

rates of pay for offices or positions under par. (1), for provisions relating to later operative dates of Presidential recommendations.

1977—Par. (1). Pub. L. 95-19 substituted provisions directing each house of the Congress to conduct a separate vote within sixty days on each Presidential recommendation with respect to the offices and positions described in section 356(A), (B), (C), and (D) of this title, with the votes to be recorded so as to reflect the votes of each individual member and with each recommendation, if approved, to become effective for the offices and positions covered at the beginning of the first pay period which begins after the thirtieth day following the approval of the recommendation by the second house of the Congress to approve the recommendation, for provisions directing that all or part of the recommendations of the President transmitted to the Congress in the budget under section 358 of this title be effective at the beginning of the first pay period beginning after the thirtieth day following the transmittal of the recommendations to the budget, but only to the extent that, between the date of transmittal of the recommendations in the budget and the beginning of the pay period, there has not been enacted into law a statute establishing rates of pay other than the rates set in the recommendation, neither house of the Congress specifically disapproves all or part of the recommendations, or both.

Par. (2). Pub. L. 95-19 reenacted par. (2) without change.

#### EFFECTIVE DATE

Section effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as a note under section 3110 of Title 5, Government Organization and Employees.

### § 360. Effect of recommendations on existing law and prior recommendations

The recommendations of the President taking effect as provided in section 359 of this title shall be held and considered to modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(A) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of such recommendations (other than any provision of law enacted with respect to such recommendations in the period beginning on the date the President transmits his recommendations to the Congress under section 358 of this title and ending on the date of their approval under section 359(2) of this title), and

(B) any prior recommendations of the President which take effect under this chapter.

(Pub. L. 90-206, title II, §225(j), Dec. 16, 1967, 81 Stat. 644; Pub. L. 95-19, title IV, §401(b), Apr. 12, 1977, 91 Stat. 46; Pub. L. 99-190, §135(f), Dec. 19, 1985, 99 Stat. 1322; Pub. L. 101-194, title VII, §701(h), Nov. 30, 1989, 103 Stat. 1766.)

#### AMENDMENTS

1989—Cl. (A). Pub. L. 101-194 substituted “(other than any provision of law enacted with respect to such recommendations in the period beginning on the date the President transmits his recommendations to the Congress under section 358 of this title and ending on the date of their approval under section 359(2) of this title), and” for “(other than any provision of law enacted in the period specified section 359 of this title with respect to such recommendations), and”.

1985—Pub. L. 99-190 substituted “taking effect as provided in section 359 of this title shall” for “transmitted to the Congress immediately following a review conducted by the Commission in one of the fiscal years re-

ferred to in section 352(2) and (3) of this title shall, if approved by the Congress as provided in section 359 of this title,” and in cl. (A) struck out “in paragraph (1) of” before “section 359 of this title”.

1977—Pub. L. 95-19 inserted “, if approved by the Congress as provided in section 359 of this title,”.

#### EFFECTIVE DATE

Section effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as a note under section 3110 of Title 5, Government Organization and Employees.

### § 361. Publication of recommendations

The recommendations of the President which take effect shall be printed in the Statutes at Large in the same volume as public laws and shall be printed in the Federal Register and included in the Code of Federal Regulations.

(Pub. L. 90-206, title II, §225(k), Dec. 16, 1967, 81 Stat. 644.)

#### EFFECTIVE DATE

Section effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as a note under section 3110 of Title 5, Government Organization and Employees.

### § 362. Requirements applicable to recommendations

Notwithstanding any other provision of this chapter, the recommendations submitted by the Commission to the President under section 357 of this title, and the recommendations transmitted by the President to the Congress under section 358 of this title, shall be in conformance with the following:

(1) Any recommended pay adjustment shall specify the date as of which it is proposed that such adjustment take effect.

(2) The proposed effective date of a pay adjustment may occur no earlier than January 1 of the second fiscal year, and no later than December 31 next following the close of the fifth fiscal year, beginning after the fiscal year in which the Commission conducts its review under section 356 of this title.

(3)(A)(i) The rates of pay recommended for the Speaker of the House of Representatives, the Vice President of the United States, and the Chief Justice of the United States, respectively, shall be equal.

(ii) The rates of pay recommended for the majority and minority leaders of the Senate and the House of Representatives, the President pro tempore of the Senate, and each office or position under section 5312 of title 5 (relating to level I of the Executive Schedule), respectively, shall be equal.

(iii) The rates of pay recommended for a Senator, a Member of the House of Representatives, the Resident Commissioner from Puerto Rico, a Delegate to the House of Representatives, a judge of a district court of the United States, a judge of the United States Court of International Trade, and each office or position under section 5313 of title 5 (relating to level II of the Executive Schedule), respectively, shall be equal.

(B) Nothing in this section shall be considered to require that the rate recommended for any office or position by the President under section 358 of this title be the same as the rate

recommended for such office or position by the Commission under section 357 of this title.

(Pub. L. 90-206, title II, § 225(l), as added Pub. L. 101-194, title VII, § 701(i), Nov. 30, 1989, 103 Stat. 1766.)

### § 363. Additional function

The Commission shall, whenever it conducts a review under section 356 of this title, also conduct a review under this section relating to any recruitment or retention problems, and any public policy issues involved in maintaining appropriate ethical standards, with respect to any offices or positions within the Federal public service. Any findings or recommendations under this section shall be included by the Commission as part of its report to the President under section 357 of this title.

(Pub. L. 90-206, title II, § 225(m), as added Pub. L. 101-194, title VII, § 701(j), Nov. 30, 1989, 103 Stat. 1767.)

### § 364. Provision relating to certain other pay adjustments

(1) A provision of law increasing the rate of pay payable for an office or position within the purview of subparagraph (A), (B), (C), or (D) of section 356 of this title shall not take effect before the beginning of the Congress following the Congress during which such provision is enacted.

(2) For purposes of this section, a provision of law enacted during the period beginning on the Tuesday following the first Monday of November of an even-numbered year of any Congress and ending at noon on the following January 3 shall be considered to have been enacted during the first session of the following Congress.

(3) Nothing in this section shall be considered to apply with respect to any pay increase—

(A) which takes effect under the preceding sections of this chapter;

(B) which is based on a change in the Employment Cost Index (as determined under section 704(a)(1) of the Ethics Reform Act of 1989) or which is in lieu of any pay adjustment which might otherwise be made in a year based on a change in such index (as so determined); or

(C) which takes effect under section 702 or 703 of the Ethics Reform Act of 1989.

(Pub. L. 90-206, title II, § 225(n), as added Pub. L. 101-194, title VII, § 701(k), Nov. 30, 1989, 103 Stat. 1767.)

#### REFERENCES IN TEXT

Sections 702, 703, and 704(a)(1) of the Ethics Reform Act of 1989, referred to in par. (3)(B), (C), are sections 702, 703, and 704(a)(1) of Pub. L. 101-194 which are set out as notes under sections 5303 and 5318 of Title 5, Government Organization and Employees.

## CHAPTER 12—CONTESTED ELECTIONS

Sec.	
381.	Definitions.
382.	Notice of contest.
383.	Response of contestee.
384.	Service and filing of papers other than notice of contest.
385.	Default of contestee.

Sec.	
386.	Deposition.
387.	Notice of depositions.
388.	Subpena for attendance at deposition.
389.	Officer and witness fees.
390.	Penalty for failure to appear, testify, or produce documents.
391.	Certification and filing of depositions.
392.	Record.
393.	Filing of pleadings, motions, depositions, appendixes, briefs, and other papers.
394.	Computation of time.
395.	Death of contestant.
396.	Allowance of party's expenses.

### § 381. Definitions

For purposes of this chapter:

(1) The term "election" means an official general or special election to choose a Representative in, or Delegate or Resident Commissioner to, the Congress, but that term does not include a primary election, or a caucus or convention of a political party.

(2) The term "candidate" means an individual (A) whose name is printed on the official ballot for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, or (B) notwithstanding his name is not printed on such ballot, who seeks election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress by write-in votes, provided that he is qualified for such office and that, under the law of the State in which the congressional district is located, write-in voting for such office is permitted and he is eligible to receive write-in votes in such election.

(3) The term "contestant" means an individual who contests the election of a Member of the House of Representatives under this chapter.

(4) The term "contestee" means a Member of the House of Representatives whose election is contested under this chapter.

(5) The term "Member of the House of Representatives" means an incumbent Representative in, or Delegate or Resident Commissioner to, the Congress, or an individual who has been elected to such office but has not taken the oath of office.

(6) The term "Clerk" means the Clerk of the House of Representatives.

(7) The term "committee" means the Committee on House Oversight of the House of Representatives.

(8) The term "State" means a State of the United States and any territory or possession of the United States.

(9) The term "write-in vote" means a vote cast for a person whose name does not appear on the official ballot by writing in the name of such person on such ballot or by any other method prescribed by the law of the State in which the election is held.

(Pub. L. 91-138, § 2, Dec. 5, 1969, 83 Stat. 284; Pub. L. 104-186, title II, § 211(1), (2), Aug. 20, 1996, 110 Stat. 1743, 1744.)

#### AMENDMENTS

1996—Pub. L. 104-186, § 211(1)(A)-(C), substituted "chapter:" for "chapter—" in introductory provisions, redesignated subdvs. (a) to (i) as pars. (1) to (9), respectively, and realigned margins of pars. (1) to (9).