federal administrative law judges should
4 be organized in a unified corps;

5 (2) the dispersal of administrative law judges
6 appointed under section 3105 of title 5, United
7 States Code, in every Federal agency that requires
8 hearings to be conducted by administrative law
9 judges, underutilizes the potential of administrative
10 law judges to serve the public and assist the Federal
11 courts as special masters and finders of fact in spe-
12 cific instances to help reduce the backlog of cases in
13 Federal courts;

14 (3) the organization of administrative law
15 judges in a corps will best promote their assignment
16 to Federal agency needs as demand requires;

17 (4) a unified administrative law judge corps will
18 better promote the use of information technology in
19 serving the public; and

20 (5) an administrative law judge corps will,
21 through consolidation, eliminate unnecessary offices
22 and reduce travel and other related costs.

1 **SEC. 3. ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE**
2 **CORPS.**

3 (a) IN GENERAL.—Chapter 5 of title 5, United
4 States Code, is amended by adding at the end thereof the
5 following new subchapter:

6 “SUBCHAPTER VI—ADMINISTRATIVE LAW
7 JUDGE CORPS

8 “§ 597. Definitions

9 “For the purposes of this subchapter—

10 “(1) ‘agency’ means an authority referred to in
11 section 551(1);

12 “(2) ‘Corps’ means the Administrative Law
13 Judge Corps of the United States established under
14 section 598;

15 “(3) ‘administrative law judge’ means an ad-
16 ministrative law judge appointed under section 3105
17 on or before the effective date of the Reorganization
18 of the Federal Administrative Judiciary Act or
19 under section 599c after such effective date;

20 “(4) ‘chief judge’ means the chief administra-
21 tive law judge appointed and serving under section
22 599;

23 “(5) ‘Council’ means the Council of the Admin-
24 istrative Law Judge Corps established under section
25 599b;

1 “(6) ‘Board’, unless otherwise indicated, means
2 the Complaints Resolution Board established under
3 section 599e; and

4 “(7) ‘division chief judge’ means the chief ad-
5 ministrative law judge of a division appointed and
6 serving under section 599a.

7 **“§ 598. Establishment; membership**

8 “(a) ESTABLISHMENT.—There is established an Ad-
9 ministrative Law Judge Corps consisting of all adminis-
10 trative law judges, in accordance with the provisions of
11 subsection (b). Such Corps shall be administered in Wash-
12 ington, D.C.

13 “(b) MEMBERSHIP.—An administrative law judge
14 serving as such on the date of the commencement of the
15 operation of the Corps shall be transferred to the Corps
16 as of that date. An administrative law judge who is ap-
17 pointed on or after the date of the commencement of the
18 operation of the Corps shall be a member of the Corps
19 as of the date of such appointment.

20 **“§ 599. Chief administrative law judge**

21 “(a) APPOINTMENT; TERM.—The chief administra-
22 tive law judge shall be the chief administrative officer of
23 the Corps and shall be the presiding judge of the Corps.
24 The chief judge shall be appointed by the President, by
25 and with the advice and consent of the Senate. The chief

1 judge shall be learned in the law. The chief judge shall
2 serve for a term of five years or until a successor is ap-
3 pointed and qualifies to serve. A chief judge may be
4 reappointed upon the expiration of the term of such judge,
5 by and with the advice and consent of the Senate.

6 “(b) VACANCIES.—(1) If the office of chief judge is
7 vacant, the division chief judge who is senior in length of
8 service as a member of the Council shall serve as acting
9 chief judge until such vacancy is filled.

10 “(2) If 2 or more division chief judges have the same
11 length of service as members of the Council, the division
12 chief judge who is senior in length of service as an admin-
13 istrative law judge shall serve as such acting chief judge.

14 “(c) SPECIAL FUNCTIONS OF CHIEF JUDGE.—(1) In
15 addition to other duties conferred on the chief judge, the
16 chief judge shall be responsible for developing programs
17 and practices, in coordination with agencies using admin-
18 istrative law judges, which foster economy and efficiency
19 in the processing of cases heard by administrative law
20 judges. These programs and practices shall include—

21 “(A) training of judges in more than one sub-
22 ject area;

23 “(B) employment of computers and software
24 and other information technology for automated de-
25 cision preparation, case docketing, and research;

1 “(C) consolidating hearing facilities and law li-
2 braries; and

3 “(D) programs and practices to foster overall
4 efficient use of staff, personnel, equipment, and fa-
5 cilities.

6 “(2) In order to minimize costs—

7 “(A) all administrative law judges and support
8 personnel shall, for at least 1 year after the date of
9 the commencement of the operation of the Corps,
10 continue to use the office space and facilities, at the
11 agencies using such judges and personnel, available
12 before such date, and

13 “(B) the chief judge shall phase in transfers of
14 administrative law judges and support personnel to
15 other facilities so that the cost of providing facilities
16 for the Corps shall not exceed the cost of maintain-
17 ing such judges and personnel in equivalent space
18 available at agencies using the Corps.

19 “(d) REPORTS.—The chief judge shall, within 90
20 days after the end of each fiscal year, make a written re-
21 port to the President and the Congress concerning the
22 business of the Corps during the preceding fiscal year. The
23 report shall include information and recommendations of
24 the Council concerning the future personnel requirements
25 of the Corps.

1 “(e) SERVICE AFTER TERM EXPIRES.—After serving
2 as chief judge, an individual may continue to serve as an
3 administrative law judge unless such individual has been
4 removed from office in accordance with section 599e.

5 **“§ 599a. Divisions of the Corps; division chief judges**

6 “(a) ASSIGNMENT TO DIVISIONS.—Each judge of the
7 Corps shall be assigned to a division by the Council, pur-
8 suant to section 599b. The assignment of a judge who was
9 an administrative law judge on the date of commencement
10 of the operation of the Corps shall be made after consider-
11 ation of the areas of specialization in which the judge has
12 served. Each division shall be headed by a division chief
13 judge who shall exercise administrative supervision over
14 such division.

15 “(b) DIVISIONS.—The divisions of the Corps shall be
16 as follows:

17 “(1) Division of Communications, Public Util-
18 ity, and Transportation Regulation.

19 “(2) Division of Safety and Environmental Reg-
20 ulation.

21 “(3) Division of Labor.

22 “(4) Division of Labor Relations.

23 “(5) Division of Health and Human Services
24 Programs.

1 “(6) Division of Securities, Commodities, and
2 Trade Regulation.

3 “(7) Division of General Programs.

4 “(8) Division of Financial Services Institutions.

5 “(c) APPOINTMENT OF DIVISION CHIEF JUDGES.—

6 (1) The division chief judge of each division set forth in
7 subsection (b) shall be appointed by the President, by and
8 with the advice and consent of the Senate, and shall be
9 learned in the law.

10 “(2) Division chief judges shall be appointed for 5-
11 year terms, except that of those division chief judges first
12 appointed, the President shall designate 2 such individuals
13 to be appointed for 5-year terms, 3 for 4-year terms, and
14 2 for 3-year terms.

15 “(3) Any division chief judge appointed to fill an
16 unexpired term shall be appointed only for the remainder
17 of such predecessor’s term, but may be reappointed as pro-
18 vided in paragraph (4).

19 “(4) Any division chief judge may be reappointed
20 upon the expiration of his or her term.

21 “(5) Any judge, after serving as division chief judge,
22 may continue to serve as an administrative law judge un-
23 less such individual has been removed from office in ac-
24 cordance with section 599e.

1 **“§ 599b. Council of the Corps**

2 “(a) IN GENERAL.—The policymaking body of the
3 Corps shall be the Council of the Corps. The chief judge
4 and the division chief judges shall constitute the Council.
5 The chief judge shall preside over the Council. If the chief
6 judge is unable to be present at a meeting of the Council,
7 the division chief judge who is senior in length of service
8 as a member of such Council shall preside at the meeting.

9 “(b) QUORUM; VOTING.—One half of all of the mem-
10 bers of the Council shall constitute a quorum for the pur-
11 pose of transacting business. The affirmative vote by a
12 majority of all the members of the Council shall be re-
13 quired to approve a matter on behalf of the Council. Each
14 member of the Council shall have one vote.

15 “(c) MEETINGS.—Meetings of the Council shall be
16 held at least once a month at the call of the chief judge
17 or by the call of one-third or more of the members of the
18 Council.

19 “(d) POWERS.—The Council is authorized—

20 “(1) to assign judges to divisions and transfer
21 or reassign judges from one division to another, sub-
22 ject to the provisions of section 599c;

23 “(2) to appoint persons as administrative law
24 judges under section 599c;

1 “(3) to file charges seeking adverse action
2 against an administrative law judge under section
3 599e;

4 “(4) to prescribe, after providing an oppor-
5 tunity for notice and comment, the rules of practice
6 and procedure for the conduct of proceedings before
7 the Corps, except that, with respect to a category of
8 proceedings adjudicated by an agency before the ef-
9 fective date of the Reorganization of the Federal Ad-
10 ministrative Judiciary Act, the Council may not
11 amend or revise the rules of practice and procedure
12 prescribed by that agency during the 2 years follow-
13 ing such effective date without the approval of that
14 agency, and any amendments or revisions made to
15 such rules shall not affect or be applied to any pend-
16 ing action;

17 “(5) to issue such rules and regulations as may
18 be appropriate for the efficient conduct of the busi-
19 ness of the Corps and the implementation of this
20 subchapter, including the assignment of cases to ad-
21 ministrative law judges;

22 “(6) subject to the civil service and classifica-
23 tion laws and regulations—

24 “(A) to select, appoint, employ, and fix the
25 compensation of the employees (other than ad-

1 ministrative law judges) that the Council deems
2 necessary to carry out the functions, powers,
3 and duties of the Corps; and

4 “(B) to prescribe the authority and duties
5 of such employees;

6 “(7) to establish, abolish, alter, consolidate, and
7 maintain such regional, district, and other field of-
8 fices as are necessary to carry out the functions,
9 powers, and duties of the Corps and to assign and
10 reassign employees to such field offices;

11 “(8) to procure temporary and intermittent
12 services under section 3109;

13 “(9) to enter into, to the extent or in such
14 amounts as are authorized in appropriation Acts,
15 without regard to section 3709 of the Revised Stat-
16 utes of the United States (41 U.S.C. 5), contracts,
17 leases, cooperative agreements, or other transactions
18 that may be necessary to conduct the business of the
19 Corps;

20 “(10) to delegate any of the chief judge’s func-
21 tions or powers with the consent of the chief judge,
22 or whenever the office of such chief judge is vacant,
23 to one or more division chief judges or other employ-
24 ees of the Corps, and to authorize the redelegation
25 of any of those functions or powers;

1 the top of such register to enable the Council to consider
2 five names for each vacancy. Notwithstanding section
3 3318, a vacancy in the Corps may be filled from the high-
4 est five eligible individuals available for appointment on
5 the certificate furnished by the Office of Personnel
6 Management.

7 “(b) LIMITATION ON JUDGE’S DUTIES.—A judge of
8 the Corps may not perform or be assigned to perform du-
9 ties inconsistent with the duties and responsibilities of an
10 administrative law judge.

11 “(c) REASSIGNMENTS; DETAILS.—A judge or staff
12 member of the Corps on the date of commencement of the
13 operation of the Corps, and all new judges and staff mem-
14 bers appointed by the Council, may not thereafter be invol-
15 untarily reassigned to a new permanent duty station if
16 such station is beyond the commuting area of the duty
17 station which is the judge’s or staff member’s permanent
18 duty station on that date. A judge or staff member of the
19 Corps may be temporarily detailed, once in a 24-month
20 period, to a new duty station at any location, for a period
21 of not more than 120 days.

22 **“§ 599d. Jurisdiction**

23 “(a) IN GENERAL.—Any case, claim, action, or pro-
24 ceeding authorized to be heard before an administrative
25 law judge on the day before the effective date of the Reor-

1 ganization of the Federal Administrative Judiciary Act
2 shall, on or after such date, be referred to the Corps for
3 adjudication on the record after an opportunity for a
4 hearing.

5 “(b) TYPES OF CASES.—An administrative law judge
6 who is a member of the Corps shall hear and render a
7 decision upon—

8 “(1) every case of adjudication subject to the
9 provisions of section 553, 554, or 556;

10 “(2) every case in which hearings are required
11 by law to be held in accordance with sections 553,
12 554, or section 556;

13 “(3) every other case referred to the Corps by
14 an agency in which a determination is to be made
15 on the record after an opportunity for a hearing;
16 and

17 “(4) every case referred to the Corps by a court
18 for an administrative law judge to act as a special
19 master or to otherwise making findings of fact on
20 behalf of the referring court, which shall continue to
21 have exclusive and undiminished jurisdiction over
22 the case.

23 “(c) REFERRAL OF CASES.—When a case under sub-
24 section (b) arises, it shall be referred to the Corps. Under
25 regulations issued by the Council, the case shall be as-

1 signed to a division. The appropriate division chief shall
2 assign cases to judges, taking into consideration speciali-
3 zation, training, workload, and conflicts of interest.

4 “(d) REFERRALS BY AGENCIES AND COURTS.—
5 Courts are authorized to refer, subject to the approval of
6 the majority of the Council and the parties in the court
7 proceeding, those cases, or portions thereof, in which they
8 seek an administrative law judge to act as a special master
9 pursuant to the provisions of Rule 53(a) of the Federal
10 Rules of Civil Procedure which shall continue to have ex-
11 clusive and undiminished jurisdiction over the case. When
12 a court has referred a case to an administrative law judge,
13 the recommendations, rulings, and findings of fact of the
14 administrative law judge are subject to de novo review by
15 the referring court.

16 “(e) SATISFACTION OF OTHER PROCEDURAL RE-
17 QUIREMENTS.—Compliance with this subchapter shall sat-
18 isfy all requirements imposed under section 916 of the Fi-
19 nancial Institutions Reform, Recovery, and Enforcement
20 Act of 1989.

21 “(f) APPLICATION OF AGENCY POLICY.—The provi-
22 sions of this subchapter shall effect no change in—

23 “(1) an agency’s rulemaking, interpretative, or
24 policymaking authority in carrying out the statutory
25 responsibilities vested in the agency or agency head;

1 “(2) the adjudicatory authority of administra-
2 tive law judges; or

3 “(3) the authority of an agency to review deci-
4 sions of administrative law judges under any appli-
5 cable provision of law.

6 **“§ 599e. Removal and discipline**

7 “(a) IN GENERAL.—(1) Except as provided under
8 paragraph (2), an administrative law judge may not be
9 removed, suspended, reprimanded, or disciplined except
10 for misconduct or neglect of duty, but may be removed
11 for physical or mental disability (consistent with prohibi-
12 tions on discrimination otherwise imposed by law).

13 “(2) Paragraph (1) shall not apply to an action initi-
14 ated under section 1215.

15 “(b) RULES OF JUDICIAL CONDUCT.—No later than
16 180 days after the appointment and confirmation of the
17 Council, the Council shall adopt and issue rules of judicial
18 conduct for administrative law judges. Such code shall be
19 enforced by the Council and shall include standards gov-
20 erning—

21 “(1) judicial conduct and extra-judicial activi-
22 ties to avoid actual, or the appearance of, impropri-
23 eties or conflicts of interest;

24 “(2) the performance of judicial duties impar-
25 tially and diligently;

1 “(3) avoidance of bias or prejudice with respect
2 to all parties; and

3 “(4) efficiency and management of cases so as
4 to reduce dilatory practices and unnecessary costs.

5 “(c) DISCIPLINARY ACTION BY THE COUNCIL.—An
6 administrative law judge may be subject to disciplinary ac-
7 tion by the Council under subsection (j). An administra-
8 tive law judge may be removed only after the Council has
9 filed with the Merit Systems Protection Board a notice
10 of removal and the Merit Systems Protection Board has
11 determined on the record, after an opportunity for a hear-
12 ing before the Merit Systems Protection Board, that there
13 is good cause to take the action of removal.

14 “(d) COMPLAINTS RESOLUTION BOARD.—Under reg-
15 ulations issued by the Council, a Complaints Resolution
16 Board shall be established within the Corps to consider
17 and to recommend appropriate action to be taken when
18 a complaint is made concerning conduct of a judge of the
19 Corps. Such complaint may be made by any interested
20 person, including parties, practitioners, the chief judge,
21 administrative law judges, and agencies.

22 “(e) COMPOSITION OF THE BOARD.—(1) The Board
23 shall consist of—

24 “(A) 2 judges from each division of the Corps,
25 who shall be appointed by the Council; and

1 “(B) 16 attorneys who shall be appointed in ac-
2 cordance with the provisions of paragraph (2).

3 “(2) The Council shall request a list of candidates
4 to be members of the Board from the American Bar Asso-
5 ciation. Such list may not include any individual who is
6 an administrative law judge or former administrative law
7 judge.

8 “(3) The chief judge and the division chief judges
9 may not serve on the Board.

10 “(4) No individual may serve 2 successive terms on
11 the Board.

12 “(5)(A) Except as provided under subparagraph (B),
13 all terms on the Board shall be 2 years.

14 “(B) In making the original appointments to the
15 Board, the Council shall designate one-half of the appoint-
16 ments made under paragraph (1)(A) and one-half of the
17 appointments made under paragraph (1)(B), as a term of
18 1 year.

19 “(6)(A) Each member of the Board who is not an
20 officer or employee of the Federal Government shall be
21 compensated at a rate equal to the daily equivalent of the
22 annual rate of basic pay prescribed for a position at the
23 level of AL-3, rate C under section 5372 of this title for
24 each day (including travel time) during which such mem-
25 ber is engaged in the performance of the duties of the

1 Board. All members of the Board who are administrative
2 law judges shall serve without compensation in addition
3 to that received for their services as officers or employees
4 of the United States.

5 “(B) The members of the Board shall be allowed
6 travel expenses, including per diem in lieu of subsistence,
7 at rates authorized for employees of agencies under sub-
8 chapter I of chapter 57 of title 5, United States Code,
9 while away from their homes or regular places of business
10 in the performance of services for the Board.

11 “(f) FILING AND REFERRAL OF COMPLAINT.—(1) A
12 complaint concerning the official conduct of an adminis-
13 trative law judge shall be made in writing. The complaint
14 shall be filed with the chief judge, or it may be originated
15 by the chief judge on his own motion. The chief judge shall
16 refer the complaint to a 5-member panel designated by
17 the Council—

18 “(A) consisting of 3 administrative law judges
19 appointed under subsection (e)(1)(A), none of whom
20 may be serving in the same division as the adminis-
21 trative law judge who is the subject of the com-
22 plaint; and

23 “(B) two members appointed under subsection
24 (e)(1)(B), none of whom regularly practice before

1 the division to which the administrative law judge,
2 who is the subject of the complaint is assigned.

3 “(2) Any individual chosen to serve on the panel who
4 has a personal or financial conflict of interest involving
5 the administrative law judge who is the subject of the com-
6 plaint shall be disqualified by the Council from serving on
7 the panel. The Council shall replace any disqualified indi-
8 vidual or vacancy with another member of the Board who
9 is eligible to serve on the panel.

10 “(g) CHIEF JUDGE ACTION.—(1) After expeditiously
11 reviewing a complaint, the chief judge, by written order
12 stating his reason, may—

13 “(A) dismiss the complaint, if the chief judge
14 finds the complaint to be—

15 “(i) directly related to the merits of a deci-
16 sion or procedural ruling; or

17 “(ii) frivolous;

18 “(B) conclude the proceeding if the chief judge
19 finds that appropriate corrective action has been
20 taken or that action on the complaint is no longer
21 necessary because of intervening events; or

22 “(C) refer the complaint to the Complaint Res-
23 olution Board in accordance with subsection (f).

1 “(2) The chief judge shall transmit copies of the writ-
2 ten order to the complainant and to the administrative law
3 judge who is the subject of the complaint.

4 “(h) NOTICE OF THE COMPLAINT.—The administra-
5 tive law judge and the complainant shall be given notice
6 of receipt of the complaint and notice of referral of the
7 complaint to the panel.

8 “(i) INQUIRY AND REPORT BY PANEL.—(1) The
9 panel shall inquire into the complaint and have authority
10 to conduct a full investigation of the complaint, including
11 authority to hold hearings and issue subpoenas, examine
12 witnesses, and receive evidence. All proceedings of the
13 Complaint Resolution Board shall be confidential. The ad-
14 ministrative law judge who is the subject of the complaint
15 shall have the right to be represented by counsel and shall
16 have an opportunity to appear before the panel. The com-
17 plainant shall be afforded an opportunity to appear at the
18 proceedings conducted by the investigating panel, if the
19 panel concludes that the complainant could offer substan-
20 tial information.

21 “(2) In determining whether misconduct has oc-
22 curred, the panel shall apply a preponderance of evidence
23 standard of proof to its proceedings.

24 “(3)(A) Within 90 days after the referral of the com-
25 plaint, the panel shall report to the Council on its findings

1 of fact and recommendations for appropriate disciplinary
2 action, if any, that should be taken against the adminis-
3 trative law judge.

4 “(B) If the panel has not completed its inquiry within
5 90 days after receiving the complaint, the panel shall re-
6 quest an extension of time from the Council to complete
7 its inquiry.

8 “(C) A copy of the report shall be provided concur-
9 rently to the Council, the administrative law judge who
10 is the subject of the complaint, and the complainant. The
11 Council shall retain all reports filed under this section and
12 such reports shall be confidential, except that a rec-
13 ommendation for disciplinary action shall be made avail-
14 able to the public.

15 “(4) The recommendations of the panel shall include
16 one of the following:

17 “(A) Dismissal of all or part of the complaint.

18 “(B) Direct informal reprimand.

19 “(C) Direct formal reprimand.

20 “(D) Suspension.

21 “(E) Automatic referral to the Merit Systems
22 Protection Board on recommendations of removal.

23 “(5) The recommendations of the panel are binding
24 on the Council, unless the administrative law judge ap-
25 peals to the Merit Systems Protection Board.

1 “(j) DISCIPLINARY ACTION.—Except as provided in
2 subsection (a)(2), the Council shall take appropriate dis-
3 ciplinary action against the administrative law judge based
4 upon the report of the panel within 30 days after receiving
5 the report of the panel. Such disciplinary action shall be
6 enforced by the Council and shall be final unless the ad-
7 ministrative law judge files an appeal with the Merit Sys-
8 tems Protection Board within 30 days after receiving no-
9 tice of such disciplinary action.

10 “(k) RECOMMENDATION FOR RELIEF TO AGENCY,
11 DEPARTMENT, OR COMMISSION.—Based upon a finding of
12 judicial misconduct by an administrative law judge, the
13 Council shall have authority to recommend to the head
14 of an agency, department or commission that action may
15 be taken to provide relief to aggrieved individuals due to
16 the judicial misconduct by an administrative law judge.”.

17 (b) APPOINTMENTS OF DIVISION CHIEF JUDGES.—
18 It is the sense of the Congress that the President should
19 appoint as division chief judges under section 599a(c) of
20 title 5, United States Code (as added by subsection (a)
21 of this section), individuals who have served as an admin-
22 istrative law judge for at least 5 years.

23 (c) ADMINISTRATIVE PROVISION.—Except as pro-
24 vided under subchapter VI of chapter 5 of title 5, United
25 States Code, the chief administrative law judge and the

1 division chief judges appointed under such subchapter
2 shall be deemed administrative law judges appointed
3 under section 3105.

4 (d) TECHNICAL AND CONFORMING AMENDMENT.—
5 The table of sections for chapter 5 of title 5, United States
6 Code, is amended by adding at the end thereof the
7 following:

8 “SUBCHAPTER VI—ADMINISTRATIVE LAW
9 JUDGE CORPS

“Sec.

“597. Definitions.

“598. Establishment; membership.

“599. Chief administrative law judge.

“599a. Divisions of the Corps; division chief judges.

“599b. Council of the Corps.

“599c. Appointment and transfer of administrative law judges.

“599d. Jurisdiction.

“599e. Removal and discipline.”.

10 **SEC. 4. AGENCY REVIEW STUDY AND REPORT.**

11 (a) STUDY.—The chief administrative law judge of
12 the Administrative Law Judge Corps of the United States
13 shall conduct a study of the various types and levels of
14 agency review to which decisions of administrative law
15 judges are subject. A separate study shall be conducted
16 for each division of the Corps. The studies shall include
17 monitoring and evaluating data and shall be conducted in
18 consultation with the division chief judges, the Chairman
19 of the Administrative Conference of the United States,
20 and the agencies that review the decisions of administra-
21 tive law judges.

1 (b) REPORT.—(1) Not later than 2 years after the
2 effective date of this Act, the Council shall report to the
3 President and the Congress on the findings and rec-
4 ommendations resulting from the studies conducted under
5 subsection (a).

6 (2) The report under paragraph (1) shall include rec-
7 ommendations, including recommendations for new legis-
8 lation, for any reforms that may be appropriate to make
9 review of administrative law judges' decisions more effi-
10 cient and meaningful and to accord greater finality to such
11 decisions, except that all decisions subject, before the ef-
12 fective date of this Act, to review pursuant to section
13 205(g) of the Social Security Act (42 U.S.C. 405(g)) shall
14 continue to be subject to such review pursuant to such
15 section.

16 (3) The report under paragraph (1) shall also include
17 recommendations for using staff more efficiently to de-
18 crease backlogs, especially in the area of social security
19 disability cases.

20 **SEC. 5. TRANSITION AND SAVINGS PROVISIONS.**

21 (a) TRANSFER OF FUNCTIONS.—There are trans-
22 ferred to the administrative law judges of the Administra-
23 tive Law Judge Corps established by section 598 of title
24 5, United States Code (as added by section 3 of this Act),
25 all functions authorized to be performed on the day before

1 the effective date of this Act by the administrative law
2 judges appointed under section 3105 of such title before
3 the effective date of this Act.

4 (b) USE OF AGENCY FACILITIES AND PERSONNEL.—
5 With the consent of the agencies concerned, the Adminis-
6 trative Law Judge Corps of the United States may use
7 the facilities and the services of officers, employees, and
8 other personnel of agencies from which functions and du-
9 ties are transferred to the Corps for so long as may be
10 needed to facilitate the orderly transfer of those functions
11 and duties under this Act.

12 (c) INCIDENTAL TRANSFERS.—The personnel, assets,
13 liabilities, contracts, property, records, and unexpended
14 balances of appropriations, authorizations, allocations,
15 and other funds employed, held, used, arising from, avail-
16 able or to be made available, in connection with the func-
17 tions transferred by this Act, are, subject to section 1531
18 of title 31, United States Code, transferred to the Corps
19 for appropriate allocation.

20 (d) PAY OF TRANSFERRED PERSONNEL.—The trans-
21 fer of personnel pursuant to subsection (b) or (c) shall
22 be without reduction in pay or classification for 5 years
23 after such transfer.

24 (e) AUTHORITIES OF DIRECTOR OF OMB.—The Di-
25 rector of the Office of Management and Budget, at such

1 time or times as the Director shall provide, may make
2 such determinations as may be necessary with regard to
3 the functions transferred by this Act, and to make such
4 additional incidental dispositions of personnel, assets, li-
5 abilities, grants, contracts, property, records, and unex-
6 pended balances of appropriations, authorizations, alloca-
7 tions, and other funds held, used, arising from, available
8 to, or to be made available in connection with such func-
9 tions, as may be necessary to carry out the provisions of
10 this Act.

11 (f) CONTINUED EFFECTIVENESS OF PRIOR AC-
12 TIONS.—All orders, determinations, rules, regulations,
13 permits, contracts, collective bargaining agreements, rec-
14 ognition of labor organizations, certificates, licenses, and
15 privileges which have been issued, made, granted, or al-
16 lowed to become effective in the exercise of any duties,
17 powers, or functions which are transferred under this Act
18 and are in effect at the time this Act becomes effective
19 shall continue in effect according to their terms until
20 modified, terminated, superseded, set aside, or repealed by
21 the Administrative Law Judge Corps of the United States
22 or a judge thereof in the exercise of authority vested in
23 the Corps or its members by this Act, by a court of com-
24 petent jurisdiction, or by operation of law.

1 (g) PENDING PROCEEDINGS.—(1) Except as pro-
2 vided in subsections (d)(5) and (e) of section 599b of title
3 5, United States Code, this Act shall not affect any pro-
4 ceeding before any department or agency or component
5 thereof which is pending at the time this Act takes effect.
6 Such a proceeding shall be continued before the Adminis-
7 trative Law Judge Corps of the United States or a judge
8 thereof, or, to the extent the proceeding does not relate
9 to functions so transferred, shall be continued before the
10 agency in which it was pending on the effective date of
11 this Act.

12 (2) No suit, action, or other proceeding commenced
13 before the effective date of this Act shall abate by reason
14 of the enactment of this Act.

15 (h) REPORTS BY OFFICE OF MANAGEMENT AND
16 BUDGET.—The Director of the Office of Management and
17 Budget shall monitor and report to the Congress—

18 (1) 60 days after the effective date of this Act,
19 on the amount of all funds expended in fiscal year
20 1995 by each agency on the functions transferred
21 under this Act and the amendments made by this
22 Act;

23 (2) no later than October 1, 1995, on the
24 amount of unexpended balances of appropriations,
25 authorizations, allocations, and other funds trans-

1 ferred by all agencies to the Administrative Law
2 Judge Corps under this Act and the amendments
3 made by this Act; and

4 (3) 1 year after the effective date of this Act,
5 and each of the next 2 years thereafter on—

6 (A) whether the expenditure of each agen-
7 cy that transfers functions and duties under
8 this Act and the amendments made by this Act
9 are reduced by the amount of savings resulting
10 from the transfer of such functions and duties;
11 and

12 (B) the Government savings resulting from
13 transfer of such functions to the Administrative
14 Law Judge Corps and recommendations to the
15 Congress on how to achieve additional savings.

16 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated for each of
18 fiscal years 1996, 1997, 1998, 1999, and 2000 to carry
19 out the provisions of this Act and subchapter VI of title
20 5, United States Code (as added by section 3 of this Act)
21 such amounts as may be necessary, not to exceed in any
22 such fiscal year the total amount expended by all agencies
23 in fiscal year 1995 in performing all functions transferred
24 under this Act and the amendments made by this Act.

1 **SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.**

2 (a) TITLE 5, UNITED STATES CODE.—Title 5,
3 United States Code, is amended as follows:

4 (1) Section 593(b) is amended—

5 (A) by redesignating paragraphs (4), (5),
6 and (6) as paragraphs (5), (6), and (7), respec-
7 tively, and

8 (B) by inserting the following after para-
9 graph (3):

10 “(4) the chief administrative law judge of the
11 Administrative Law Judge Corps of the United
12 States;”.

13 (2) Section 3105 is amended to read as follows:

14 **“§ 3105. Appointment of administrative law judges**

15 “Administrative law judges shall be appointed by the
16 Council of the Administrative Law Judge Corps pursuant
17 to sections 596 and 599c of this title.”.

18 (3) Section 3344, and the item relating to sec-
19 tion 3344 in the table of sections for chapter 33, are
20 repealed.

21 (4) Subchapter III of chapter 75, and the items
22 relating to subchapter III and section 7521 in the
23 table of sections at the beginning of chapter 75, are
24 repealed.

25 (5) Section 559 is amended—

1 (A) in the first sentence by striking “chap-
2 ter 7” and all that follows through “7521” and
3 inserting “subchapter VI of this chapter, chap-
4 ter 7, and sections 1305, 3105, 4301(2)(E),
5 and 5372”; and

6 (B) in the last sentence by striking “chap-
7 ter 7” and all that follows through “7521” and
8 inserting “subchapter VI of this chapter, chap-
9 ter 7, section 1305, 3105, 4301(2)(E), or
10 5372”.

11 (6) Section 1305 is amended—

12 (A) by striking “section 3105, 3344,” and
13 inserting “sections 3105,”; and

14 (B) by striking “, and for the purpose of
15 section 7521 of this title, the Merit Systems
16 Protection Board may”.

17 (7) Section 5514(a)(2) is amended in the fourth
18 sentence by striking “, except that” and all that fol-
19 lows through “administrative law judge”.

20 (8) Section 7105 is amended—

21 (A) in subsection (d) by striking “, admin-
22 istrative law judges under section 3105 of this
23 title,”; and

1 (B) in subsection (e)(2) by striking “under
2 subsection (d) of this section” and inserting
3 “under section 3105 of this title”.

4 (9) Section 7132(a) is amended by striking
5 “appointed by the Authority under section 3105 of
6 this title” and inserting “appointed under section
7 3105 of this title who is conducting hearings under
8 this chapter”.

9 (10) Section 7502 is amended by striking
10 “7521 or”.

11 (11) Section 7512(E) is amended by striking
12 “or 7521”.

13 (b) OTHER PROVISIONS OF LAW.—

14 (1) Section 6(c) of the Commodity Exchange
15 Act is amended—

16 (A) in the second sentence (7 U.S.C. 9)—

17 (i) by striking “Administrative Law
18 Judge designated by the Commission” and
19 inserting “administrative law judge of the
20 Administrative Law Judge Corps”; and

21 (ii) by striking “Administrative Law
22 Judge” and inserting “administrative law
23 judge”; and

24 (B) by striking “Administrative Law
25 Judge” each subsequent place it appears (7

1 U.S.C. 15) and inserting “administrative law
2 judge of the Administrative Law Judge Corps”.

3 (2) Section 12(b) of the Commodity Exchange
4 Act (7 U.S.C. 16(b)) is amended by striking “Ad-
5 ministrative Law Judges,”.

6 (3) Section 274B(e)(2) of the Immigration and
7 Nationality Act (8 U.S.C. 1324b(e)(2)) is amended
8 by striking “are specially designated by the Attorney
9 General as having” and inserting “have”.

10 (4) Section 1416(a) of the Interstate Land
11 Sales Full Disclosure Act (15 U.S.C. 1715(a)) is
12 amended—

13 (A) in the first sentence by inserting “,
14 subject to section 599d of title 5, United States
15 Code,” after “who may”;

16 (B) by striking the second sentence; and

17 (C) in the third sentence by striking “his
18 administrative law judges to other administra-
19 tive law judges or” and inserting “administra-
20 tive law judges carrying out functions under
21 this title”.

22 (5) Section 488A(b) of the Higher Education
23 Act of 1965 (20 U.S.C. 1095a(b)) is amended in the
24 third sentence by striking “, except that” and all
25 that follows through “administrative law judge”.

1 (6) Section 509(1) of title 28, United States
2 Code, is amended—

3 (A) by striking “subchapter II” and insert-
4 ing “subchapters II and VI”; and

5 (B) by striking “employed by the Depart-
6 ment of Justice”.

7 (7) Section 12 of the Occupational Safety and
8 Health Act of 1970 (29 U.S.C. 661) is amended—

9 (A) in subsection (e)—

10 (i) by striking “administrative law
11 judges and other”; and

12 (ii) by striking “: *Provided*’ and all
13 that follows through the end of the sub-
14 section and inserting a period;

15 (B) in subsection (j) in the first sentence
16 by striking “A” and all that follows through
17 “Commission,” and inserting “An administra-
18 tive law judge to whom is assigned any proceed-
19 ing instituted before the Commission shall hear
20 and make a determination upon the proceeding
21 and any motion in connection with such pro-
22 ceeding,”; and

23 (C) by striking subsection (k).

24 (8) Section 502(e)(1) of the Rehabilitation Act
25 of 1973 (29 U.S.C. 792(e)(1)) is amended by strik-

1 ing the second and third sentences and inserting the
2 following: “Proceedings required to be conducted
3 under this section shall be presided over by adminis-
4 trative law judges appointed under subchapter VI of
5 chapter 5 of title 5, United States Code.”.

6 (9) Section 166 of the Job Training Partner-
7 ship Act (29 U.S.C. 1576(a)) is amended in the first
8 sentence by striking “of the Department of Labor”.

9 (10) Section 5(e) of the Federal Mine Safety
10 and Health Act of 1977 (30 U.S.C. 804(e)) is
11 amended to read as follows:

12 “(e) Proceedings required to be conducted in accord-
13 ance with the provisions of this Act shall be presided over
14 by administrative law judges appointed under subchapter
15 VI of chapter 5 of title 5, United States Code.”.

16 (11) Section 113 of the Federal Mine Safety
17 and Health Act of 1977 (30 U.S.C. 823) is
18 amended—

19 (A) in subsection (b)(2) by striking all that
20 follows the second sentence;

21 (B) in subsection (d)(1) in the first sen-
22 tence by striking “appointed by the Commis-
23 sion” and all that follows through “by the Com-
24 mission,” and inserting “to whom is assigned
25 any proceeding instituted before the Commis-

1 sion shall hear and make a determination upon
2 the proceeding and any motion in connection
3 with the proceeding.”; and

4 (C) in subsection (e) in the first sentence
5 by striking “its” each place it appears.

6 (12) Section 428(b) of the Black Lung Benefits
7 Act (30 U.S.C. 938(b)) is amended by striking the
8 seventh sentence.

9 (13) Section 321(c)(1) of title 31, United
10 States Code, is amended—

11 (A) by striking “subchapter II” and insert-
12 ing “subchapters II and VI”; and

13 (B) by striking “employed by the Sec-
14 retary”.

15 (14) Section 3801(a)(7)(A) of title 31, United
16 States Code, is amended by striking “appointed in
17 the authority” and all that follows through “such
18 title;” and inserting “of the Administrative Law
19 Judge Corps;”.

20 (15) Section 19(d) of the Longshore and Har-
21 bor Workers’ Compensation Act (33 U.S.C. 919(d))
22 is amended by amending the second sentence to read
23 as follows: “Any such hearing shall be conducted by
24 an administrative law judge qualified under sub-
25 chapter VI of chapter 5 of that title.”.

1 (16) Section 21(b)(5) of the Longshore and
2 Harbor Workers' Compensation Act (33 U.S.C.
3 921(b)(5)) is amended by striking the first sentence.

4 (17) Section 7101(b)(2)(B) of title 38, United
5 States Code, is amended by striking "7521" and in-
6 serting "599e".

7 (18) Section 8(b)(1) of the Contract Disputes
8 Act of 1978 (41 U.S.C. 607(b)(1)) is amended in
9 the first sentence by striking "hearing examiners ap-
10 pointed pursuant to section 3105 of title 5, United
11 States Code" and inserting "administrative law
12 judges appointed under section 3105 of title 5,
13 United States Code (as in effect on the day before
14 the effective date of the Reorganization of the Fed-
15 eral Administrative Judiciary Act)".

16 (19) Section 705(a) of the Civil Rights Act of
17 1964 (42 U.S.C. 2000e-4(a)) is amended—

18 (A) by striking "administrative law
19 judges,"; and

20 (B) by striking ":", *Provided*" and all that
21 follows through the end of the subsection and
22 inserting a period.

23 (20) Section 808(c) of the Act of April 11,
24 1968 (42 U.S.C. 3608(c)), is amended—

1 (A) in the first sentence by inserting “,
2 subject to section 599d of title 5, United States
3 Code,” after “The Secretary may”;

4 (B) by striking the second sentence; and

5 (C) in the last sentence by striking “his
6 hearing examiners to other hearing examiners
7 or” and inserting “administrative law judges
8 carrying out functions under this title”.

9 (21) Section 806 of the Omnibus Crime Control
10 and Safe Streets Act of 1968 (42 U.S.C. 3787) is
11 amended—

12 (A) in the first sentence by striking “ap-
13 point such hearing examiners” and all that fol-
14 lows through “United States Code,” and insert-
15 ing “, subject to section 599d of title 5, United
16 States Code, request the use of such adminis-
17 trative law judges”; and

18 (B) in the second sentence by striking
19 “hearing examiner or administrative law judge
20 assigned to or employed thereby” and inserting
21 “such administrative law judge”.

22 (22) Section 401(c) of the Department of En-
23 ergy Organization Act (42 U.S.C. 7171(c)) is
24 amended by striking “appointment and employment
25 of hearing examiners in accordance with the provi-

1 sions of title 5,” and inserting “referral of cases to
2 the Administrative Law Judge Corps in accordance
3 with subchapter VI of chapter 5 of title 5,”.

4 (23) Section 303(c)(3) of the Independent Safe-
5 ty Board Act of 1974 (49 U.S.C. App. 1902(c)(3))
6 is amended by striking “, attorneys, and administra-
7 tive law judges” and inserting “and attorneys”.

8 (24) Section 304(b)(1) of the Independent
9 Safety Board Act of 1974 (49 U.S.C. App.
10 1903(b)(1)) is amended in the first sentence by
11 striking “employed by or”.

12 (c) REFERENCES IN OTHER LAWS.—Reference in
13 any other Federal law to an administrative law judge or
14 hearing examiner or to an administrative law judge, hear-
15 ing examiner, or employee appointed under section 3105
16 of title 5, United States Code, shall be deemed to refer
17 to an administrative law judge of the Administrative Law
18 Judge Corps established by section 598 of title 5, United
19 States Code.

20 **SEC. 8. OPERATION OF THE CORPS.**

21 Operation of the Corps shall commence on the date
22 the first chief administrative law judge of the Corps takes
23 office.

1 **SEC. 9. CONTRACT DISPUTES ACT.**

2 Nothing in this Act or the amendments made by this
 3 Act shall be deemed to affect any agency board established
 4 pursuant to the Contract Disputes Act (41 U.S.C. 601
 5 and following), or any other person designated to resolve
 6 claims or disputes pursuant to such Act.

7 **SEC. 10. PAYMENT BY CERTAIN AGENCIES FOR ADMINIS-**
 8 **TRATIVE LAW JUDGE SALARIES AND EX-**
 9 **PENSES.**

10 Any agency which before the effective date of this Act
 11 paid the salaries and expenses of administrative law
 12 judges from fees charged by such agency shall on and
 13 after the effective date of this Act pay from such fees to
 14 the chief judge of the Administrative Law Judge Corps,
 15 or the designee of the chief judge, an amount necessary
 16 to reimburse the salaries and expenses of the Corps for
 17 services provided by the Corps to such agency.

18 **SEC. 11. EFFECTIVE DATE.**

19 Except as otherwise provided, this Act and the
 20 amendments made by this Act shall take effect 120 days
 21 after the date of the enactment of this Act.

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