

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3642
OFFERED BY MR. COMER OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Executive Branch Ac-
3 countability and Transparency Act of 2024”.

**4 SEC. 2. AGENCY DATABASES FOR PUBLICLY AVAILABLE
5 GOVERNMENT ETHICS RECORDS.**

6 (a) DEFINITIONS.—In this section:

7 (1) AGENCY.—The term “agency” means each
8 Executive agency, as defined in section 105 of title
9 5, United States Code, and each component of the
10 Executive Office of the President, including those
11 components established under title 3, United States
12 Code.

13 (2) COVERED EMPLOYEE.—

14 (A) INCLUSIONS.—The term “covered em-
15 ployee” includes the following individuals:

16 (i) Each individual who is—

17 (I) a noncareer employee; and

1 (II) is described in paragraphs
2 (3) through (8) of section 13103(f) of
3 title 5, United States Code.

4 (ii) Each individual serving in a posi-
5 tion with respect to which a determination
6 has been made under section 7511(b)(2) of
7 title 5, United States Code.

8 (iii) Each special Government em-
9 ployee, as defined in section 202(a) of title
10 18, United States Code, who is employed
11 in the Executive Office of the President,
12 other than a special Government employee
13 serving solely on a Federal advisory com-
14 mittee or presidential advisory committee.

15 (iv) An individual who previously
16 served in the Federal Government in a ca-
17 pacity described in clause (i), (ii), or (iii)
18 during the preceding 6-year period.

19 (B) EXCLUSION.—The term “covered em-
20 ployee” excludes any individual described in
21 section 13107(a)(1) of title 5, United States
22 Code.

23 (3) COVERED ETHICS RECORD.—

24 (A) INCLUSIONS.—The term “covered eth-
25 ics record”—

1 (i) with respect to any individual,
2 means—

3 (I) each approval granted pursu-
4 ant to subsection (b) or subsection (c)
5 of section 908 of title 37, United
6 States Code; and

7 (II) each report to Congress re-
8 quired under section 908(d) of title
9 37, United States Code; and

10 (ii) with respect to a covered em-
11 ployee, means—

12 (I) each public financial disclo-
13 sure report filed pursuant to section
14 13103 or section 13105(l) of title 5,
15 United States Code;

16 (II) each amendment to a public
17 financial disclosure report filed pursu-
18 ant to section 13103 or section
19 13105(l) of title 5, United States
20 Code;

21 (III) each waiver of—

22 (aa) a post-employment re-
23 striction, pursuant to subsection
24 (c)(2)(C) or subsection (k) of sec-

1 tion 207 of title 18, United
2 States Code;

3 (bb) section 208(a) of title
4 18, United States Code, that has
5 been issued pursuant to section
6 208(b)(1) of title 18, United
7 States Code;

8 (cc) a publicly available re-
9 quest for a waiver of any public
10 financial disclosure requirement
11 made pursuant to section
12 13103(i) of title 5, United States
13 Code; and

14 (dd) a publicly available re-
15 quest for a waiver of the require-
16 ment to aggregate a gift for pub-
17 lic reporting purposes made pur-
18 suant to section 13104(a)(2)(C)
19 of title 5, United States Code;

20 (IV) any written authorization,
21 as applicable, of an individual to par-
22 ticipate in a matter from which
23 recusal would otherwise be required
24 under any provision of law, regulation,
25 executive order, or policy pertaining to

1 Government ethics and applicable to
2 the individual as an employee of the
3 executive branch;

4 (V) each written approval or
5 written authorization permitting an
6 individual to accept a gift from an
7 outside source that would otherwise be
8 prohibited under section 7353 of title
9 5, United States Code, or any other
10 provision of law, regulation, executive
11 order, or policy pertaining to govern-
12 ment ethics and applicable to the indi-
13 vidual as an employee of the executive
14 branch;

15 (VI) each written determina-
16 tion—

17 (aa) that a position may be
18 excluded from otherwise applica-
19 ble public financial disclosure re-
20 quirements, pursuant to section
21 13103(f)(5) of title 5, United
22 States Code; or

23 (bb) that an employee of the
24 executive branch, or the spouse
25 or minor child of an employee of

1 the executive branch, must divest
2 a financial interest;

3 (VII) each written ethics agree-
4 ment, recusal, or screening arrange-
5 ment pertaining to employment in the
6 executive branch;

7 (VIII) each record of the comple-
8 tion by a presidential appointee of
9 ethics training required under a regu-
10 lation of the Office of Government
11 Ethics;

12 (IX) each certificate of divesti-
13 ture issued pursuant to section 1043
14 of the Internal Revenue Code of 1986
15 and each request that resulted in the
16 issuance of a certificate of divestiture;

17 (X) each qualified blind trust
18 agreement and each record described
19 in section 13104(f)(5)(D) of title 5,
20 United States Code;

21 (XI) each record submitted pur-
22 suant to section 13103(b)(1) of title
23 5, United States Code, for the pur-
24 pose of making current, with respect
25 to income and honoraria, a financial

1 disclosure filed pursuant to that para-
2 graph;

3 (XII) each notice submitted pur-
4 suant to section 13111 of title 5,
5 United States Code, and any certifi-
6 cation by a Senate-confirmed presi-
7 dential appointee as to compliance
8 with an ethics agreement, whether
9 submitted to the respective agency,
10 the Office of Government Ethics, or
11 the Senate;

12 (XIII) any written opinion issued
13 pursuant to section 847 of the Na-
14 tional Defense Authorization Act for
15 Fiscal Year 2008 (Public Law 110-
16 181; 10 U.S.C. 1701 note), except
17 that the agency may redact the name
18 of an individual or organization with
19 whom an individual has not yet ac-
20 cepted an offer of employment or
21 compensation; and

22 (XIV) any notification filed pur-
23 suant to section 17 of the STOCK
24 Act (5 U.S.C. 13103 note), except
25 that the agency may withhold the

1 public release of any such notification
2 unless and until such time as the em-
3 ployee has accepted an offer of em-
4 ployment or compensation from an in-
5 dividual or organization that is the
6 subject of the notification.

7 (B) EXCLUSIONS.—The term “covered eth-
8 ics record” excludes—

9 (i) classified information, as defined
10 in section 798 of title 18, United States
11 Code;

12 (ii) the subject of any ongoing law en-
13 forcement matter that, in the opinion of
14 the agency, requires the information or
15 record to be kept confidential;

16 (iii) information, including any con-
17 fidential financial disclosure report, filed
18 pursuant to section 13109 of title 5,
19 United States Code, except that such ex-
20 clusion shall not be construed to exclude
21 from inclusion in any database established
22 under this Act, or to authorize redaction
23 of, any conflict of interest waiver issued to
24 the filer of the confidential financial disclo-
25 sure report; or

1 (iv) individualized ethics counseling or
2 advice concerning an interpretation of ap-
3 plicable legal requirements that has been
4 provided by an ethics official to an indi-
5 vidual, except that such information or
6 record shall not be excluded if such infor-
7 mation or record is a covered record under
8 subparagraph (A).

9 (4) DIRECTOR.—The term “Director” means
10 the Director of the Office of Government Ethics .

11 (5) NONCAREER EMPLOYEE.—The term “non-
12 career employee” means an individual who is—

13 (A) serving in a position to which the
14 President appointed the individual (without re-
15 gard to whether the advice and consent of the
16 Senate was required with respect to that ap-
17 pointment), other than an individual who is—

18 (i) a member of a uniformed service,
19 as that term is defined in section 210(m)
20 of the Social Security Act (42 U.S.C.
21 410(m)); or

22 (ii) a member of the Foreign Service
23 serving under a career appointment, as de-
24 scribed in section 301 of the Foreign Serv-
25 ice Act of 1980 (22 U.S.C. 3941);

1 (B) a noncareer appointee, as that term is
2 defined in section 3132(a) of title 5, United
3 States Code;

4 (C) serving in a position in a Federal execu-
5 tive system that is comparable to the Senior
6 Executive Service, the appointment to which is
7 not made through merit-based procedures, such
8 as a position in the Transportation Security
9 Executive Service; or

10 (D) serving in a position with respect to
11 which a determination has been made under
12 section 7511(b)(2) of title 5, United States
13 Code.

14 (b) SPECIFICATIONS OF DATABASES.—Not later than
15 1 year after the date of the enactment of this Act, the
16 Director of the Office of Government Ethics shall publish
17 guidance for a bulk downloadable, but not machine read-
18 able, database created by each agency through which
19 members of the public can access covered ethics records
20 and that shall each be—

21 (1) hosted on an official website of each agency
22 without charge and without a requirement that
23 members of the public register for access;

24 (2) updated quarterly;

1 (3) accessible through an application program-
2 ming interface;

3 (4) fully compliant with—

4 (A) section 508 of the Rehabilitation Act
5 of 1973 (29 U.S.C. 794d); and

6 (B) the most recent Web Content Accessi-
7 bility Guidelines (or any successor guidelines);
8 and

9 (5) accessible through the website of each agen-
10 cy and through a single webpage operated by the Of-
11 fice of Government Ethics.

12 (c) ASSEMBLY OF COVERED ETHICS RECORDS.—Ex-
13 cept as provided in subsection (f), not later than 270 days
14 after publication of guidance under subsection (b), the
15 head of each agency shall compile electronic copies of cov-
16 ered ethics records that originated with the agency in such
17 format and through such means as is necessary to permit
18 their inclusion in the database of the agency pursuant to
19 the requirements published under subsection (b).

20 (d) ESTABLISHMENT OF DATABASES.—Not later
21 than 3 years after the date on which the Director pub-
22 lishes the guidance under subsection (b), each agency shall
23 create a database that complies with all requirements
24 under the guidance published under subsection (b).

1 (e) APPLICABILITY OF OTHER INSPECTION PROCE-
2 DURES.—

3 (1) IN GENERAL.—Subject to paragraph (2), no
4 identifier shall be required to search or sort the data
5 contained in the databases established pursuant to
6 subsection (d).

7 (2) DOWNLOADING DATA.—A login protocol
8 that includes the information required by section
9 13107(b)(2) of title 5, United States Code, shall be
10 utilized by any person downloading data contained
11 in the records compiled pursuant to subsection (c) of
12 this section.

13 (3) INSPECTION OF REPORTS.—Except as pro-
14 vided in paragraph (2), section 13107(b) of title 5,
15 United States Code, shall not otherwise apply for
16 purposes of this section to any records compiled pur-
17 suant to subsection (c).

18 (f) REDACTIONS.—

19 (1) CONTENTS OF REPORTS.—Nothing in this
20 section shall be construed to permit the redaction of
21 any information required to be released pursuant to
22 section 13104 of title 5, United States Code.

23 (2) PROHIBITIONS.—Covered ethics records
24 may not be redacted except to the extent necessary
25 to—

1 (A) ensure the exclusion of information de-
2 scribed in subsection (a)(3)(B);

3 (B) prevent the release of trade secrets or
4 commercial information that is privileged or
5 confidential, unless the disclosure of such infor-
6 mation is required pursuant to section 13104 of
7 title 5, United States Code; or

8 (C) prevent the release of information,
9 other than information required to be reported
10 under section 13104 of title 5, United States
11 Code, that, in the opinion of the agency, poses
12 an identifiable risk to the safety of an indi-
13 vidual, such as a street address, the name of a
14 minor, or a brokerage account number.

15 (g) REMOVAL OF RECORDS.—Notwithstanding any
16 other law regarding the disposition of records or informa-
17 tion, all covered ethics records relating to noncareer em-
18 ployees that are required to be included in the database
19 of an agency pursuant to this section shall remain publicly
20 available through the database for a period of 6 years after
21 the date on which the covered ethics record is first pub-
22 lished in the database.

23 (h) REPORTS.—

24 (1) INITIAL REPORT.—Not later than 30 days
25 after the establishment of a database under sub-

1 section (d), the relevant designated agency ethics of-
2 ficial shall submit a report to the Director that cer-
3 tifies the completeness of records in the database of
4 the agency and any information that is known to be
5 incomplete under the guidance published under sub-
6 section (b).

7 (2) ANNUAL REPORTS.—The Director shall
8 submit a report to the Committee on Homeland Se-
9 curity and Governmental Affairs of the Senate and
10 the Committee on Oversight and Accountability of
11 the House of Representatives regarding compliance
12 with the requirements under this Act each year until
13 each agency has complied with subsections (d) and
14 (g). The Director may include in any such annual
15 report any information contained in any report sub-
16 mitted to the Office under section 2638.207 of title
17 5, Code of Federal Regulations.

18 (i) SEVERABILITY.—If any provision of this Act or
19 the application of such provision to any person or cir-
20 cumstance is held to be unconstitutional, the remainder
21 of this Act, and the application of the remaining provisions
22 of this Act to any person or circumstance, shall not be
23 affected.

Amend the title so as to read: “A bill to establish
and maintain a database within each agency for executive

branch ethics records of noncareer appointees, and for other purposes.”.

