

85TH CONGRESS
1ST SESSION

H. R. 6788

IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, JULY 8), 1957

Read twice and referred to the Committee on the Judiciary

AN ACT

To authorize the abbreviation of the record on the review or enforcement of orders of administrative agencies by the courts of appeals and the review or enforcement of such orders on the original papers and to make uniform the law relating to the record on review or enforcement of such orders, 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 That the analysis of chapter 133 of title 28 of the United
4 States Code, immediately preceding section 2101 of such
5 title, is amended by inserting at the end thereof the following
6 additional item:

“2112. Record on review and enforcement of agency orders.”

1 “SEC. 2. Chapter 133 of title 28 of the United States
2 Code is amended by inserting at the end of such chapter im-
3 mediately following section 2111 an additional section, as
4 follows:

5 “§ 2112. Record on review and enforcement of agency orders

6 “(a) The several courts of appeals shall have power
7 to adopt, with the approval of the Judicial Conference of the
8 United States, rules, which so far as practicable shall be
9 uniform in all such courts prescribing the time and manner of
10 filing and the contents of the record in all proceedings insti-
11 tuted in the courts of appeals to enjoin, set aside, suspend,
12 modify, or otherwise review or enforce orders of administrative
13 agencies, boards, commissions, and officers, to the extent
14 that the applicable statute does not specifically prescribe
15 such time or manner of filing or contents of the record. Such
16 rules may authorize the agency, board, commission, or officer
17 to file in the court a certified list of the materials comprising
18 the record and retain and hold for the court all such materials
19 and transmit the same or any part thereof to the court, when
20 and as required by it, at any time prior to the final determi-
21 nation of the proceeding, and such filing of such certified list
22 of the materials comprising the record and such subsequent
23 transmittal of any such materials when and as required shall
24 be deemed full compliance with any provision of law requir-

1 ing the filing of the record in the court. The record in such
2 proceedings shall be certified and filed in or held for and
3 transmitted to the court of appeals by the agency, board,
4 commission, or officer concerned within the time and in the
5 manner prescribed by such rules. If proceedings have been
6 instituted in two or more courts of appeals with respect to the
7 same order the agency, board, commission, or officer con-
8 cerned shall file the record in that one of such courts in which
9 a proceeding with respect to such order was first instituted.
10 The other courts in which such proceedings are pending
11 shall thereupon transfer them to the court of appeals in
12 which the record has been filed. For the convenience of
13 the parties in the interest of justice such court may there-
14 after transfer all the proceedings with respect to such order
15 to any other court of appeals.

16 “(b) The record to be filed in the court of appeals in
17 such a proceeding shall consist of the order sought to be re-
18 viewed or enforced, the findings or report upon which it is
19 based, and the pleadings, evidence, and proceedings before
20 the agency, board, commission, or officer concerned, or such
21 portions thereof (1) as the said rules of the court of appeals
22 may require to be included therein, or (2) as the agency,
23 board, commission, or officer concerned, the petitioner for
24 review or respondent in enforcement, as the case may be,
25 and any intervenor in the court proceeding by written stip-

1 ulation filed with the agency, board, commission, or officer
2 concerned or in the court in any such proceeding may con-
3 sistently with the rules of such court designate to be included
4 therein, or (3) as the court upon motion of a party or, after
5 a prehearing conference, upon its own motion may by order
6 in any such proceeding designate to be included therein.
7 Such a stipulation or order may provide in an appropriate case
8 that no record need be filed in the court of appeals. If, how-
9 ever, the correctness of a finding of fact by the agency, board,
10 commission, or officer is in question all of the evidence before
11 the agency, board, commission, or officer shall be included in
12 the record except such as the agency, board, commission, or
13 officer concerned, the petitioner for review or respondent in
14 enforcement, as the case may be, and any intervenor in the
15 court proceeding by written stipulation filed with the agency,
16 board, commission, or officer concerned or in the court agree
17 to omit as wholly immaterial to the questioned finding. If
18 there is omitted from the record any portion of the proceed-
19 ings before the agency, board, commission, or officer which
20 the court subsequently determines to be proper for it
21 to consider to enable it to review or enforce the order in
22 question the court may direct that such additional portion
23 of the proceedings be filed as a supplement to the record.
24 The agency, board, commission, or officer concerned may,
25 at its option and without regard to the foregoing provisions

1 of this subsection, and if so requested by the petitioner for
2 review or respondent in enforcement shall, file in the court
3 the entire record of the proceedings before it without
4 abbreviation.

5 “(c) The agency, board, commission, or officer con-
6 cerned may transmit to the court of appeals the original
7 papers comprising the whole or any part of the record or
8 any supplemental record, otherwise true copies of such papers
9 certified by an authorized officer or deputy of the agency,
10 board, commission, or officer concerned shall be transmitted.
11 Any original papers thus transmitted to the court of appeals
12 shall be returned to the agency, board, commission, or officer
13 concerned upon the final determination of the review or
14 enforcement proceeding. Pending such final determination
15 any such papers may be returned by the court temporarily to
16 the custody of the agency, board, commission, or officer con-
17 cerned if needed for the transaction of the public business.
18 Certified copies of any papers included in the record or any
19 supplemental record may also be returned to the agency,
20 board, commission, or officer concerned upon the final deter-
21 mination of review or enforcement proceedings.

22 “(d) The provisions of this section are not applicable to
23 proceedings to review decisions of the Tax Court of the
24 United States or to proceedings to review or enforce those
25 orders of administrative agencies, boards, commissions, or

1 officers which are by law reviewable or enforceable by the
2 district courts.”

3 SEC. 3. (a) The sixth sentence of subsection (b) of
4 section 5 of the Federal Trade Commission Act, as amended
5 (52 Stat. 112), is amended to read as follows: “Until the
6 expiration of the time allowed for filing a petition for review,
7 if no such petition has been duly filed within such time, or, if
8 a petition for review has been filed within such time then
9 until the record in the proceeding has been filed in a court
10 of appeals of the United States, as hereinafter provided, the
11 Commission may at any time, upon such notice and in such
12 manner as it shall deem proper, modify or set aside, in whole
13 or in part, any report or any order made or issued by it
14 under this section.”

15 (b) The second and third sentences of subsection (c)
16 of section 5 of the Federal Trade Commission Act, as
17 amended (52 Stat. 112-113), are amended to read as fol-
18 lows: “A copy of such petition shall be forthwith trans-
19 mitted by the clerk of the court to the Commission, and
20 thereupon the Commission shall file in the court the record
21 in the proceeding, as provided in section 2112 of title 28,
22 United States Code. Upon such filing of the petition the
23 court shall have jurisdiction of the proceeding and of the
24 question determined therein concurrently with the Commis-
25 sion until the filing of the record and shall have power to

1 make and enter a decree affirming, modifying, or setting
2 aside the order of the Commission, and enforcing the same
3 to the extent that such order is affirmed and to issue such
4 writs as are ancillary to its jurisdiction or are necessary in
5 its judgment to prevent injury to the public or to com-
6 petitors pendente lite.”

7 (c) Subsection (d) of section 5 of the Federal Trade
8 Commission Act, as amended (52 Stat. 113), is amended
9 to read as follows:

10 “(d) Upon the filing of the record with it the jurisdic-
11 tion of the court of appeals of the United States to affirm,
12 enforce, modify, or set aside orders of the Commission shall
13 be exclusive.”

14 SEC. 4. (a) The sixth sentence of the second paragraph
15 of section 11 of the Act of October 15, 1914, as amended
16 (64 Stat. 1127), is amended to read as follows: “Until the
17 record in such hearing shall have been filed in a United
18 States court of appeals, as hereinafter provided, the Commis-
19 sion or Board may at any time, upon such notice, and in such
20 manner as it shall deem proper, modify or set aside, in whole
21 or in part, any report or any order made or issued by it
22 under this section.”

23 (b) The first and second sentences of the third para-
24 graph of section 11 of the Act of October 15, 1914, as
25 amended (64 Stat. 1127), are amended to read as follows:

1 “If such person fails or neglects to obey such order of the
2 Commission or Board while the same is in effect, the Com-
3 mission or Board may apply to the United States court of
4 appeals, within any circuit where the violation complained
5 of was or is being committed or where such person resides
6 or carries on business, for the enforcement of its order, and
7 shall file the record in the proceeding, as provided in section
8 2112 of title 28, United States Code. Upon such filing of
9 the application the court shall cause notice thereof to be
10 served upon such person, and thereupon shall have jurisdic-
11 tion of the proceeding and of the question determined therein
12 concurrently with the Commission or Board until the filing
13 of the record, and shall have power to make and enter a
14 decree affirming, modifying, or setting aside the order of
15 the Commission or Board.”

16 (c) The second and third sentences of the fourth para-
17 graph of section 11 of the Act of October 15, 1914, as
18 amended (64 Stat. 1128), are amended to read as follows:
19 “A copy of such petition shall be forthwith transmitted by
20 the clerk of the court to the Commission or Board and
21 thereupon the Commission or Board shall file in the court
22 the record in the proceeding, as provided in section 2112
23 of title 28, United States Code. Upon the filing of such
24 petition the court shall have the same jurisdiction to affirm,

1 set aside, or modify the order of the Commission or Board
2 as in the case of an application by the Commission or Board
3 for the enforcement of its order, and the findings of the
4 Commission or Board as to the facts, if supported by sub-
5 stantial evidence, determined as provided in section 10 (e)
6 of the Administrative Procedure Act, shall in like manner
7 be conclusive.”

8 (d) The fifth paragraph of section 11 of the Act of
9 October 15, 1914, as amended (64 Stat. 1128), is amended
10 to read as follows:

11 “Upon the filing of the record with it the jurisdiction
12 of the United States court of appeals to enforce, set aside,
13 or modify orders of the Commission or Board shall be
14 exclusive.”

15 SEC. 5. The fourth and fifth sentences of the first para-
16 graph of section 2 of the Act of July 28, 1916 (39 Stat.
17 425), are amended to read as follows: “A copy of such
18 petition shall be forthwith transmitted by the clerk of the
19 court to the Post Office Department and thereupon the said
20 Department shall file in the court the record, as provided
21 in section 2112 of title 28, United States Code. Upon the
22 filing of such petition the court shall have jurisdiction to
23 affirm, set aside or modify the order of the Department.”

1 SEC. 6. (a) Subsection (c) of section 203 of the
2 Packers and Stockyards Act, 1921 (42 Stat. 162), is
3 amended to read as follows:

4 “(c) Until the record in such hearing has been filed
5 in a court of appeals of the United States, as provided in
6 section 204, the Secretary at any time, upon such notice
7 and in such manner as he deems proper, but only after
8 reasonable opportunity to the packer to be heard, may
9 amend or set aside the report or order, in whole or in part.”

10 (b) Subsections (b), (c), and (d) of section 204 of
11 the Packers and Stockyards Act, 1921 (42 Stat. 162), are
12 amended to read as follows:

13 “(b) The clerk of the court shall immediately cause
14 a copy of the petition to be delivered to the Secretary, and
15 the Secretary shall thereupon file in the court the record
16 in such proceedings, as provided in section 2112 of title 28,
17 United States Code. If before such record is filed the
18 Secretary amends or sets aside his report or order, in whole
19 or in part, the petitioner may amend the petition within such
20 time as the court may determine, on notice to the Secretary.

21 “(c) At any time after such petition is filed, the court,
22 on application of the Secretary, may issue a temporary
23 injunction, restraining, to the extent it deems proper, the
24 packer and his officers, directors, agents, and employees,

1 from violating any of the provisions of the order pending
2 the final determination of the appeal.

3 “(d) The evidence so taken or admitted, and filed as
4 aforesaid as a part of the record, shall be considered by the
5 court as the evidence in the case. The proceedings in such
6 cases in the court of appeals shall be made a preferred cause
7 and shall be expedited in every way.”

8 (c) The first sentence of subsection (h) of section 204
9 of the Packers and Stockyards Act, 1921 (42 Stat. 162), is
10 amended to read as follows:

11 “(h) The court of appeals shall have jurisdiction, which
12 upon the filing of the record with it shall be exclusive, to re-
13 view, and to affirm, set aside, or modify, such orders of the
14 Secretary, and the decree of such court shall be final except
15 that it shall be subject to review by the Supreme Court of the
16 United States upon certiorari, as provided in section 1254 of
17 title 28, if such writ is duly applied for within sixty days
18 after entry of the decree.”

19 SEC. 7. (a) The third and fourth sentences of para-
20 graph (a) of section 6 of the Commodity Exchange Act
21 (42 Stat. 1001), are amended to read as follows: “The
22 clerk of the court in which such a petition is filed shall
23 immediately cause a copy thereof to be delivered to the
24 Secretary of Agriculture, Chairman of said Commission, or

1 any member thereof, and the said Commission shall there-
2 upon file in the court the record in such proceedings, as
3 provided in section 2112 of title 28, United States Code.
4 The testimony and evidence taken or submitted before the
5 said Commission, duly filed as aforesaid as a part of the
6 record, shall be considered by the court as the evidence in
7 the case.”

8 (b) The seventh and eighth sentences of paragraph (b)
9 of section 6 of the Commodity Exchange Act (42 Stat.
10 1002), as amended, are amended to read as follows: “A
11 copy of such petition shall be forthwith transmitted by the
12 clerk of the court to the Secretary of Agriculture and there-
13 upon the Secretary of Agriculture shall file in the court the
14 record theretofore made, as provided in section 2112 of title
15 28, United States Code. Upon the filing of the petition the
16 court shall have jurisdiction to affirm, to set aside, or modify
17 the order of the Secretary of Agriculture, and the findings of
18 the Secretary of Agriculture as to the facts, if supported by
19 the weight of evidence, shall in like manner be conclusive.”

20 SEC. 8. The third and fourth sentences of the second
21 paragraph of subsection (b) of section 641 of the Tariff Act
22 of 1930, as amended (49 Stat. 865), are amended to read
23 as follows: “A copy of such petition shall be forthwith
24 transmitted by the clerk of the court to the Secretary of the
25 Treasury, or any officer designated by him for that purpose,

1 and thereupon the Secretary of the Treasury shall file in the
2 court the record upon which the order complained of was
3 entered, as provided in section 2112 of title 28, United
4 States Code. Upon the filing of such petition such court
5 shall have exclusive jurisdiction to affirm, modify, or set
6 aside such order, in whole or in part.”

7 SEC. 9. The second sentence of subsection (a) of section
8 9 of the Securities Act of 1933 (48 Stat. 80) is amended
9 to read as follows: “A copy of such petition shall be forth-
10 with transmitted by the clerk of the court to the Commission,
11 and thereupon the Commission shall file in the court the
12 record upon which the order complained of was entered, as
13 provided in section 2112 of title 28, United States Code.”

14 SEC. 10. The second and third sentences of subsection
15 (a) of section 25 of the Securities Exchange Act of 1934
16 (48 Stat. 901) are amended to read as follows: “A copy
17 of such petition shall be forthwith transmitted by the clerk
18 of the court to any member of the Commission, and there-
19 upon the Commission shall file in the court the record upon
20 which the order complained of was entered, as provided in
21 section 2112 of title 28, United States Code. Upon the
22 filing of such petition such court shall have jurisdiction,
23 which upon the filing of the record shall be exclusive, to
24 affirm, modify, and enforce or set aside such order, in whole
25 or in part.”

1 SEC. 11. The third sentence of subsection (c) of sec-
2 tion 18 of the Act of June 18, 1934 (48 Stat. 1002), is
3 amended to read as follows: "The clerk of the court in which
4 such a petition is filed shall immediately cause a copy thereof
5 to be delivered to the Board and it shall thereupon file in the
6 court the record in the proceedings held before it under
7 this section, as provided in section 2112 of title 28, United
8 States Code."

9 SEC. 12. The second sentence of subsection (d) of sec-
10 tion 402 of the Communications Act of 1934, as amended
11 (66 Stat. 719), is amended to read as follows: "Within
12 thirty days after the filing of an appeal, the Commission
13 shall file with the court the record upon which the order
14 complained of was entered, as provided in section 2112 of
15 title 28, United States Code."

16 SEC. 13. (a) Subsection (d) of section 10 of the Na-
17 tional Labor Relations Act, as amended (61 Stat. 147),
18 is amended to read as follows:

19 "(d) Until the record in a case shall have been filed in
20 a court, as hereinafter provided, the Board may at any time
21 upon reasonable notice and in such manner as it shall deem
22 proper, modify or set aside, in whole or in part, any finding
23 or order made or issued by it."

24 (b) The first, second, fifth and seventh sentences of
25 subsection (e) of section 10 of the National Labor Relations

1 Act, as amended (61 Stat. 147), are amended to read as
2 follows:

3 “(e) The Board shall have power to petition any court
4 of appeals of the United States, or if all the courts of appeals
5 to which application may be made are in vacation, any dis-
6 trict court of the United States, within any circuit or dis-
7 trict, respectively, wherein the unfair labor practice in ques-
8 tion occurred or wherein such person resides or transacts
9 business, for the enforcement of such order and for appro-
10 priate temporary relief or restraining order, and shall file in
11 the court the record in the proceedings, as provided in
12 section 2112 of title 28, United States Code. Upon the
13 filing of such petition, the court shall cause notice thereof
14 to be served upon such person, and thereupon shall have
15 jurisdiction of the proceeding and of the question determined
16 therein, and shall have power to grant such temporary relief
17 or restraining order as it deems just and proper, and to make
18 and enter a decree enforcing, modifying, and enforcing as
19 so modified, or setting aside in whole or in part the order
20 of the Board. * * * If either party shall apply to the
21 court for leave to adduce additional evidence and shall show
22 to the satisfaction of the court that such additional evidence
23 is material and that there were reasonable grounds for the
24 failure to adduce such evidence in the hearing before the
25 Board, its member, agent, or agency, the court may

1 order such additional evidence to be taken before the Board,
2 its member, agent, or agency, and to be made a part
3 of the record. * * * Upon the filing of the record with it the
4 jurisdiction of the court shall be exclusive and its judgment
5 and decree shall be final, except that the same shall be
6 subject to review by the appropriate United States court
7 of appeals if application was made to the district court as
8 hereinabove provided, and by the Supreme Court of the
9 United States upon writ of certiorari or certification as pro-
10 vided in section 1254 of title 28.”

11 (c) The second and third sentences of subsection (f) of
12 section 10 of the National Labor Relations Act, as amended
13 (61 Stat. 148), are amended to read as follows: “A copy of
14 such petition shall be forthwith transmitted by the clerk of
15 the court to the Board, and thereupon the aggrieved party
16 shall file in the court the record in the proceeding, certified
17 by the Board, as provided in section 2112 of title 28, United
18 States Code. Upon the filing of such petition, the court shall
19 proceed in the same manner as in the case of an application
20 by the Board under subsection (e) of this section, and shall
21 have the same jurisdiction to grant to the Board such tem-
22 porary relief or restraining order as it deems just and proper,
23 and in like manner to make and enter a decree enforcing,
24 modifying, and enforcing as so modified, or setting aside in
25 whole or in part the order of the Board; the findings of the

1 Board with respect to questions of fact if supported by sub-
2 stantial evidence on the record considered as a whole shall in
3 like manner be conclusive.”

4 SEC. 14. The third and fourth sentences of subsection
5 (h) of section 4 of the Federal Alcohol Administration Act
6 (49 Stat. 980), as amended, are amended to read as follows:
7 “A copy of such petition shall be forthwith transmitted by
8 the clerk of the court to the Secretary, or any officer desig-
9 nated by him for that purpose, and thereupon the Secretary
10 shall file in the court the record upon which the order com-
11 plained of was entered, as provided in section 2112 of title
12 28, United States Code. Upon the filing of such petition
13 such court shall have exclusive jurisdiction to affirm, modify,
14 or set aside such order, in whole or in part.”

15 SEC. 15. The second and third sentences of subsection
16 (a) of section 24 of the Public Utility Holding Company
17 Act of 1935 (49 Stat. 834), are amended to read as follows:
18 “A copy of such petition shall be forthwith transmitted by
19 the clerk of the court to any member of the Commission,
20 or any officer thereof designated by the Commission for that
21 purpose, and thereupon the Commission shall file in the
22 court the record upon which the order complained of was
23 entered, as provided in section 2112 of title 28, United
24 States Code. Upon the filing of such petition such court

1 shall have jurisdiction, which upon the filing of the record
2 shall be exclusive, to affirm, modify, or set aside such order,
3 in whole or in part.”

4 SEC. 16. (a) Subsection (a) of section 313 of the
5 Federal Power Act, as amended (49 Stat. 860), is amended
6 by inserting at the end thereof an additional sentence read-
7 ing as follows: “Until the record in a proceeding shall have
8 been filed in a court of appeals, as provided in subsection
9 (b), the Commission may at any time, upon reasonable
10 notice and in such manner as it shall deem proper, modify
11 or set aside, in whole or in part, any finding or order made or
12 issued by it under the provisions of this Act.”

13 (b) The second and third sentences of subsection (b)
14 of section 313 of the Federal Power Act, as amended (49
15 Stat. 860), are amended to read as follows: “A copy of such
16 petition shall forthwith be transmitted by the clerk of the
17 court to any member of the Commission and thereupon the
18 Commission shall file with the court the record upon which
19 the order complained of was entered, as provided in section
20 2112 of title 28, United States Code. Upon the filing of
21 such petition such court shall have jurisdiction, which upon
22 the filing of the record with it shall be exclusive, to affirm,
23 modify, or set aside such order in whole or in part.”

24 SEC. 17. The second and third sentences of subsection
25 (b) of section 611 of the Merchant Marine Act, 1936, as

1 amended (52 Stat. 961), are amended to read as follows:

2 "A copy of such petition shall be forthwith transmitted by
3 the clerk of the court to any member of the Commission,
4 or any officer thereof designated by the Commission for that
5 purpose, and thereupon the Commission shall file in the court
6 the record upon which the order complained of was entered,
7 as provided in section 2112 of title 28, United States Code.
8 Upon the filing of such petition such court shall have exclu-
9 sive jurisdiction to determine whether such cancellation or
10 default was without just cause, and to affirm or set aside
11 such order."

12 SEC. 18. Subsection (c) of section 1006 of the Civil
13 Aeronautics Act of 1938 (52 Stat. 1024), is amended
14 to read as follows:

15 "(c) A copy of the petition shall, upon filing, be forth-
16 with transmitted to the Board by the clerk of the court;
17 and the Board shall thereupon file in the court the record,
18 if any, upon which the order complained of was entered, as
19 provided in section 2112 of title 28, United States Code."

20 SEC. 19. (a) Subsection (a) of section 19 of the
21 Natural Gas Act (52 Stat. 831), is amended by inserting
22 at the end thereof an additional sentence reading as follows:
23 "Until the record in a proceeding shall have been filed in
24 a court of appeals, as provided in subsection (b), the Com-
25 mission may at any time, upon reasonable notice and in

1 such manner as it shall deem proper, modify or set aside,
2 in whole or in part, any finding or order made or issued
3 by it under the provisions of this Act.”

4 (b) The second and third sentences of subsection (b)
5 of section 19 of the Natural Gas Act (52 Stat. 831), are
6 amended to read as follows: “A copy of such petition shall
7 forthwith be transmitted by the clerk of the court to any
8 member of the Commission and thereupon the Commission
9 shall file with the court the record upon which the order
10 complained of was entered, as provided in section 2112 of
11 title 28, United States Code. Upon the filing of such peti-
12 tion such court shall have jurisdiction, which upon the filing
13 of the record with it shall be exclusive, to affirm, modify,
14 or set aside such order in whole or in part.”

15 SEC. 20. (a) The first and second sentences of para-
16 graph (2) of subsection (i) of section 408 of the Federal
17 Food, Drug, and Cosmetic Act, as added by the Act of
18 July 22, 1954 (ch. 559, 68 Stat. 515), are amended to
19 read as follows:

20 “(2) In the case of a petition with respect to an
21 order under subsection (d) (5) or (e), a copy of the
22 petition shall be forthwith transmitted by the clerk of the
23 court to the Secretary, or any officer designated by him
24 for that purpose, and thereupon the Secretary shall file in
25 the court the record of the proceedings on which he based

1 his order, as provided in section 2112 of title 28, United
2 States Code. Upon the filing of such petition, the court shall
3 have exclusive jurisdiction to affirm or set aside the order
4 complained of in whole or in part.”

5 (b) The first and second sentences of paragraph (3)
6 of subsection (i) of section 408 of the Federal Food, Drug,
7 and Cosmetic Act, as added by the Act of July 22, 1954
8 (ch. 559, 68 Stat. 515), are amended to read as follows:

9 “(3) In the case of a petition with respect to an order
10 under subsection (1), a copy of the petition shall be forth-
11 with transmitted by the clerk of the court to the Secretary
12 of Agriculture, or any officer designated by him for that
13 purpose, and thereupon the Secretary shall file in the court
14 the record of the proceedings on which he based his order,
15 as provided in section 2112 of title 28, United States Code.
16 Upon the filing of such petition, the court shall have ex-
17 clusive jurisdiction to affirm or set aside the order com-
18 plained of in whole or in part.”

19 SEC. 21. (a) The second and third sentences of para-
20 graph (1) of subsection (f) of section 701 of the Federal
21 Food, Drug, and Cosmetic Act (52 Stat. 1055), as
22 amended, are amended to read as follows: “A copy of
23 the petition shall be forthwith transmitted by the clerk of
24 the court to the Secretary or other officer designated by him
25 for that purpose. The Secretary thereupon shall file in the

1 court the record of the proceedings on which the Secretary
2 based his order, as provided in section 2112 of title 28,
3 United States Code.”

4 (b) The first sentence of paragraph (3) of subsection
5 (f) of section 701 of the Federal Food, Drug, and Cosmetic
6 Act (52 Stat. 1055), as amended, is amended to read as
7 follows: “Upon the filing of the petition referred to in para-
8 graph (1) of this subsection, the court shall have jurisdiction
9 to affirm the order, or to set it aside in whole or in part,
10 temporarily or permanently.”

11 SEC. 22. The second and third sentences of subsection
12 (a) of section 10 of the Fair Labor Standards Act of 1938
13 (52 Stat. 1065), as amended, are amended to read as fol-
14 lows: “A copy of such petition shall forthwith be transmit-
15 ted by the clerk of the court to the Secretary, and thereupon
16 the Secretary shall file in the court the record of the indus-
17 try committee upon which the order complained of was en-
18 tered, as provided in section 2112 of title 28, United States
19 Code. Upon the filing of such petition such court shall
20 have exclusive jurisdiction to affirm, modify, or set aside
21 such order in whole or in part, so far as it is applicable to
22 the petitioner.”

23 SEC. 23. The fourth, fifth, sixth, and eighth sentences of
24 subsection (f) of section 5 of the Railroad Unemployment
25 Insurance Act, as amended (52 Stat. 1100), are amended

1 to read as follows: "Within fifteen days after receipt of
2 service, or within such additional time as the court may al-
3 low, the Board shall file with the court in which such peti-
4 tion has been filed the record upon which the findings and
5 decision complained of are based, as provided in section 2112
6 of title 28, United States Code. Upon the filing of such
7 petition the court shall have exclusive jurisdiction of the
8 proceeding and of the question determined therein, and shall
9 give precedence in the adjudication thereof over all other
10 civil cases not otherwise entitled by law to precedence. It
11 shall have power to enter a decree affirming, modifying, or
12 reversing the decision of the Board, with or without remand-
13 ing the cause for rehearing. * * * No additional evidence
14 shall be received by the court, but the court may order
15 additional evidence to be taken before the Board, and the
16 Board may, after hearing such additional evidence, modify
17 its findings of fact and conclusions and file such additional or
18 modified findings and conclusions with the court, and the
19 Board shall file with the court the additional record."

20 SEC. 24. (a) Subsection (c) of section 409 of the Fed-
21 eral Seed Act (53 Stat. 1287), is amended to read as
22 follows:

23 "(c) Until the record in such hearing has been filed in
24 a court of appeals as provided in section 410, the Secretary
25 of Agriculture at any time, upon such notice and in such

1 manner as he deems proper, but only after reasonable oppor-
2 tunity to the person to be heard, may amend or set aside the
3 report or order, in whole or in part.”

4 (b) The second, third and fourth paragraphs of section
5 410 of the Federal Seed Act (53 Stat. 1288), are amended
6 to read as follows:

7 “The clerk of the court shall immediately cause a copy
8 of the petition to be delivered to the Secretary, and the Sec-
9 retary shall thereupon file in the court the record in such
10 proceedings, as provided in section 2112 of title 28, United
11 States Code. If before such record is filed, the Secretary
12 amends or sets aside his report or order, in whole or in part,
13 the petitioner may amend the petition within such time as
14 the court may determine, on notice to the Secretary.

15 “At any time after such petition is filed the court, on
16 application of the Secretary, may issue a temporary injunc-
17 tion restraining, to the extent it deems proper, the person
18 and his officers, directors, agents, and employees from vio-
19 lating any of the provisions of the order pending the final
20 determination of the appeal.

21 “The evidence so taken or admitted and filed as afore-
22 said as a part of the record, shall be considered by the court
23 as the evidence in the case. The proceedings in such cases
24 in the court of appeals shall be made a preferred cause and
25 shall be expedited in every way.”

1 (c) The first and second sentences of section 411 of
2 the Federal Seed Act (53 Stat. 1288), are amended to
3 read as follows:

4 "SEC. 411. If any person against whom an order is
5 issued under section 409 fails to obey the order, the Secretary
6 of Agriculture, or the United States, by its Attorney General,
7 may apply to the court of appeals of the United States,
8 within the circuit where the person against whom the order
9 was issued resides or has his principal place of business, for
10 the enforcement of the order, and shall file the record in such
11 proceedings, as provided in section 2112 of title 28, United
12 States Code. Upon such filing of the application the court
13 shall cause notice thereof to be served upon the person
14 against whom the order was issued."

15 SEC. 25. The second and third sentences of subsection
16 (a) of section 43 of the Investment Company Act of 1940,
17 as amended (54 Stat. 844), are amended to read as follows:
18 "A copy of such petition shall be forthwith transmitted by
19 the clerk of the court to any member of the Commission
20 or any officer thereof designated by the Commission for
21 that purpose, and thereupon the Commission shall file in the
22 court the record upon which the order complained of was
23 entered, as provided in section 2112 of title 28, United
24 States Code. Upon the filing of such petition such court
25 shall have jurisdiction, which upon the filing of the record

1 shall be exclusive, to affirm, modify, or set aside such order,
2 in whole or in part.”

3 SEC. 26. The second and third sentences of subsection
4 (a) of section 213 of the Investment Advisers Act of 1940,
5 as amended (54 Stat. 855), are amended to read as follows:
6 “A copy of such petition shall be forthwith transmitted by
7 the clerk of the court to any member of the Commission, or
8 any officer thereof designated by the Commission for that
9 purpose, and thereupon the Commission shall file in the court
10 the record upon which the order complained of was entered,
11 as provided in section 2112 of title 28, United States Code.
12 Upon the filing of such petition such court shall have juris-
13 diction, which upon the filing of the record shall be ex-
14 clusive, to affirm, modify, or set aside such order, in whole
15 or in part.”

16 SEC. 27. (a) Paragraph (1) of subsection (b) of
17 section 632 of the Act of July 1, 1944, as added by the
18 Hospital Survey and Construction Act (60 Stat. 1048),
19 is amended to read as follows:

20 “(b) (1) If the Surgeon General refuses to approve
21 any application under section 625 or section 654, the State
22 agency through which the application was submitted, or if
23 any State is dissatisfied with the Surgeon General’s action
24 under subsection (a) of this section, such State may appeal
25 to the United States court of appeals for the circuit in which

1 such State is located by filing with such court a notice of
2 appeal. The jurisdiction of the court shall attach upon the
3 filing of such notice. A copy of the notice of appeal shall be
4 forthwith transmitted by the clerk of the court to the Sur-
5 geon General, or any officer designated by him for that pur-
6 pose. The Surgeon General shall thereupon file in the
7 court the record of the proceedings on which he based his
8 action, as provided in section 2112 of title 28, United States
9 Code.”

10 (b) The first sentence of paragraph (2) of subsection
11 (b) of section 632 of the Act of July 1, 1944, as added by
12 the Hospital Survey and Construction Act (60 Stat. 1048),
13 is amended to read as follows:

14 “(2) The findings of fact by the Surgeon General, un-
15 less substantially contrary to the weight of the evidence, shall
16 be conclusive; but the court, for good cause shown, may re-
17 mand the case to the Surgeon General to take further evi-
18 dence, and the Surgeon General may thereupon make new or
19 modified findings of fact and may modify his previous action,
20 and shall file in the court the record of the further pro-
21 ceedings.”

22 SEC. 28. The fourth sentence of subsection (c) of sec-
23 tion 205 of the Sugar Act of 1948 (61 Stat. 927), is
24 amended to read as follows: “Within thirty days after the
25 filing of said appeal the Secretary shall file with the court

1 the record upon which the decision complained of was
2 entered, as provided in section 2112 of title 28, United
3 States Code, and a list of all interested persons to whom
4 he has mailed or otherwise delivered a copy of said notice
5 of appeal.”.

6 SEC. 29. The second and third sentences of subsection
7 (a) of section 14 of the Internal Security Act of 1950 (64
8 Stat. 1001), are amended to read as follows: “A copy of
9 such petition shall be forthwith transmitted by the clerk of
10 the court to the Board, and thereupon the Board shall file
11 in the court the record in the proceeding, as provided in
12 section 2112 of title 28, United States Code. Upon the
13 filing of such petition the court shall have jurisdiction of the
14 proceeding and shall have power to affirm or set aside the
15 order of the Board; but the court may in its discretion and
16 upon its own motion transfer any action so commenced to
17 the United States Court of Appeals for the circuit wherein
18 the petitioner resides.”.

19 SEC. 30. (a) Subsection (e) of section 110 of the
20 Internal Security Act of 1950 (64 Stat. 1028), is amended
21 to read as follows:

22 “(e) Until the record in a case shall have been filed
23 in a court, as hereinafter provided, the Board may at any
24 time, upon reasonable notice and in such manner as it

1 shall deem proper, modify or set aside, in whole or in
2 part, any finding or order made or issued by it.”

3 (b) The third and fifth sentences of subsection (c) of
4 section 111 of the Internal Security Act of 1950 (64 Stat.
5 1028), are amended to read as follows: “The Board shall
6 thereupon file in the court the record of the proceedings
7 before the Board with respect to the matter concerning which
8 judicial review is sought, as provided in section 2112 of
9 title 28, United States Code. * * * Upon the filing of such
10 petition the court shall have jurisdiction of the proceeding,
11 which upon the filing of the record with it shall be exclusive,
12 and shall have power to affirm, modify, or set aside, or to
13 enforce or enforce as modified the order of the Board.”.

14 (c) The first sentence of subsection (d) of section 111
15 of the Internal Security Act of 1950 (60 Stat. 1029), is
16 amended to read as follows:

17 “(d) If either party shall apply to the court for leave
18 to adduce additional evidence and shall show to the satis-
19 faction of the court that such additional evidence is material
20 and that there were reasonable grounds for the failure to
21 adduce such evidence in the hearing before the Board or
22 its hearing examiner, the court may order such additional
23 evidence to be taken before the Board or its hearing examiner
24 and to be made a part of the record.”

1 SEC. 31. (a) Section 6 of the Act of December 29,
2 1950 (64 Stat. 1130), is amended to read as follows:

3 “SEC. 6. Unless the proceeding has been terminated
4 on a motion to dismiss the petition, the agency shall file in
5 the office of the clerk of the court of appeals in which the
6 proceeding is pending the record on review, as provided in
7 section 2112 of title 28, United States Code.”

8 (b) The second sentence of subsection (c) of section 7
9 of the Act of December 29, 1950 (64 Stat. 1131), is
10 amended to read as follows: “The agency may modify its
11 findings of fact, or make new findings, by reason of the
12 additional evidence so taken and may modify or set aside
13 its order and shall file in the court such additional evidence,
14 such modified findings or new findings, and such modified
15 order or the order setting aside the original order.”.

16 SEC. 32. Subsection (b) of section 207 of the Act of
17 September 23, 1950, as amended (64 Stat. 974), is
18 amended by adding at the end of that subsection three
19 additional sentences reading as follows: “The local educa-
20 tional agency affected may file with the court a petition
21 to review such action. A copy of the petition shall be
22 forthwith transmitted by the clerk of the court to the Com-
23 missioner, or any officer designated by him for that purpose.
24 Upon the filing of the petition the court shall have juris-

1 diction to affirm or set aside the action of the Commissioner
2 in whole or in part.”

3 SEC. 33. The fifth and sixth sentences of subsection
4 (b) of section 207 of the International Claims Settlement
5 Act of 1949, as amended (69 Stat. 564), are amended to
6 read as follows: “Such petition for review must be filed
7 within sixty days after the date of mailing of the final order
8 of denial by said designee and a copy shall forthwith be
9 transmitted to the said designee by the clerk of the court.
10 Within forty-five days after receipt of such petition for
11 review, or within such further time as the court may grant for
12 good cause shown, said designee shall file an answer thereto,
13 and shall file with the court the record of the proceedings
14 with respect to such claim, as provided in section 2112 of
15 title 28, United States Code.”

16 SEC. 34. The second and third sentences of section 9
17 of the Bank Holding Company Act of 1956 (70 Stat. 138)
18 are amended to read as follows: “A copy of such petition
19 shall be forthwith transmitted to the Board by the clerk
20 of the court, and thereupon the Board shall file in the court
21 the record made before the Board, as provided in section
22 2112 of title 28, United States Code. Upon the filing of
23 such petition the court shall have jurisdiction to affirm, set
24 aside, or modify the order of the Board and to require the

1 Board to take such action with regard to the matter under
2 review as the court deems proper.”

3 SEC. 35. This Act shall not be construed to repeal or
4 modify any provision of the Administrative Procedure Act.

Passed the House of Representatives August 5, 1957.

Attest:

RALPH R. ROBERTS,

Clerk.

85TH CONGRESS
1ST SESSION

H. R. 6788

AN ACT

To authorize the abbreviation of the record on the review or enforcement of orders of administrative agencies by the courts of appeals and the review or enforcement of such orders on the original papers and to make uniform the law relating to the record on review or enforcement of such orders, and for other purposes.

AUGUST 6 (legislative day, JULY 8), 1957

Read twice and referred to the Committee on the
Judiciary