

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 6104
OFFERED BY MR. HICE OF GEORGIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Building the Next Generation of Federal Employees
4 Act”.

5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL INTERNS AND FELLOWS

- Sec. 101. Definitions.
- Sec. 102. Federal internship and fellowship center.
- Sec. 103. Internship coordinator.
- Sec. 104. Online Federal Government internship platform.
- Sec. 105. Underserved markets and demographics recruitment pilot program.
- Sec. 106. Compensation for Federal interns.
- Sec. 107. Information on use of expedited hiring authority for college graduates.
- Sec. 108. Competitive service examination advantages.
- Sec. 109. Government Accountability Office report on third-party internship providers.

TITLE II—CREATING SCHEDULE F IN THE EXCEPTED SERVICE

- Sec. 201. Short title.
- Sec. 202. Findings.
- Sec. 203. Schedule F of the excepted service.
- Sec. 204. Executive agency actions.
- Sec. 205. Definitions.

TITLE III—REMOVAL

- Sec. 301. Short title.

1 (2) EXECUTIVE AGENCY.—The term “Executive
2 agency” has the meaning given that term in section
3 105 of title 5, United States Code.

4 (3) FELLOWSHIP.—The term “fellowship”
5 means a short-term position (other than a post-fel-
6 lowship service requirement) that—

7 (A) is not less than one year and not more
8 than two years in length, or such other period
9 as determined appropriate by the Director of
10 the Office of Personnel Management for the
11 purposes of this paragraph; and

12 (B) is intended to provide the recipient
13 with work experience with an Executive agency
14 that is designed to prepare such recipient for
15 potential permanent employment with an Exec-
16 utive agency.

17 (4) FELLOW.—The term “fellow” means an in-
18 dividual who receives a fellowship.

19 (5) FELLOWSHIP PROGRAM.—The term “fellow-
20 ship program” means any program or operation that
21 recruits fellows and administers fellowships in the
22 Federal Government.

23 (6) INTERN.—The term “intern” means an in-
24 dividual serving in an internship. Interns employed
25 by third-party internship providers and placed in

1 Executive agencies may, to the extent permitted by
2 law or regulation, be treated as participants in any
3 federally sponsored internship programs.

4 (7) INTERNSHIP.—The term “internship”
5 means a short-term position (other than a post-fel-
6 lowship service requirement) for an individual en-
7 rolled in a high school, trade school, technical or vo-
8 cational institute, junior college, college, university,
9 or comparable recognized educational institution, or
10 the Job Corps program, that is not less than one
11 year and not more than two years in length (or such
12 other period as determined appropriate by the Direc-
13 tor of the Office of Personnel Management for the
14 purposes of this paragraph), designed to prepare
15 such individual for potential permanent employment
16 with an Executive agency, and offered under an in-
17 ternship program. Interns at Executive agencies who
18 are supported or administered by third-party intern-
19 ship providers may, to the extent permitted by law
20 and regulations, be treated as participants in any
21 federally sponsored internship program.

22 (8) INTERNSHIP PROGRAM.—The term “intern-
23 ship program” has the meaning given that term in
24 section 3111a(c)(1) of title 5, United States Code.

1 (9) JOB CORPS PROGRAM.—The term “Job
2 Corps” means the Job Corps program authorized
3 under section 143 of the Workforce Innovation and
4 Opportunity Act (29 U.S.C. 3193 et seq.).

5 (10) MISSION-CRITICAL SKILL.—The term
6 “mission-critical skill” means a skill or set of skills
7 that are critical to effectively carrying out the mis-
8 sion of an Executive agency, as determined by the
9 head of such Executive agency in consultation with
10 the Comptroller General of the United States.

11 (11) MISSION-CRITICAL SKILL GAP.—The term
12 “mission-critical skill gap” means a shortage of mis-
13 sion-critical skills causing, or that poses a risk of
14 causing, a substantial detrimental effect on the abil-
15 ity of an Executive agency to effectively carry out
16 the mission of such Executive agency in a manner
17 that is cost effective, as determined by the head of
18 such Executive agency in consultation with the
19 Comptroller General of the United States.

20 (12) SCHOLARSHIP.—The term “scholarship”
21 means financial support—

22 (A) paid by an Executive agency to-
23 wards—

24 (i) the cost of an individual to attend
25 either a course of study leading to a cre-

1 dential that help reduce or eliminate a mis-
2 sion-critical skill gap or another program
3 that requires the student to demonstrate
4 an interest in or agreement to pursue a ca-
5 reer in public service at an institution of
6 higher education that is authorized to par-
7 ticipate in a Federal student aid program
8 under title IV of the Higher Education Act
9 of 1965 (20 U.S.C. 1070 et seq.); or

10 (ii) financial support paid by a Execu-
11 tive agency towards the cost of an indi-
12 vidual to procure private instruction in a
13 mission-critical skill; and

14 (B) which may be paid directly to—

15 (i) the individual whose costs the
16 scholarship is intended to pay; or

17 (ii) the institutions of higher edu-
18 cation in which such individual is enrolled.

19 (13) SPONSORING AGENCY.—The term “spon-
20 soring agency” means any entity of the executive
21 branch of the United States Government, including
22 any Executive agency, any component of the Depart-
23 ment of Veterans Affairs, and any other agency (as
24 defined in section 551 of title 5, United States

1 Code), that administers a fellowship or scholarship,
2 or internship program.

3 **SEC. 102. FEDERAL INTERNSHIP AND FELLOWSHIP CEN-**
4 **TER.**

5 (a) ESTABLISHMENT OF FEDERAL INTERNSHIP AND
6 FELLOWSHIP CENTER.—The Director of the Office of
7 Personnel Management shall establish and maintain a
8 Federal Fellowship and Scholarship Center to administer,
9 manage, and promote all Government fellowship and in-
10 ternship programs within the executive branch to attract
11 individuals to serve in the Federal Government in a civil-
12 ian capacity and to facilitate the potential entry of those
13 individuals into the civil service.

14 (b) MANAGEMENT OF FEDERAL INTERNSHIP AND
15 FELLOWSHIP CENTER.—

16 (1) CHIEF HUMAN CAPITAL OFFICERS COUNCIL
17 GUIDANCE.—The Chief Human Capital Officers
18 Council shall provide strategic guidance to, and fa-
19 cilitate interagency cooperation with, the head of the
20 Federal Internship and Fellowship Center to help
21 such head more effectively—

22 (A) identify and attract interns to the civil
23 service; and

24 (B) recruit and hire interns who success-
25 fully complete internships into the civil service.

1 (2) REGULATIONS.—The Director shall issue
2 such regulations as may be necessary to implement
3 and manage the Federal Internship and Fellowship
4 Center, including the regulations described in section
5 108(g).

6 (c) FUNCTIONS OF THE FEDERAL INTERNSHIP AND
7 FELLOWSHIP CENTER.—The head of the Federal Intern-
8 ship and Fellowship Center shall do the following:

9 (1) Establish, maintain, and operate an inter-
10 net-based platform as part of the Platform estab-
11 lished under section 104, that is accessible to the
12 public and contains information regarding every in-
13 ternship and fellowship approved under section
14 108(a)(1)(B), and every scholarship opportunity,
15 available in the executive branch of the Federal Gov-
16 ernment, including information on how individuals
17 may apply for each such opportunity.

18 (2) Promote, and facilitate internship, fellow-
19 ship, and scholarship programs, and certify intern-
20 ship and fellowship programs under subsection (e),
21 at the request of any sponsoring agency to meet
22 workforce requirements of such sponsoring agency,
23 especially in mission-critical skill areas.

24 (3) Develop a standard application for Federal
25 internships and fellowships for use by applicants and

1 sponsoring agencies as part of the Platform estab-
2 lished under section 104, which may be supple-
3 mented by additional requirements of each spon-
4 soring agency.

5 (4) Ensure eligibility for an appointment to a
6 position in the civil service for all individuals who—

7 (A)(i) successfully complete at least one
8 year of an internship or fellowship that is part
9 of an internship or fellowship program that is
10 certified under subsection (e); or

11 (ii) are the recipients of scholarships; and

12 (B)(i) have obtained a qualifying degree or
13 completed a qualifying career or technical edu-
14 cation program, as determined by the Director;
15 or

16 (ii) are graduates (as defined in section
17 142 of the Workforce Innovation and Oppor-
18 tunity Act (29 U.S.C. 3192)).

19 (5) Develop a standard post-fellowship or post-
20 internship exit interview for use by sponsoring agen-
21 cies to solicit feedback and input from fellows and
22 interns about their experiences while performing
23 Federal service.

1 (6) Develop and promote best practices guid-
2 ance for agencies on building effective internship
3 and fellowship programs.

4 (7) Take such actions as the Director deter-
5 mines necessary to help Federal agencies identify
6 and recruit fellows and interns who could serve as
7 the next generation of Federal public servants.

8 (d) SPONSORING AGENCY REPORTING.—

9 (1) OFFICE OF PERSONNEL MANAGEMENT.—

10 (A) IN GENERAL.—The head of each spon-
11 soring agency shall submit to the Director a re-
12 port on the internship and fellowship programs
13 of, and scholarship programs offered by, the
14 sponsoring agency at such time, in such man-
15 ner, and containing such information as the Di-
16 rector determines appropriate.

17 (B) REGULATIONS.—Not later than 120
18 days after the date of the enactment of this
19 Act, the Director shall issue regulations for the
20 reports required by subparagraph (A).

21 (2) FEDERAL INTERNSHIP AND FELLOWSHIP
22 CENTER.—

23 (A) IN GENERAL.—Not later than 60 days
24 after the date of the enactment of this Act, and
25 not less than every two years thereafter, the

1 head of each sponsoring agency shall submit to
2 the head of the Federal Internship and Fellow-
3 ship Center the plan of the sponsoring agen-
4 cy—

5 (i) regarding intern and fellow train-
6 ing and engagement; and

7 (ii) for ensuring that interns and fel-
8 lows who complete an internship or fellow-
9 ship, respectively, of the sponsoring agency
10 qualify for the competitive service examina-
11 tion advantages under section 108.

12 (B) PLAN APPROVAL.—

13 (i) IN GENERAL.—The head of the
14 Federal Internship and Fellowship Center
15 shall approve or disapprove each plan sub-
16 mitted under subparagraph (A).

17 (ii) DISAPPROVAL NOTICE AND SUP-
18 PORT.—If the head of the Federal Intern-
19 ship and Fellowship Center disapproves of
20 a plan submitted under subparagraph (A),
21 the head shall—

22 (I) provide notice of the dis-
23 approval and an explanation why the
24 plan was disapproved to the head of

1 the sponsoring agency that submitted
2 the plan; and

3 (II) provide technical assistance
4 to such sponsoring agency to resolve
5 the deficiencies of such plan and re-
6 submit it for approval.

7 (C) COMPETITIVE SERVICE EXAMINATION
8 ADVANTAGES.—

9 (i) IN GENERAL.—If a sponsoring
10 agency fails to submit a plan required
11 under subparagraph (A) or that submits a
12 plan that is disapproved under subpara-
13 graph (B), the interns and fellows partici-
14 pating in an internship or fellowship of
15 such sponsoring agency shall be ineligible
16 for competitive service examination advan-
17 tages under section 108 until the date on
18 which such sponsoring agency submits a
19 plan described in subparagraph (A) and
20 the head of the Federal Internship and
21 Fellowship Center approves such plan.

22 (ii) EXCEPTION.—Clause (i) does not
23 apply with respect to a sponsoring agency
24 that submits a plan that is disapproved
25 under subparagraph (B) if, during the two-

1 year period immediately preceding such
2 disapproval, such sponsoring agency sub-
3 mitted a plan that was approved under
4 subparagraph (B).

5 (e) INTERNSHIP PROVIDER CERTIFICATION.—

6 (1) IN GENERAL.—The head of the Federal In-
7 ternship and Fellowship Center may certify each in-
8 ternship or fellowship program of each sponsoring
9 agency or third-party internship provider that the
10 head determines—

11 (A) demonstrates a track record of recruit-
12 ing diverse intern and fellow talent pools, as ap-
13 plicable, for at least the previous three years;

14 (B) possesses a meaningful training and
15 development program for interns and fellows, as
16 applicable;

17 (C) uses a non-partisan, merit-based selec-
18 tion process;

19 (D) provides career counseling services to
20 interns and fellows, as applicable;

21 (E) in the case of a sponsoring agency,
22 provides to the Office of Personnel Management
23 the plans of such sponsoring agency described
24 subsection (d)(2); and

1 (F) any other standards that the head of
2 the Federal Internship and Fellowship Center
3 determines appropriate.

4 (2) **THIRD-PARTY PROVIDER ADDITIONAL RE-**
5 **QUIREMENTS.**—To ensure the advancement of merit
6 systems principles and efficient administration of in-
7 ternship and fellowship programs, the head of the
8 Federal Internship and Fellowship Center may im-
9 pose additional requirements on a third-party intern-
10 ship provider before certifying the internships or fel-
11 lowships programs of such third-party internship
12 provider under paragraph (1), including require-
13 ments addressing ethical concerns or conflicts of in-
14 terest.

15 (f) **DEFINITIONS.**—In this section:

16 (1) **CAREER APPOINTEE.**—The term “career
17 appointee” has the meaning given such term in sec-
18 tion 3132(a) of title 5, United States Code.

19 (2) **DIRECTOR.**—The term “Director” means
20 the Director of the Office of Personnel Management.

21 **SEC. 103. INTERNSHIP COORDINATOR.**

22 (a) **INTERNSHIP COORDINATOR.**—Each internship
23 coordinator appointed under section 3111a of title 5,
24 United States Code, shall—

1 (1) serve as the main point of contact at the
2 sponsoring agency on all issues related to fellow-
3 ships, scholarships, and internships;

4 (2) establish a mentor program for interns and
5 fellows at the agency that incorporates best practices
6 as determined by the head of the Federal Internship
7 and Fellowship Center pursuant to section 102(c);
8 and

9 (3) generate and submit, in accordance with
10 subsection (c)(1), an annual report for the one-year
11 period ending on September 1 of the year in which
12 such report is submitted including—

13 (A) the number of interns and fellows who
14 served at the sponsoring agency;

15 (B) a list of third-party internship pro-
16 viders certified under section 102(e) that sup-
17 plied interns or fellows to the sponsoring agen-
18 cy;

19 (C) information regarding the demographic
20 characteristics of interns and fellows at such
21 agency, including, but not limited to educational
22 background, age, race, gender, and ethnicity,
23 except that no intern or fellow may be required
24 to provide such demographic characteristics for
25 the purposes of such report;

1 (D) a description of the steps taken by the
2 sponsoring agency to prepare and recruit suc-
3 cessful interns and fellows for positions in the
4 civil service;

5 (E) a description of any barriers to hiring
6 interns or fellows who successfully complete
7 their internships or fellowships, respectively;

8 (F) a description of activities engaged in
9 the sponsoring agency to recruit new interns
10 and fellows, including descriptions of locations
11 visited, methods used, and schools and stake-
12 holder organizations engaged;

13 (G) a list of the position descriptions for
14 the internships and fellowships offered at each
15 sponsoring agency;

16 (H) a description of the mentorship pro-
17 grams of such internship and fellowship pro-
18 grams;

19 (I) a summary of exit interviews conducted
20 and surveys administered by a sponsoring agen-
21 cy with respect to interns and fellows upon
22 their completion of an internship or fellowship
23 program at such agency; and

24 (J) other information as determined nec-
25 essary by the internship coordinator.

1 (b) IN GENERAL.—The head of each sponsoring
2 agency shall submit, in accordance with subsection (c)(1),
3 an annual report for the one-year period ending on Octo-
4 ber 1 of the year in which such report is submitted assess-
5 ing each fellowship and internship program of such spon-
6 soring agency in which fellows or interns, respectively, par-
7 ticipated during the reporting period.

8 (c) SUBMISSION.—

9 (1) REPORT TO OPM.—Each report required
10 under subsection (a) or (b) shall be submitted to the
11 Office of Personnel Management between October 1
12 and October 31 of each year.

13 (2) CONGRESSIONAL REPORT.—Not later than
14 December 30 of each year, the Office of Personnel
15 Management shall submit to Congress a report sum-
16 marizing the information submitted to the Office of
17 Personnel Management in accordance with para-
18 graph (1) for such year.

19 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed as overriding or otherwise permit-
21 ting any action not permitted under section 552a of title
22 5, United States Code.

1 **SEC. 104. ONLINE FEDERAL GOVERNMENT INTERNSHIP**
2 **PLATFORM.**

3 (a) ESTABLISHMENT OF AN ONLINE FEDERAL GOV-
4 ERNMENT INTERNSHIP PLATFORM.—The Director of the
5 Office of Personnel Management shall establish, maintain,
6 and promote an interactive and integrated internet-based
7 platform (in this section referred to as the “Platform”)
8 to serve as a centralized resource and database for the
9 public to learn about and connect with agencies and in-
10 ternship opportunities in Federal public service and for
11 agencies with internship needs and opportunities to iden-
12 tify skill sets and individuals with the skills necessary to
13 address their needs.

14 (b) USE OF THE SERVICE PLATFORM.—

15 (1) PUBLIC ACCESSIBILITY.—The Director shall
16 determine, and make accessible to the public on the
17 Platform, information about Federal internship, fel-
18 lowship, and scholarship service organizations and
19 opportunities, including a list of all third-party in-
20 ternship providers placing interns in Executive agen-
21 cies, without any requirement that a person seeking
22 such access become a member of the Platform.

23 (2) INFORMATION ON FEDERAL AGENCY.—
24 Each Executive agency that hosts interns or fellows
25 shall make available on the Platform—

1 (A) information sufficient for the public to
2 identify and understand the internship and fel-
3 lowship opportunities and mission of the Execu-
4 tive agency;

5 (B) information on the availability, loca-
6 tion, and duration of internship and fellowship
7 opportunities at, and scholarship opportunities
8 offered by, the Executive agency, including in-
9 ternships at the Executive agency available
10 through third-party internship providers;

11 (C) internet links to the hiring and recruit-
12 ing websites of the Executive agency; and

13 (D) such additional information as the Di-
14 rector may determine.

15 (c) MINIMUM DESIGN REQUIREMENTS.—In addition
16 to the requirements set forth in this section, the Platform
17 shall do the following:

18 (1) Provide the public with access to informa-
19 tion on internship, fellowship, and scholarship oppor-
20 tunities that is user-friendly, interactive, accessible,
21 and fully functional through mobile applications and
22 other widely-used communications media, without a
23 requirement that any person seeking such access
24 register as a member.

1 (2) Provide individuals with the ability to reg-
2 ister as members to customize their experience, in-
3 cluding mechanisms to connect members with agency
4 internship coordinators and internship, fellowship,
5 and scholarship opportunities that match the inter-
6 ests of the members, and ensure robust search capa-
7 bilities to facilitate the ability of members to explore
8 Federal internship, fellowship, and scholarship op-
9 portunities.

10 (3) Include mechanisms to enable agencies to
11 connect with members who have consented to be
12 contacted.

13 (4) Incorporate, to the extent permitted by law
14 and regulation, the ability of members to securely
15 upload information on education, employment, and
16 skills, knowledge, and abilities, consistent with secu-
17 rity requirements.

18 (5) Ensure compatibility, to the greatest extent
19 possible, with relevant information systems of Exec-
20 utive agencies.

21 (6) Retain all personal information in a manner
22 that protects the privacy of members in accordance
23 with section 552a of title 5, United States Code, and
24 other applicable law, provide access to information
25 relating to a member only in accordance with the

1 consent of the member, and incorporate data secu-
2 rity and control policies that are adequate to ensure
3 the confidentiality and security of information pro-
4 vided and maintained on the internet-based plat-
5 form.

6 (d) DEVELOPMENT OF SERVICE PLATFORM PLAN.—

7 (1) IMPLEMENTATION PLAN.—Not later than
8 180 days after the date of the enactment of this Act,
9 the Director shall develop a detailed plan to imple-
10 ment the internet-based platform that complies with
11 all the requirements of this section.

12 (2) CONSULTATION REQUIRED.—In developing
13 the plan under this subsection, the Director shall
14 consult with the head of the United States Digital
15 Service, the Chief Human Capital Officers Council,
16 and as needed, the heads of other Executive agen-
17 cies. Such consultation may include seeking assist-
18 ance in the design, development, and creation of the
19 internet-based platform.

20 (e) REPORTS TO CONGRESS.—Not later than 12
21 months after the date of the enactment of this Act, and
22 every 12 months thereafter, the Director shall provide a
23 report to Congress on the internet-based platform. Such
24 report shall include information on the following:

1 (1) Details on the status of implementation of
2 the internet-based platform and plans for further de-
3 velopment of it.

4 (2) Participation rates of sponsoring agencies
5 and members.

6 (3) The number of individuals visiting the inter-
7 net-based platform, the number of agencies partici-
8 pating in the platform, and the number of internship
9 opportunities posted on the internet-based platform
10 in the preceding 12-month period.

11 (4) Any cybersecurity or privacy concerns asso-
12 ciated with the internet-based platform.

13 (5) The results of any surveys or studies under-
14 taken to increase the use and efficacy of the inter-
15 net-based platform.

16 (6) Any additional information the Director
17 considers appropriate.

18 (f) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Office of Per-
20 sonnel Management for each fiscal year such funds as may
21 be necessary for the development, maintenance, improve-
22 ment, and promotion of the Internet-service platform.

1 **SEC. 105. UNDERSERVED MARKETS AND DEMOGRAPHICS**
2 **RECRUITMENT PILOT PROGRAM.**

3 (a) IN GENERAL.—The Director of the Office of Per-
4 sonnel Management shall, in coordination with the compo-
5 nents of Executive agencies and sponsoring agencies re-
6 sponsible for recruiting individuals, carry out a pilot pro-
7 gram to engage individuals from demographic populations,
8 such as those defined by gender, geography, socioeconomic
9 status, and mission-critical skills (as determined by a head
10 of a sponsoring agency), that the Director determines are
11 underrepresented in the Federal workforce for possible
12 participation in the civil service.

13 (b) CONSULTATION.—In developing a pilot program
14 under this section, the Director of the Office of Personnel
15 Management shall consult with the head of the Federal
16 Internship and Fellowship Center, the Chief Human Cap-
17 ital Officers Council, and the Equal Employment Oppor-
18 tunity Commission to develop best practices for engaging
19 individuals described in subsection (a).

20 **SEC. 106. COMPENSATION FOR FEDERAL INTERNS.**

21 (a) IN GENERAL.—Section 3111 of title 5, United
22 States Code, is amended—

23 (1) in the heading, by striking “**volunteer**”
24 and inserting “**student**”;

25 (2) in subsection (b)—

1 (A) in the matter preceding paragraph

2 (1)—

3 (i) by striking “Notwithstanding sec-
4 tion 1342 of title 31, the” and inserting
5 “The”; and

6 (ii) by striking “voluntary service”
7 and inserting “service from a student
8 under this section”;

9 (B) in paragraph (1)—

10 (i) by inserting before the semicolon
11 the following: “, but only insofar as the in-
12 stitution provides academic credit to the
13 student for the service”; and

14 (ii) by inserting “and” at the end;

15 (C) by striking paragraph (2); and

16 (D) by redesignating paragraph (3) as
17 paragraph (2);

18 (3) in subsection (c)—

19 (A) by striking “voluntary” each place it
20 appears; and

21 (B) in paragraph (1), by inserting “, sec-
22 tion 717 of the Civil Rights Act of 1964 (42
23 U.S.C. 2000e–16),” after “for injury”;

24 (4) in subsection (e)(2)(A), by striking “vol-
25 untary service” and inserting “service”; and

1 (5) by adding at the end the following new sub-
2 sections:

3 “(f) An agency may provide reimbursement for trans-
4 portation and subsistence expenses for any student who
5 provides service under subsection (b), pursuant to regula-
6 tions issued by the Office of Personnel Management.

7 “(g) A scholarship that is awarded by the agency to
8 which a student is providing services under subsection (b)
9 and that is awarded based at least in part on such services
10 shall be deemed to be compensation paid to such student
11 for such services.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 for chapter 31 of title 5, United States Code, is amended
14 in the item relating to section 3111 by striking “volun-
15 teer” and inserting “student”.

16 (c) CONFORMING AMENDMENTS.—

17 (1) SECTION 3111A.—Section 3111a(e)(1)(A) of
18 title 5, United States Code, is amended by striking
19 “volunteer service” and inserting “student service”.

20 (2) SECTION 7905.—Section 7905(a)(1) of title
21 5, United States Code, is amended by striking “vol-
22 untary”.

23 (d) CURRENT STUDENTS.—

24 (1) IN GENERAL.—Notwithstanding the amend-
25 ments made by this Act and section 1342 of title 31,

1 United States Code, the head of an Executive agen-
2 cy may accept voluntary services from any student
3 (as defined in section 3111(a) of title 5, United
4 States Code) who, immediately prior to the enact-
5 ment of this Act, provides such services to such Ex-
6 ecutive agency under a program established under
7 section 3111(b) of title 5, United States Code, until
8 the earliest date on which such student ceases to
9 participate in such program.

10 (2) CONTROLLING LAW.—The acceptance of
11 voluntary service under this subsection shall be in
12 accordance with the law as in effect immediately
13 prior to the date of the enactment of this Act.

14 **SEC. 107. INFORMATION ON USE OF EXPEDITED HIRING AU-**
15 **THORITY FOR COLLEGE GRADUATES.**

16 (a) IN GENERAL.—The head of each Executive agen-
17 cy shall submit to the Director of the Office of Personnel
18 Management information on the use of the authority
19 under section 3115 of title 5, United States Code, by such
20 Executive agency at such time, in such manner, and con-
21 taining such information as the Director determines ap-
22 propriate.

23 (b) PUBLICATION.—

24 (1) IN GENERAL.—Not less than once each fis-
25 cal-year quarter, the Director of the Office of Per-

1 sonnel Management shall publish on a database de-
2 scribed in paragraph (2) the information received
3 under subsection (a), including—

4 (A) the number individuals appointed
5 under section 3115 of title 5, United States
6 Code;

7 (B) the demographic information of such
8 individuals;

9 (C) the occupational series of the positions
10 to which such individuals were appointed; and

11 (D) the rates of pay for such individuals.

12 (2) EXISTING DATABASE USE.—The database
13 described in this paragraph is a publicly available
14 online database that is publicly available online as of
15 the date of the enactment of this Act.

16 **SEC. 108. COMPETITIVE SERVICE EXAMINATION ADVAN-**
17 **TAGES.**

18 (a) IN GENERAL.—

19 (1) ENTITLEMENT.—Except as provided in this
20 section and section 102(e)(2)(C), a fellow or intern
21 shall be entitled to the advantages described in para-
22 graph (2) if such fellow or intern completes a fellow-
23 ship or internship, respectively, that—

24 (A) is not less than one year in duration;

25 or

1 (B) the Director of the Office of Personnel
2 Management approves as entitling the individ-
3 uals who complete such fellowship or internship
4 to such credit.

5 (2) ADVANTAGES.—The advantages described
6 in this section are, with respect to examinations for
7 the competitive service in which experience is an ele-
8 ment of qualification—

9 (A) if the examining authority evaluating
10 applicants for a position in the competitive serv-
11 ice assigns applicants for such position indi-
12 vidual numerical ratings, five additional points
13 above the earned rating; or

14 (B) if the examining authority evaluating
15 applicants for such a position uses a category
16 rating system for such evaluation under section
17 3319 of title 5, United States Code, placement
18 in not lower than the second highest quality
19 category.

20 (b) ADVANTAGES USE LIMIT.—An individual shall be
21 entitled to the advantages under subsection (a) with re-
22 spect to only one appointment to a position in the competi-
23 tive service.

24 (c) APPLICATION.—An sponsoring agency or third-
25 party internship provider seeking the approval described

1 in subsection (a)(1)(B) for a fellowship or internship of-
2 fered by such entity shall—

3 (1) submit to the Director of the Office of Per-
4 sonnel Management an application at such time, in
5 such manner, and containing such information as
6 the Director determines appropriate; and

7 (2) comply with the applicable requirements de-
8 scribed under paragraph (1) of section 102(e) and
9 any applicable requirements imposed under para-
10 graph (2) of such section.

11 (d) **AUTHORITY TO HIRE.**—The head of an agency
12 (as defined in section 5379(a) of title 5, United States
13 Code) may only appoint an individual entitled to the ad-
14 vantages under subsection (a) to a position in such agency
15 pursuant to such advantages if a program has been estab-
16 lished under 5379(b) of such title for such agency.

17 (e) **REPORTS.**—

18 (1) **APPROVED FELLOWSHIP AND INTERNSHIP**
19 **REPORT.**—Not later than 180 days after the date of
20 the enactment of this Act, and each month there-
21 after, the Director shall submit to Congress a report
22 listing each individual entitled to the advantages
23 under subsection (a) pursuant to the completion of
24 an internship or fellowship of less than one year in
25 duration and providing a detailed justification for

1 the determination of the Director under subsection
2 (a)(1)(B) with respect to the internship or fellowship
3 completed by each such individual providing such en-
4 titlement.

5 (2) IMPLEMENTATION REPORT.—Not later than
6 one year after the date of the enactment of this Act,
7 and annually thereafter, the Director shall submit to
8 Congress a report on the implementation of this sec-
9 tion, including—

10 (A) the number of individuals appointed to
11 positions in the competitive service after becom-
12 ing entitled to the advantages under subsection
13 (a);

14 (B) the number of individuals described in
15 subparagraph (B) that became entitled to the
16 advantages under subsection (a) pursuant to an
17 internship or fellowship through a third-party
18 internship provider; and

19 (C) the Executive agencies employing indi-
20 viduals described in subparagraph (A);

21 (D) the impact of this section, if any, on—

22 (i) the appointment of veterans to po-
23 sitions in the civil service; and

24 (ii) diversity in the Federal workforce.

1 (3) DURATION EXCEPTION REPORT.—Not later
2 than one year after the date of the enactment of this
3 Act, the Director shall—

4 (A) submit to Congress a report describing
5 each internships and fellowships for which the
6 Director determines a minimum duration of one
7 year should not be relevant with respect to be-
8 coming entitled to the advantages under sub-
9 section (a) and explaining the reasoning for
10 each such determination; and

11 (B) post on the platform established under
12 section 104 such explanations and information
13 about each such internship and fellowship.

14 (f) REGULATIONS.—Not later than 180 days after
15 the date of the enactment of this Act, the Director shall
16 issue regulations carrying out this section.

17 (g) DEFINITIONS.—In this section:

18 (1) COMPETITIVE SERVICE.—The term “com-
19 petitive service” has the meaning given that term in
20 section 2102 of title 5, United States Code.

21 (2) DIRECTOR.—The term “Director” means
22 the Director of the Office of Personnel Management.

23 (h) SUNSET.—

1 (1) IN GENERAL.—This section shall terminate
2 on the date that is 10 years after the date of the
3 enactment of this Act.

4 (2) CURRENT ENTITLEMENTS.—Notwith-
5 standing paragraph (1), any individual who, imme-
6 diately before the termination date under paragraph
7 (a), is entitled to the advantages under subsection
8 (a) shall continue to be entitled to such advantages
9 in accordance with this section, as in effect imme-
10 diately before such date, for the 12-month period be-
11 ginning on the later of—

12 (A) the date on which the fellowship or in-
13 ternship of the fellow or intern ends; or

14 (B) the date on which the fellow or intern
15 obtains a qualifying degree or completes a
16 qualifying career or technical education pro-
17 gram, as determined by the Director.

18 **SEC. 109. GOVERNMENT ACCOUNTABILITY OFFICE REPORT**

19 **ON THIRD-PARTY INTERNSHIP PROVIDERS.**

20 (a) IN GENERAL.—Not later than three years after
21 the date of the enactment of this Act, the Comptroller
22 General shall submit to Congress a report on the use of
23 third-party internship providers by Federal agencies.

24 (b) CONTENTS.—The report under subsection (a)
25 shall include the following:

1 (1) The names of the third-party internship
2 providers.

3 (2) The number of interns placed at Federal
4 agencies by third-party internship providers.

5 (3) The Federal agencies that placed interns se-
6 lected by third-party internship providers.

7 (4) The process used by the third-party intern-
8 ship providers to select interns.

9 (5) Whether any of the interns placed or se-
10 lected by third-party internship providers accepted
11 an appointment to a position in the Federal govern-
12 ment following the completion of the internship
13 through the third-party internship provider.

14 (6) The compensation of interns placed or se-
15 lected by third-party internship providers.

16 (7) Recommendations for—

17 (A) improving the process of approving in-
18 ternship programs of third-party internship pro-
19 viders;

20 (B) addressing any ethical or conflict of in-
21 terest concerns arising from third-party intern-
22 ship providers paying for interns working for
23 the Federal government; and

24 (C) ensuring that the selection of third
25 party interns is based on the merit system prin-

1 principles described in section 2301(b) of title 5,
2 United States Code.

3 (c) UPDATE.—Not later than 10 years after the date
4 of the enactment of this Act, the Comptroller General shall
5 submit to Congress an update on the report submitted
6 under subsection (a).

7 **TITLE II—CREATING SCHEDULE** 8 **F IN THE EXCEPTED SERVICE**

9 **SEC. 201. SHORT TITLE.**

10 This title may be cited as the “Creating Schedule F
11 in the Excepted Service Act”.

12 **SEC. 202. FINDINGS.**

13 Congress finds the following:

14 (1) To effectively carry out the broad array of
15 activities assigned to the executive branch under law,
16 the President and his appointees must rely on men
17 and women in the Federal service employed in posi-
18 tions of a confidential, policy-determining, policy-
19 making, or policy-advocating character. Faithful exe-
20 cution of the law requires that the President have
21 appropriate management oversight regarding this se-
22 lect cadre of professionals.

23 (2) The Federal Government benefits from ca-
24 reer professionals in positions that are not normally
25 subject to change as a result of a Presidential tran-

1 sition but who discharge significant duties and exer-
2 cise significant discretion in formulating and imple-
3 menting executive branch policy and programs under
4 the laws of the United States. The heads of execu-
5 tive departments and agencies (agencies) and the
6 American people also entrust these career profes-
7 sionals with non-public information that must be
8 kept confidential.

9 (3) With the exception of attorneys in the Fed-
10 eral service who are appointed pursuant to schedule
11 A of the excepted service and members of the Senior
12 Executive Service, appointments to these positions
13 are generally made through the competitive service.
14 Given the importance of the functions they dis-
15 charge, employees in such positions must display ap-
16 propriate temperament, acumen, impartiality, and
17 sound judgment.

18 (4) Due to these requirements, agencies should
19 have a greater degree of appointment flexibility with
20 respect to these employees than is afforded by the
21 existing competitive service process.

22 (5) Further, effective performance management
23 of employees in confidential, policy-determining, pol-
24 icy-making, or policy-advocating positions is of the
25 utmost importance. Unfortunately, the Government's

1 current performance management is inadequate, as
2 recognized by Federal workers themselves. For in-
3 stance, the 2016 Merit Principles Survey reveals
4 that less than a quarter of Federal employees believe
5 their agency addresses poor performers effectively.

6 (6) Separating employees who cannot or will
7 not meet required performance standards is impor-
8 tant, and it is particularly important with regard to
9 employees in confidential, policy-determining, policy-
10 making, or policy-advocating positions. High per-
11 formance by such employees can meaningfully en-
12 hance agency operations, while poor performance
13 can significantly hinder them. Senior agency officials
14 report that poor performance by career employees in
15 policy-relevant positions has resulted in long delays
16 and substandard-quality work for important agency
17 projects, such as drafting and issuing regulations.

18 (7) Conditions of good administration make
19 necessary an exception to the competitive hiring
20 rules and examinations for career positions in the
21 Federal service of a confidential, policy-determining,
22 policy-making, or policy-advocating character. These
23 conditions include the need to provide agency heads
24 with additional flexibility to assess prospective ap-
25 pointees without the limitations imposed by competi-

1 tive service selection procedures. Placing these posi-
2 tions in the excepted service will mitigate undue lim-
3 itations on their selection. This action will also give
4 agencies greater ability and discretion to assess crit-
5 ical qualities in applicants to fill these positions,
6 such as work ethic, judgment, and ability to meet
7 the particular needs of the agency. These are all
8 qualities individuals should have before wielding the
9 authority inherent in their prospective positions, and
10 agencies should be able to assess candidates without
11 proceeding through complicated and elaborate com-
12 petitive service processes or rating procedures that
13 do not necessarily reflect their particular needs.

14 (8) Conditions of good administration similarly
15 make necessary excepting such positions from the
16 adverse action procedures set forth in chapter 75 of
17 title 5, United States Code. Chapter 75 of title 5,
18 United States Code, requires agencies to comply
19 with extensive procedures before taking adverse ac-
20 tion against an employee. These requirements can
21 make removing poorly performing employees dif-
22 ficult. Only a quarter of Federal supervisors are con-
23 fident that they could remove a poor performer. Ca-
24 reer employees in confidential, policy-determining,
25 policy-making, and policy-advocating positions wield

1 significant influence over Government operations
2 and effectiveness. Agencies need the flexibility to ex-
3 peditiously remove poorly performing employees
4 from these positions without facing extensive delays
5 or litigation.

6 **SEC. 203. SCHEDULE F OF THE EXCEPTED SERVICE.**

7 (a) IN GENERAL.—Appointments of individuals to
8 positions of a confidential, policy-determining, policy-mak-
9 ing, or policy-advocating character that are not normally
10 subject to change as a result of a Presidential transition
11 shall be made under schedule F of the excepted service,
12 as established by subsection (b).

13 (b) REGULATIONS.—The Director of the Office of
14 Personnel Management shall—

15 (1) amend section 6.2 of title 5, Code of Fed-
16 eral Regulations, to read as follows:

17 “OPM shall list positions that it excepts from the
18 competitive service in Schedules A, B, C, D, E, and F,
19 which schedules shall constitute parts of this rule, as fol-
20 lows:

21 “Schedule A. Positions other than those of a con-
22 fidential or policy-determining character for which it is not
23 practicable to examine shall be listed in Schedule A.

24 “Schedule B. Positions other than those of a con-
25 fidential or policy-determining character for which it is not

1 practicable to hold a competitive examination shall be list-
2 ed in Schedule B. Appointments to these positions shall
3 be subject to such noncompetitive examination as may be
4 prescribed by OPM.

5 “Schedule C. Positions of a confidential or policy-de-
6 termining character normally subject to change as a result
7 of a Presidential transition shall be listed in Schedule C.

8 “Schedule D. Positions other than those of a con-
9 fidential or policy-determining character for which the
10 competitive service requirements make impracticable the
11 adequate recruitment of sufficient numbers of students at-
12 tending qualifying educational institutions or individuals
13 who have recently completed qualifying educational pro-
14 grams. These positions, which are temporarily placed in
15 the excepted service to enable more effective recruitment
16 from all segments of society by using means of recruiting
17 and assessing candidates that diverge from the rules gen-
18 erally applicable to the competitive service, shall be listed
19 in Schedule D.

20 “Schedule E. Position of administrative law judge ap-
21 pointed under 5 U.S.C. 3105. Conditions of good adminis-
22 tration warrant that the position of administrative law
23 judge be placed in the excepted service and that appoint-
24 ment to this position not be subject to the requirements
25 of 5 CFR, part 302, including examination and rating re-

1 requirements, though each agency shall follow the principle
2 of veteran preference as far as administratively feasible.

3 “Schedule F. Positions of a confidential, policy-deter-
4 mining, policy-making, or policy-advocating character not
5 normally subject to change as a result of a Presidential
6 transition shall be listed in Schedule F. In appointing an
7 individual to a position in Schedule F, each agency shall
8 follow the principle of veteran preference as far as admin-
9 istratively feasible”;

10 (2) amend section 6.4 of title 5, Code of Fed-
11 eral Regulations, to read as follows:

12 “Except as required by statute, the Civil Service Rules
13 and Regulations shall not apply to removals from positions
14 listed in Schedules A, C, D, E, or F, or from positions
15 excepted from the competitive service by statute. The Civil
16 Service Rules and Regulations shall apply to removals
17 from positions listed in Schedule B of persons who have
18 competitive status.”;

19 (3) adopt such regulations as the Director de-
20 termines may be necessary to implement this title,
21 including, as appropriate, amendments to or rescis-
22 sions of regulations that are inconsistent with, or
23 that would impede the implementation of, this title,
24 giving particular attention to—

1 (A) section 302.101 of title 5, Code of
2 Federal Regulations;

3 (B) subpart D of part 212 of such title;
4 and

5 (C) subparts A and C of part 213 of such
6 title; and

7 (4) provide guidance on conducting a swift, or-
8 derly transition from the existing appointment proc-
9 esses to the schedule F process established by this
10 title.

11 **SEC. 204. EXECUTIVE AGENCY ACTIONS.**

12 (a) REVIEW.—

13 (1) IN GENERAL.—Each Executive agency head
14 shall conduct, not later than 90 days after the date
15 of enactment of this Act, a preliminary review of the
16 positions in the Executive agency that are covered
17 by subchapter II of chapter 75 of title 5, United
18 States Code, and shall conduct a complete review of
19 the positions in the agency not later than 210 days
20 after the date of enactment of this Act. Thereafter,
21 each agency head shall conduct a review of such po-
22 sitions that are covered by subchapter II of chapter
23 75 of title 5, United States Code, on at least an an-
24 nual basis.

25 (2) PETITIONS.—

1 (A) IN GENERAL.—Following a review
2 under paragraph (1), each agency head shall,
3 for positions not excepted from the competitive
4 service by statute, petition the Director to place
5 in schedule F any such competitive service,
6 schedule A, schedule B, or schedule D positions
7 in the Executive agency that the agency head
8 determines to be of a confidential, policy-deter-
9 mining, policy-making, or policy-advocating
10 character and that are not normally subject to
11 change as a result of a Presidential transition.

12 (B) PETITION EXPLANATION.—Any peti-
13 tion submitted under subparagraph (A) shall
14 include a written explanation documenting the
15 basis for the agency head’s determination that
16 such position should be placed in schedule F.

17 (3) DETERMINATIONS.—

18 (A) IN GENERAL.—Following a review
19 under paragraph (1), each agency head shall,
20 for positions excepted from the competitive
21 service by statute, determine which such posi-
22 tions are of a confidential, policy-determining,
23 policy-making, or policy-advocating character
24 and are not normally subject to change as a re-
25 sult of a Presidential transition.

1 (B) DETERMINATION EFFECT.—A position
2 which the agency head determines under sub-
3 paragraph (A) to be of a confidential, policy-de-
4 termining, policy-making, or policy-advocating
5 character and not normally subject to change as
6 a result of a Presidential transition shall be
7 considered a schedule F position for the pur-
8 poses of Executive agency actions under sub-
9 sections (d) and (f).

10 (C) PUBLICATION.—An agency head shall
11 publish each determination made under sub-
12 paragraph (A) in the Federal Register.

13 (b) APPLICABILITY.—The requirements set forth in
14 subsection (a) shall apply to currently existing positions
15 and newly created positions.

16 (c) ADDITIONAL CONSIDERATION.—When con-
17 ducting the review required by subsection (a), each agency
18 head should give particular consideration to the appro-
19 priateness of either petitioning the Director to place in
20 schedule F or including in the determination published in
21 the Federal Register, as applicable, positions of which the
22 duties include any of the following:

23 (1) Substantive participation in the advocacy
24 for or development or formulation of policy, espe-
25 cially—

1 (A) substantive participation in the devel-
2 opment or drafting of regulations and guidance;
3 or

4 (B) substantive policy-related work in an
5 Executive agency or Executive agency compo-
6 nent that primarily focuses on policy.

7 (2) The supervision of attorneys.

8 (3) Substantial discretion to determine the
9 manner in which the Executive agency exercises
10 functions committed to the agency by law.

11 (4) Viewing, circulating, or otherwise working
12 with proposed regulations, guidance, executive or-
13 ders, or other non-public policy proposals or deliber-
14 erations generally covered by deliberative process
15 privilege and either—

16 (A) directly reporting to or regularly work-
17 ing with an individual appointed by either the
18 President or an agency head who is paid at a
19 rate not less than that earned by employees at
20 Grade 13 of the General Schedule; or

21 (B) working in the Executive agency or
22 Executive agency component executive secre-
23 tariat (or equivalent).

1 (5) Conducting, on the Executive agency's be-
2 half, collective bargaining negotiations under chapter
3 71 of title 5, United States Code.

4 (d) PETITION DECISION.—The Director shall
5 promptly determine whether to grant any petition under
6 subsection (a). Not later than December 31 of each year,
7 the Director shall report to the President, through the Di-
8 rector of the Office of Management and Budget and the
9 Assistant to the President for Domestic Policy, concerning
10 the number of petitions granted and denied for that year
11 for each Executive agency.

12 (e) COLLECTIVE BARGAINING EXCLUSIONS.—Each
13 agency head shall, as necessary and appropriate, expedi-
14 tiously petition the Federal Labor Relations Authority to
15 determine whether any schedule F position must be ex-
16 cluded from a collective bargaining unit under section
17 7112(b) of title 5, United States Code, paying particular
18 attention to the question of whether incumbents in such
19 positions are required or authorized to formulate, deter-
20 mine, or influence the policies of the agency.

21 (f) PROHIBITED PERSONNEL PRACTICES.—Agency
22 heads shall establish rules to prohibit the personnel prac-
23 tices prohibited by section 2302(b) of title 5, United
24 States Code, with respect to any employee or applicant
25 for employment in schedule F of the excepted service.

1 **SEC. 205. DEFINITIONS.**

2 In this title:

3 (1) AGENCY HEAD.—The term “agency head”
4 means the head of an Executive agency.

5 (2) DIRECTOR.—The term “Director” means
6 the Director of the Office of Personnel Management.

7 (3) EXECUTIVE AGENCY.—The term “Executive
8 agency” has the meaning given such term in section
9 105 of title 5, United States Code, but excluding the
10 Government Accountability Office.

11 (4) NORMALLY SUBJECT TO CHANGE AS A RE-
12 SULT OF A PRESIDENTIAL TRANSITION.—The term
13 “normally subject to change as a result of a Presi-
14 dential transition” refers to positions whose occu-
15 pants are, as a matter of practice, expected to resign
16 upon a Presidential transition, including all positions
17 whose appointment requires the assent of the White
18 House Office of Presidential Personnel.

19 **TITLE III—REMOVAL**

20 **SEC. 301. SHORT TITLE.**

21 This title may be cited as the “Promoting Account-
22 ability and Streamlining Removal Procedures Consistent
23 with Merit System Principles Act”.

24 **SEC. 302. FINDINGS.**

25 Congress finds the following:

1 (1) Federal merit system principles call for
2 holding Federal employees accountable for perform-
3 ance and conduct.

4 (2) They state that employees should maintain
5 high standards of integrity, conduct, and concern for
6 the public interest, and that the Federal workforce
7 should be used efficiently and effectively. They fur-
8 ther state that employees should be retained based
9 on the adequacy of their performance, inadequate
10 performance should be corrected, and employees
11 should be separated who cannot or will not improve
12 their performance to meet required standards.

13 (3) Unfortunately, implementation of America's
14 civil service laws has fallen far short of these ideals.

15 (4) The Federal Employee Viewpoint Survey
16 has consistently found that less than one-third of
17 Federal employees believe that the Government deals
18 with poor performers effectively.

19 (5) Failure to address unacceptable perform-
20 ance and misconduct undermines morale, burdens
21 good performers with subpar colleagues, and inhibits
22 the ability of any agency to accomplish their mis-
23 sions.

24 (6) This title advances the ability of supervisors
25 in agencies to promote civil servant accountability

1 consistent with merit system principles while simul-
2 taneously recognizing employees' procedural rights
3 and protections.

4 **SEC. 303. PRINCIPLES FOR ACCOUNTABILITY IN THE FED-**
5 **ERAL WORKFORCE.**

6 In managing the Federal workforce, and in addition
7 to the other requirements of this title, each agency shall,
8 to the greatest extent practicable, adhere to and carry out
9 the following principles:

10 (1) Removing unacceptable performers should
11 be a straightforward process that minimizes the bur-
12 den on supervisors. Agencies shall limit opportunity
13 periods to demonstrate acceptable performance
14 under section 4302(c)(6) of title 5, United States
15 Code, to the amount of time that provides sufficient
16 opportunity to demonstrate acceptable performance.

17 (2) Supervisors and deciding officials shall not
18 be required to use progressive discipline. The penalty
19 for an instance of misconduct should be tailored to
20 the facts and circumstances.

21 (3) Each employee's work performance and dis-
22 ciplinary history is unique, and disciplinary action
23 should be calibrated to the specific facts and cir-
24 cumstances of each individual employee's situation.
25 Conduct that justifies discipline of one employee at

1 one time does not necessarily justify similar dis-
2 cipline of a different employee at a different time—
3 particularly where the employees are in different
4 work units or chains of supervision—and agencies
5 are not prohibited from removing an employee sim-
6 ply because they did not remove a different employee
7 for comparable conduct. Nonetheless, employees
8 should be treated equitably, so agencies should con-
9 sider appropriate comparators as they evaluate po-
10 tential disciplinary actions.

11 (4) Suspension should not be a substitute for
12 removal in circumstances in which removal would be
13 appropriate. Agencies should not require suspension
14 of an employee before proposing to remove that em-
15 ployee, except as may be appropriate under applica-
16 ble facts.

17 (5) When taking disciplinary action, agencies
18 should have discretion to take into account an em-
19 ployee's disciplinary record and past work record, in-
20 cluding all past misconduct—not only similar past
21 misconduct. Agencies should provide an employee
22 with appropriate notice when taking a disciplinary
23 action.

24 (6) To the extent practicable, agencies should
25 issue decisions on proposed removals taken under

1 chapter 75 of title 5, United States Code, within 15
2 business days of the end of the employee reply pe-
3 riod following a notice of proposed removal.

4 (7) To the extent practicable, agencies should
5 limit the written notice of adverse action to the 30
6 days prescribed in section 7513(b)(1) of title 5,
7 United States Code.

8 (8) The removal procedures set forth in chapter
9 75 of title 5, United States Code, should be used in
10 appropriate cases to address instances of unaccept-
11 able performance.

12 (9) A probationary period should be used as the
13 final step in the hiring process of a new employee.
14 Supervisors should use that period to assess how
15 well an employee can perform the duties of a job. A
16 probationary period can be a highly effective tool to
17 evaluate a candidate's potential to be an asset to an
18 agency before the candidate's appointment becomes
19 final.

20 (10) Following issuance of regulations under
21 section 308 of this title, agencies should prioritize
22 performance over length of service when determining
23 which employees will be retained following a reduc-
24 tion in force.

1 **SEC. 304. STANDARD FOR NEGOTIATING GRIEVANCE PRO-**
2 **CEDURES.**

3 Whenever reasonable in view of the particular cir-
4 cumstances, agency heads shall endeavor to exclude from
5 the application of any grievance procedures negotiated
6 under section 7121 of title 5, United States Code, any
7 dispute concerning decisions to remove any employee from
8 Federal service for misconduct or unacceptable perform-
9 ance. Each agency shall commit the time and resources
10 necessary to achieve this goal and to fulfill its obligation
11 to bargain in good faith. If an agreement cannot be
12 reached, the agency shall promptly request the assistance
13 of the Federal Mediation and Conciliation Service and, as
14 necessary, the Federal Service Impasses Panel in the reso-
15 lution of the disagreement. Not later than 30 days after
16 the date of adoption of any collective bargaining agree-
17 ment that fails to achieve this goal, the agency head shall
18 provide an explanation to the President, through the Di-
19 rector of the Office of Personnel Management (in this title
20 referred to as the “Director”).

21 **SEC. 305. MANAGING THE FEDERAL WORKFORCE.**

22 To promote good morale in the Federal workforce,
23 employee accountability, and high performance, and to en-
24 sure the effective and efficient accomplishment of agency
25 missions and the efficiency of the Federal service, no agen-
26 cy shall—

1 (1) subject to grievance procedures or binding
2 arbitration disputes concerning—

3 (A) the assignment of ratings of record; or

4 (B) the award of any form of incentive
5 pay, including cash awards; quality step in-
6 creases; or recruitment, retention, or relocation
7 payments;

8 (2) make any agreement, including a collective
9 bargaining agreement—

10 (A) that limits the agency's discretion to
11 employ the removal procedures set forth in
12 chapter 75 of title 5, United States Code, to
13 address unacceptable performance of an em-
14 ployee;

15 (B) that requires the use of procedures
16 under chapter 43 of title 5, United States Code
17 (including any performance assistance period or
18 similar informal period to demonstrate im-
19 proved performance prior to the initiation of an
20 opportunity period under section 4302(c)(6) of
21 such title), before removing an employee for un-
22 acceptable performance; or

23 (C) that limits the agency's discretion to
24 remove an employee from Federal service with-
25 out first engaging in progressive discipline; or

1 (3) generally afford an employee more than a
2 30-day period to demonstrate acceptable perform-
3 ance under section 4302(c)(6) of title 5, United
4 States Code, except when the agency determines in
5 its sole and exclusive discretion that a longer period
6 is necessary to provide sufficient time to evaluate an
7 employee's performance.

8 **SEC. 306. ENSURING INTEGRITY OF PERSONNEL FILES.**

9 Agencies shall not agree to erase, remove, alter, or
10 withhold from another agency any information about a ci-
11 vilian employee's performance or conduct in that employ-
12 ee's official personnel records, including an employee's Of-
13 ficial Personnel Folder and Employee Performance File,
14 as part of, or as a condition to, resolving a formal or infor-
15 mal complaint by the employee or settling an administra-
16 tive challenge to an adverse personnel action.

17 **SEC. 307. DATA COLLECTION OF ADVERSE ACTIONS.**

18 (a) IN GENERAL.—For fiscal year 2021 and for each
19 fiscal year thereafter, each agency shall provide, to the Di-
20 rector, the Committee on Oversight and Reform of the
21 House of Representatives, and the Committee on Home-
22 land Security and Governmental Affairs of the Senate, a
23 report containing information on—

1 (1) the number of civilian employees in a proba-
2 tionary period or otherwise employed for a specific
3 term who were removed by the agency;

4 (2) the number of civilian employees rep-
5 rimanded in writing by the agency;

6 (3) the number of civilian employees afforded
7 an opportunity period by the agency under section
8 4302(e)(6) of title 5, United States Code, breaking
9 out the number of such employees receiving an op-
10 portunity period longer than 30 days;

11 (4) the number of adverse personnel actions
12 taken against civilian employees by the agency, bro-
13 ken down by type of adverse personnel action, in-
14 cluding reduction in grade or pay (or equivalent),
15 suspension, and removal;

16 (5) the number of decisions on proposed remov-
17 als by the agency taken under chapter 75 of title 5,
18 United States Code, not issued within 15 business
19 days of the end of the employee reply period;

20 (6) the number of adverse personnel actions by
21 the agency for which employees received written no-
22 tice in excess of the 30 days prescribed in section
23 7513(b)(1) of title 5, United States Code;

1 (7) the number and key terms of settlements
2 reached by the agency with civilian employees in
3 cases arising out of adverse personnel actions; and

4 (8) the resolutions of litigation about adverse
5 personnel actions involving civilian employees
6 reached by the agency.

7 (b) PUBLICATION.—To enhance public accountability
8 of agencies for their management of the Federal work-
9 force, the Director shall, consistent with applicable law,
10 publish the information received under subsection (a) of
11 this section, at the minimum level of aggregation nec-
12 essary to protect personal privacy. The Director may with-
13 hold particular information if publication would unduly
14 risk disclosing information protected by law, including per-
15 sonally identifiable information.

16 (c) GUIDANCE.—Not later than 60 days after the
17 date of enactment of this Act, the Director shall issue
18 guidance regarding the implementation of this section, in-
19 cluding with respect to any exemptions necessary for com-
20 pliance with applicable law and the reporting format for
21 submissions required by subsection (a).

22 **SEC. 308. IMPLEMENTATION.**

23 (a) IN GENERAL.—Not later than 45 days after the
24 date of enactment of this Act, the Director shall examine
25 whether existing regulations effectuate the principles set

1 forth in section 303 and the requirements of sections 304,
2 305, 306, and 307. To the extent necessary or appro-
3 priate, the Director shall, as soon as practicable, propose
4 for notice and public comment appropriate regulations to
5 effectuate the principles set forth in section 303 and the
6 requirements of sections 304, 305, 306, and 307.

7 (b) REVISION OF POLICIES.—The head of each agen-
8 cy shall take steps to conform internal agency discipline
9 and unacceptable performance policies to the principles
10 and requirements of this title. Each agency head shall—

11 (1) not later than 45 days after the date of en-
12 actment of this Act, revise its discipline and unac-
13 ceptable performance policies to conform to the prin-
14 ciples and requirements of this title, in areas where
15 new final Office of Personnel Management regula-
16 tions are not required, and shall further revise such
17 policies as necessary to conform to any new final Of-
18 fice regulations, within 45 days of the issuance of
19 such regulations; and

20 (2) renegotiate, as applicable, any collective
21 bargaining agreement provisions that are incon-
22 sistent with any part of this title or any final Office
23 of Personnel Management regulations promulgated
24 pursuant to this title.

1 (c) COLLECTIVE BARGAINING.—In carrying out sub-
2 section (b)(2), each agency shall give any contractually re-
3 quired notice of its intent to alter the terms of such agree-
4 ment and reopen negotiations. Each agency shall subse-
5 quently conform such terms to the requirements of this
6 title, and to any final Office regulations issued pursuant
7 to this title, on the earliest practicable date permitted by
8 law.

9 (d) REPORT.—Not later than 15 months after the
10 adoption of any final rules issued pursuant to subsection
11 (a) of this section, the Director shall submit to the Presi-
12 dent a report, through the Director of the Office of Man-
13 agement and Budget, evaluating the effect of those rules,
14 including their effect on the ability of Federal supervisors
15 to hold employees accountable for their performance.

16 (e) GOVERNMENT-WIDE TRAINING.—Within a rea-
17 sonable amount of time following the adoption of any final
18 rules issued pursuant to subsection (a), the Director and
19 the Chief Human Capital Officers Council shall undertake
20 a Government-wide initiative to educate Federal super-
21 visors about holding employees accountable for unaccept-
22 able performance or misconduct under those rules.

1 **SEC. 309. GENERAL PROVISIONS.**

2 (a) CONSULTATION REQUIRED; COLLECTIVE BAR-
3 GAINING.—Agencies shall consult with employee labor rep-
4 resentatives about the implementation of this title.

5 (b) APPLICATION.—Nothing in this title shall abro-
6 gate any collective bargaining agreement in effect on the
7 date of enactment of this title.

8 (c) DEFINITION OF AGENCY.—In this title, the term
9 “agency” has the meaning given the term “Executive
10 agency” in section 105 of title 5, United States Code, but
11 not including the Government Accountability Office.

12 **TITLE IV—UNION TIME**

13 **SEC. 401. SHORT TITLE.**

14 This title may be cited as the “Ensuring Trans-
15 parency, Accountability, and Efficiency in Taxpayer-
16 Funded Federal Union Time Use Act”.

17 **SEC. 402. PURPOSES.**

18 The purposes of this title are as follows:

19 (1) An effective and efficient government keeps
20 careful track of how it spends the taxpayers’ money
21 and eliminates unnecessary, inefficient, or unreason-
22 able expenditures. To advance this policy, executive
23 branch employees should spend their duty hours per-
24 forming the work of the Federal Government and
25 serving the public.

1 (2) Federal law allows Federal employees to
2 represent labor organizations and perform other
3 non-agency business while being paid by American
4 taxpayers (taxpayer-funded union time). The Con-
5 gress, however, has also instructed the executive
6 branch to interpret the law in a manner consistent
7 with the requirements of an effective and efficient
8 government.

9 (3) To that end, agencies should ensure that
10 taxpayer-funded union time is used efficiently and
11 authorized in amounts that are reasonable, nec-
12 essary, and in the public interest. Federal employees
13 should spend the clear majority of their duty hours
14 working for the public. No agency should pay for
15 Federal labor organizations' expenses, except where
16 required by law. Agencies should eliminate unre-
17 stricted grants of taxpayer-funded union time and
18 instead require employees to obtain specific author-
19 ization before using such time. Agencies should also
20 monitor use of taxpayer-funded union time, ensure it
21 is used only for authorized purposes, and make in-
22 formation regarding its use readily available to the
23 public.

1 **SEC. 403. DEFINITIONS.**

2 For purposes of this title, the following definitions
3 shall apply:

4 (1) AGENCY.—Except for purposes of section
5 405, the term “agency” has the meaning given the
6 term in section 7103(a)(3) of title 5, United States
7 Code, but includes only executive agencies. For pur-
8 poses of section 405, the term “agency” has the
9 meaning given the term “Executive agency” in sec-
10 tion 105 of title 5, United States Code, but excludes
11 the Government Accountability Office.

12 (2) AGENCY BUSINESS.—The term “agency
13 business” means work performed by Federal employ-
14 ees, including detailees or assignees, on behalf of an
15 agency, but does not include work performed on tax-
16 payer-funded union time.

17 (3) BARGAINING UNIT.—The term “bargaining
18 unit” means a group of employees represented by an
19 exclusive representative in an appropriate unit for
20 collective bargaining under subchapter II of chapter
21 71 of title 5, United States Code.

22 (4) DIRECTOR.—The term “Director” means
23 the Director of the Office of Personnel Management.

24 (5) DISCOUNTED USE OF GOVERNMENT PROP-
25 erty.—The term “discounted use of government
26 property” means charging less to use government

1 property than the value of the use of such property,
2 as determined by the General Services Administra-
3 tion, where applicable, or otherwise by the generally
4 prevailing commercial cost of using such property.

5 (6) EMPLOYEE.—The term “employee” has the
6 meaning given the term in section 7103(a)(2) of title
7 5, United States Code, except for purposes of section
8 405, in which case it means an individual employed
9 in an “Executive agency” as that term is defined in
10 section 105 of title 5, United States Code, but ex-
11 cluding the Government Accountability Office.

12 (7) GRIEVANCE.—The term “grievance” has
13 the meaning given the term in section 7103(a)(9) of
14 title 5, United States Code.

15 (8) LABOR ORGANIZATION.—The term “labor
16 organization” has the meaning given the term in
17 section 7103(a)(4) of title 5, United States Code.

18 (9) PAID TIME.—The term “paid time” means
19 time for which an employee is paid by the Federal
20 Government, including both duty time, in which the
21 employee performs agency business, and taxpayer-
22 funded union time. It does not include time spent on
23 paid or unpaid leave, or an employee’s off-duty
24 hours.

1 (10) TAXPAYER-FUNDED UNION TIME.—The
2 term “taxpayer-funded union time” means official
3 time granted to an employee pursuant to section
4 7131 of title 5, United States Code.

5 (11) UNION TIME RATE.—The term “union
6 time rate” means the total number of duty hours in
7 the fiscal year that employees in a bargaining unit
8 used for taxpayer-funded union time, divided by the
9 number of employees in such bargaining unit.

10 **SEC. 404. STANDARDS FOR REASONABLE AND EFFICIENT**
11 **TAXPAYER-FUNDED UNION TIME USAGE.**

12 (a) IN GENERAL.—No agency shall agree to author-
13 ize any amount of taxpayer-funded union time under sec-
14 tion 7131(d) of title 5, United States Code, unless such
15 time is reasonable, necessary, and in the public interest.
16 Notwithstanding such section 7131(d), agreements au-
17 thorizing taxpayer-funded union time that would cause the
18 union time rate in a bargaining unit to exceed 1 hour
19 should ordinarily, taking into account the size of the bar-
20 gaining unit, and the amount of taxpayer-funded union
21 time anticipated to be granted under sections 7131(a) and
22 7131(c) of such title, not be considered reasonable, nec-
23 essary, and in the public interest, or to satisfy the “effec-
24 tive and efficient” goal set forth in section 402 of this
25 title and section 7101(b) of such title. Agencies shall com-

1 mit the time and resources necessary to strive for a nego-
2 tiated union time rate of 1 hour or less, and to fulfill their
3 obligation to bargain in good faith.

4 (b) REPORT.—

5 (1) IN GENERAL.—If an agency agrees to au-
6 thorize amounts of taxpayer-funded union time
7 under section 7131(d) of title 5, United States Code,
8 that would cause the union time rate in a bargaining
9 unit to exceed 1 hour (or proposes to the Federal
10 Service Impasses Panel or an arbitrator engaging in
11 interest arbitration an amount that would cause the
12 union time rate in a bargaining unit to exceed 1
13 hour), the agency head shall report this agreement
14 or proposal to the President (through the Director
15 of the Office of Personnel Management), the Com-
16 mittee on Oversight and Reform of the House of
17 Representatives, and the Committee on Homeland
18 Security and Governmental Affairs within 15 days of
19 such an agreement or proposal. Such report shall ex-
20 plain why such expenditures are reasonable, nec-
21 essary, and in the public interest, describe the ben-
22 efit (if any) the public will receive from the activities
23 conducted by employees on such taxpayer-funded
24 union time, and identify the total cost of such time

1 to the agency. This reporting duty may not be dele-
2 gated.

3 (2) NOTIFICATION.—Each agency head shall re-
4 quire relevant subordinate agency officials to inform
5 the agency head 5 business days in advance of pre-
6 senting or accepting a proposal that would result in
7 a union time rate of greater than 1 hour for any
8 bargaining unit, if the subordinate agency officials
9 anticipate they will present or agree to such a provi-
10 sion.

11 (3) EXCEPTION.—The requirements of this sub-
12 section shall not apply to a union time rate estab-
13 lished pursuant to an order of the Federal Service
14 Impasses Panel or an arbitrator engaging in interest
15 arbitration, provided that the agency had proposed
16 that the Panel or arbitrator establish a union time
17 rate of 1 hour or less.

18 (c) APPLICATION.—Nothing in this section shall be
19 construed to prohibit any agency from authorizing tax-
20 payer-funded union time as required under sections
21 7131(a) and 7131(c) of title 5, United States Code, or
22 to direct an agency to negotiate to include in a collective
23 bargaining agreement a term that precludes an agency
24 from granting taxpayer-funded union time pursuant to
25 those provisions.

1 **SEC. 405. EMPLOYEE CONDUCT WITH REGARD TO AGENCY**
2 **TIME AND RESOURCES.**

3 (a) IN GENERAL.—To ensure that Federal resources
4 are used effectively and efficiently and in a manner con-
5 sistent with both the public interest and section 409, all
6 employees shall adhere to the following requirements:

7 (1) Employees may not engage in lobbying ac-
8 tivities during paid time, except in their official ca-
9 pacities as an employee.

10 (2)(A) Except as provided in subparagraph (B),
11 employees shall spend at least three-quarters of their
12 paid time, measured each fiscal year, performing
13 agency business or attending necessary training (as
14 required by their agency), in order to ensure that
15 they develop and maintain the skills necessary to
16 perform their agency duties efficiently and effec-
17 tively.

18 (B) Employees who have spent one-quarter of
19 their paid time in any fiscal year on non-agency
20 business may continue to use taxpayer-funded union
21 time in that fiscal year for purposes covered by sec-
22 tions 7131(a) or 7131(c) of title 5, United States
23 Code.

24 (C) Any time in excess of one-quarter of an em-
25 ployee's paid time used to perform non-agency busi-
26 ness in a fiscal year shall count toward the limita-

1 tion set forth in subparagraph (A) in subsequent fis-
2 cal years.

3 (3) No employee, when acting on behalf of a
4 Federal labor organization, may be permitted the
5 free or discounted use of government property or
6 any other agency resources if such free or dis-
7 counted use is not generally available for non-agency
8 business by employees when acting on behalf of non-
9 Federal organizations. Such property and resources
10 include office or meeting space, reserved parking
11 spaces, phones, photocopier machines, computers, and
12 computer systems.

13 (4) Employees may not be permitted reimburse-
14 ment for expenses incurred performing non-agency
15 business, unless required by law or regulation.

16 (5)(A) Employees may not use taxpayer-funded
17 union time to prepare or pursue grievances (includ-
18 ing arbitration of grievances) brought against an
19 agency under procedures negotiated pursuant to sec-
20 tion 7121 of title 5, United States Code, except
21 where such use is otherwise authorized by law or
22 regulation.

23 (B) The prohibition in subparagraph (A) does
24 not apply to—

1 (i) an employee using taxpayer-funded
2 union time to prepare for, confer with an exclu-
3 sive representative regarding, or present a
4 grievance brought on the employee's own be-
5 half; or to appear as a witness in any grievance
6 proceeding; or

7 (ii) an employee using taxpayer-funded
8 union time to challenge an adverse personnel
9 action taken against the employee in retaliation
10 for engaging in federally protected whistle-
11 blower activity, including for engaging in activ-
12 ity protected under section 2302(b)(8) of title
13 5, United States Code, under section 78u-
14 6(h)(1) of title 15, United States Code, under
15 section 3730(h) of title 31, United States Code,
16 or under any other similar whistleblower law.

17 (b) **ADVANCE AUTHORIZATION.**—Employees may not
18 use taxpayer-funded union time without advance written
19 authorization from their agency, except where obtaining
20 prior approval is deemed impracticable under regulations
21 or guidance adopted pursuant to subsection (c).

22 (c) **ADMINISTRATION.**—

23 (1) **IN GENERAL.**—The requirements of this
24 section shall become effective 45 days after the date
25 of enactment of this Act. The Office of Personnel

1 Management shall be responsible for administering
2 the requirements of this section. Not later than 45
3 days after the date of enactment of this Act, the Di-
4 rector shall examine whether existing regulations are
5 consistent with the rules set forth in this section. If
6 the regulations are not, the Director shall propose
7 for notice and public comment, as soon as prac-
8 ticable, appropriate regulations to clarify and assist
9 agencies in implementing these rules, consistent with
10 applicable law.

11 (2) AGENCY COMPLIANCE.—The head of each
12 agency is responsible for ensuring compliance by em-
13 ployees within such agency with the requirements of
14 this section. Each agency head shall examine wheth-
15 er existing regulations, policies, and practices are
16 consistent with the rules set forth in this section. If
17 they are not, the agency head shall take all appro-
18 priate steps to bring them into compliance with this
19 section as soon as practicable.

20 (d) APPLICATION.—Nothing in this title shall be con-
21 strued to prohibit agencies from permitting employees to
22 take unpaid leave to perform representational activities
23 under chapter 71 of title 5, United States Code, including
24 for purposes covered by section 7121(b)(1)(C) of such
25 title.

1 **SEC. 406. PREVENTING UNLAWFUL OR UNAUTHORIZED EX-**
2 **PENDITURES.**

3 (a) IN GENERAL.—Any employee who uses taxpayer-
4 funded union time without advance written agency author-
5 ization required by section 405(b), or for purposes not spe-
6 cifically authorized by the agency, shall be considered ab-
7 sent without leave and subject to appropriate disciplinary
8 action. Repeated misuse of taxpayer-funded union time
9 may constitute serious misconduct that impairs the effi-
10 ciency of the Federal service. In such instances, agencies
11 shall take appropriate disciplinary action to address such
12 misconduct.

13 (b) PROCEDURE FOR AUTHORIZING UNION TIME.—
14 As soon as practicable, but not later than 180 days after
15 the date of enactment of this Act, each agency shall de-
16 velop and implement a procedure governing the authoriza-
17 tion of taxpayer-funded union time under section 405(b).
18 Such procedure shall, at a minimum, require a requesting
19 employee to specify the number of taxpayer-funded union
20 time hours to be used and the specific purposes for which
21 such time will be used, providing sufficient detail to iden-
22 tify the tasks the employee will undertake. That procedure
23 shall also allow the authorizing official to assess whether
24 it is reasonable, necessary, and in the public interest to
25 grant such amount of time to accomplish such tasks. For
26 continuing or ongoing requests, each agency shall require

1 requests for authorization renewals to be submitted not
2 less than once per pay period. Each agency shall further
3 require separate advance authorization for any use of tax-
4 payer-funded union time in excess of previously authorized
5 hours or for purposes for which such time was not pre-
6 viously authorized.

7 (c) MONITORING USE OF UNION TIME.—As soon as
8 practicable, but not later than 180 days after the date of
9 enactment of this Act, each agency shall develop and im-
10 plement a system to monitor the use of taxpayer-funded
11 union time to ensure that it is used only for authorized
12 purposes, and that it is not used contrary to law or regula-
13 tion. In developing these systems, each agency shall give
14 special attention to ensuring taxpayer-funded union time
15 is not used for—

16 (1) internal union business in violation of sec-
17 tion 7131(b) of title 5, United States Code;

18 (2) lobbying activities in violation of section
19 1913 of title 18, United States Code, or in violation
20 of section 405(a)(1) of this title; or

21 (3) political activities in violation of subchapter
22 III of chapter 73 of title 5, United States Code.

23 **SEC. 407. AGENCY REPORTING REQUIREMENTS.**

24 (a) IN GENERAL.—Each agency shall submit, by a
25 date as determined by the Director, an annual report to

1 the Director, the Committee on Oversight and Reform of
2 the House of Representatives, and the Committee on
3 Homeland Security and Governmental Affairs on the fol-
4 lowing:

5 (1) The purposes for which the agency has au-
6 thorized the use of taxpayer-funded union time, and
7 the amounts of time used for each such purpose.

8 (2) The job title and total compensation of each
9 employee who has used taxpayer-funded union time
10 in the fiscal year, as well as the total number of
11 hours each employee spent on these activities and
12 the proportion of each employee's total paid hours
13 that number represents.

14 (3) If the agency has allowed labor organiza-
15 tions or individuals on taxpayer-funded union time
16 the free or discounted use of government property,
17 the total value of such free or discounted use.

18 (4) Any expenses, including travel or per diem
19 expenses, the agency paid for activities conducted on
20 taxpayer-funded union time.

21 (5) The amount of any reimbursement paid by
22 the labor organizations for the use of government
23 property.

24 (b) NOTIFICATION; REPORT.—

1 (1) NOTIFICATION.—Agencies shall notify the
2 Interagency Labor Relations Working Group (estab-
3 lished under title V of this Act) if a bargaining
4 unit’s union time rate exceeds 1 hour.

5 (2) REPORT.—Not later than 1 year after the
6 date of enactment of this Act and annually there-
7 after, the Director shall submit, to the Committee
8 on Oversight and Reform of the House of Represent-
9 atives and the Committee on Homeland Security and
10 Governmental Affairs, a report summarizing the
11 number and contents of notifications received under
12 paragraph (1) during the previous year.

13 (c) EXPLANATION.—If an agency’s aggregate union
14 time rate (defined in this subsection as the average of the
15 union time rates in each agency bargaining unit, weighted
16 by the number of employees in each unit) has increased
17 overall from the last fiscal year, the agency shall explain
18 this increase in the report required under subsection (a).

19 **SEC. 408. PUBLIC DISCLOSURE AND TRANSPARENCY.**

20 (a) IN GENERAL.—Not later than 180 days after the
21 date of the enactment of this Act, the Director shall pub-
22 lish a standardized form that each agency shall use in pre-
23 paring the reports required by section 407.

1 (b) ANALYSIS.—Not later than June 30 of each year,
2 the Director shall analyze the agency submissions under
3 section 407 and publish an annual report detailing—

4 (1) for each agency and for agencies in the ag-
5 gregate, the number of employees using taxpayer-
6 funded union time, the number of employees using
7 taxpayer-funded union time separately listed by in-
8 tervals of the proportion of paid time spent on such
9 activities, the number of hours spent on taxpayer-
10 funded union time, the cost of taxpayer-funded
11 union time (measured by the compensation of the
12 employees involved), the aggregate union time rate,
13 the number of bargaining unit employees, and the
14 percentage change in each of these values from the
15 previous fiscal year;

16 (2) for each agency and in the aggregate, the
17 value of the free or discounted use of any govern-
18 ment property the agency has provided to labor or-
19 ganizations, and any expenses, such as travel or per
20 diems, the agency paid for activities conducted on
21 taxpayer-funded union time, as well as the amount
22 of any reimbursement paid for such use of govern-
23 ment property, and the percentage change in each of
24 these values from the previous fiscal year;

1 such official to the Office of Personnel Management not
2 later than 30 days after the date of enactment of this Act.

3 (b) CONSULTATION.—Each agency shall consult with
4 employee labor representatives about the implementation
5 of this title. On the earliest date permitted by law, and
6 to effectuate the terms of this title, any agency that is
7 party to a collective bargaining agreement that has at
8 least one provision that is inconsistent with any part of
9 this title shall give any contractually required notice of its
10 intent to alter the terms of such agreement and either re-
11 open negotiations and negotiate to obtain provisions con-
12 sistent with this title, or subsequently terminate such pro-
13 vision and implement the requirements of this title.

14 (c) APPLICATION.—Nothing in this title shall abro-
15 gate any collective bargaining agreement in effect on the
16 date of enactment of this title.

17 **TITLE V—COST REDUCING IN** 18 **COLLECTIVE BARGAINING**

19 **SEC. 501. SHORT TITLE.**

20 This title may be cited as the “Developing Efficient,
21 Effective, and Cost-Reducing Approaches to Federal Sec-
22 tor Collective Bargaining Act”.

23 **SEC. 502. FINDINGS.**

24 Congress finds the following:

1 (1) Section 7101(b) of title 5, United States
2 Code, requires the Federal Service Labor-Management
3 Relations Statute (in this section referred to as
4 the “Statute”) to be interpreted in a manner consistent
5 with the requirement of an effective and efficient
6 Government. Unfortunately, implementation of
7 the Statute has fallen short of these goals. CBAs
8 and other agency agreements with collective bargaining
9 representatives often make it harder for
10 agencies to reward high performers, hold low-performers
11 accountable, or flexibly respond to operational
12 needs. Many agencies and collective bargaining
13 representatives spend years renegotiating
14 CBAs, with taxpayers paying for both sides’ negotiators.
15 Agencies must also engage in prolonged negotiations
16 before making even minor operational changes, like
17 relocating office space.

18 (2) The Federal Government must do more to
19 apply the Statute in a manner consistent with effective
20 and efficient Government.

21 (3) To fulfill this obligation, agencies should secure
22 CBAs that—

23 (A) promote an effective and efficient
24 means of accomplishing agency missions;

1 (B) encourage the highest levels of em-
2 ployee performance and ethical conduct;

3 (C) ensure employees are accountable for
4 their conduct and performance on the job;

5 (D) expand agency flexibility to address
6 operational needs;

7 (E) reduce the cost of agency operations,
8 including with respect to the use of taxpayer-
9 funded union time;

10 (F) are consistent with applicable laws,
11 rules, and regulations;

12 (G) do not cover matters that are not, by
13 law, subject to bargaining; and

14 (H) preserve management rights under
15 section 7106(a) of title 5, United States Code.

16 (4) Further, agencies that form part of an ef-
17 fective and efficient Government should not take
18 more than a year to renegotiate CBAs.

19 **SEC. 503. DEFINITIONS.**

20 For purposes of this title:

21 (1) CBA.—The term “CBA” means a collective
22 bargaining agreement of a fixed or indefinite dura-
23 tion reached through substantive bargaining, as op-
24 posed to—

1 (A) agreements reached through impact
2 and implementation bargaining pursuant to sec-
3 tions 7106(b)(2) and 7106(b)(3) of title 5,
4 United States Code; or

5 (B) mid-term agreements, negotiated while
6 the basic comprehensive labor contract is in ef-
7 fect, about subjects not included in such con-
8 tract.

9 (2) DIRECTOR.—The term “Director” means
10 the Director of the Office of Personnel Management.

11 (3) TAXPAYER-FUNDED UNION TIME.—The
12 term “taxpayer-funded union time” means time
13 granted to a Federal employee to perform non-agen-
14 cy business during duty hours pursuant to section
15 7131 of title 5, United States Code.

16 **SEC. 504. INTERAGENCY LABOR RELATIONS WORKING**
17 **GROUP.**

18 (a) IN GENERAL.—There is hereby established an
19 Interagency Labor Relations Working Group (referred to
20 in this title as the “Labor Relations Group”).

21 (b) ORGANIZATION.—The Labor Relations Group
22 shall consist of—

23 (1) the Director of the Office of Personnel
24 Management;

1 (2) a representative who is a supervisor or a
2 management official described under section
3 7103(a)(2)(B)(iii) of title 5, United States Code,
4 from each agency participating in the Labor Rela-
5 tions Group under subsection (d), as determined by
6 the head of such agency in consultation with the Di-
7 rector; and

8 (3) any employee who is such a supervisor or a
9 management official within the Office of Personnel
10 Management, as assigned by the Director.

11 (c) CHAIR; ADMINISTRATIVE SUPPORT.—The Direc-
12 tor shall chair the Labor Relations Group and, subject to
13 the availability of appropriations, provide administrative
14 support for the Labor Relations Group.

15 (d) AGENCIES.—

16 (1) PARTICIPATION.—Agencies with at least
17 1,000 employees represented by a collective bar-
18 gaining representative pursuant to chapter 71 of
19 title 5, United States Code, shall participate in the
20 Labor Relations Group. Agencies with a smaller
21 number of employees represented by a collective bar-
22 gaining representative may, at the election of their
23 agency head and with the concurrence of the Direc-
24 tor, participate in the Labor Relations Group.

1 (2) SUPPORT.—Agencies participating in the
2 Labor Relations Group shall provide assistance help-
3 ful in carrying out the responsibilities outlined in
4 subsection (e) of this section. Such assistance shall
5 include designating an agency employee to serve as
6 a point of contact with the Office of Personnel Man-
7 agement responsible for providing the Labor Rela-
8 tions Group with sample language for proposals and
9 counter-proposals on significant matters proposed
10 for inclusion in CBAs, as well as for analyzing and
11 discussing with the Office of Personnel Management
12 and the Labor Relations Group the effects of signifi-
13 cant CBA provisions on agency effectiveness and ef-
14 ficiency. Participating agencies shall provide other
15 assistance as necessary to support the Labor Rela-
16 tions Group in its mission.

17 (e) RESPONSIBILITIES AND FUNCTIONS.—The Labor
18 Relations Group shall assist the Director on matters in-
19 volving labor-management relations in the executive
20 branch. Its responsibilities shall include the following:

21 (1) Gathering information to support agency
22 negotiating efforts, including the submissions re-
23 quired under section 509 of this title, and creating
24 an inventory of language on significant subjects of
25 bargaining that have relevance to more than one

1 agency and that have been proposed for inclusion in
2 at least one CBA.

3 (2) Developing model ground rules for negotia-
4 tions that, if implemented, would minimize delay, set
5 reasonable limits for good-faith negotiations, call for
6 the Federal Mediation and Conciliation Service to
7 mediate disputed issues not resolved within a reason-
8 able time, and, as appropriate, promptly bring re-
9 maining unresolved issues to the Federal Service Im-
10 passes Panel (in this title referred to as the
11 “Panel”) for resolution.

12 (3) Analyzing provisions of CBAs on subjects of
13 bargaining that have relevance to more than one
14 agency, particularly those that may infringe on, or
15 otherwise affect, reserved management rights. Such
16 analysis shall include an assessment of CBA provi-
17 sions that cover comparable subjects, without in-
18 fringing, or otherwise affecting, reserved manage-
19 ment rights. The analysis shall also assess the con-
20 sequences of such CBA provisions on Federal effec-
21 tiveness, efficiency, cost of operations, and employee
22 accountability and performance. The analysis shall
23 take particular note of how certain provisions may
24 impede the policies set forth in section 502 of this
25 title or the orderly implementation of laws, rules, or

1 regulations. The Labor Relations Group may exam-
2 ine general trends and commonalities across CBAs,
3 and their effects on bargaining-unit operations, but
4 need not separately analyze every provision of each
5 CBA in every Federal bargaining unit.

6 (4) Sharing information and analysis, including
7 significant proposals and counter-proposals offered
8 in bargaining, in order to reduce duplication of ef-
9 forts and encourage common approaches across
10 agencies, as appropriate.

11 (5) Establishing ongoing communications
12 among agencies engaging with the same labor orga-
13 nizations in order to facilitate common solutions to
14 common bargaining initiatives.

15 (6) Assisting the Director in developing, where
16 appropriate, Government-wide approaches to bar-
17 gaining issues that advance the policies set forth in
18 section 502 of this title.

19 (f) REPORT.—Not later than 18 months after the
20 first meeting of the Labor Relations Group, the Director,
21 as the Chair of the group, shall submit, to the President
22 (through the Office of Management and Budget), the
23 Committee on Oversight and Reform of the House of Rep-
24 resentatives, and the Committee on Homeland Security
25 and Governmental Affairs of the Senate, a report pro-

1 posing recommendations for meeting the goals set forth
2 in section 502 of this title and for improving the organiza-
3 tion, structure, and functioning of labor relations pro-
4 grams across agencies.

5 **SEC. 505. COLLECTIVE BARGAINING OBJECTIVES.**

6 (a) **IN GENERAL.**—The head of each agency that en-
7 gages in collective bargaining under chapter 71 of title 5,
8 United States Code, shall direct appropriate officials with-
9 in each agency to prepare a report on all operative CBAs
10 at least 1 year before their expiration or renewal date. The
11 report shall recommend new or revised CBA language the
12 agency could seek to include in a renegotiated agreement
13 that would better support the objectives of section 502 of
14 this title. The officials preparing the report shall consider
15 the analysis and advice of the Labor Relations Group in
16 making recommendations for revisions. These reports
17 shall be deemed guidance and advice for agency manage-
18 ment related to collective bargaining under section
19 7114(b)(4)(C) of title 5, United States Code, and thus not
20 subject to disclosure to the exclusive representative or its
21 authorized representative.

22 (b) **CBA NEGOTIATION REQUIREMENTS.**—Consistent
23 with the requirements and provisions of chapter 71 of title
24 5, United States Code, and other applicable laws and reg-

1 ulations, an agency, when negotiating with a collective
2 bargaining representative, shall—

3 (1) establish collective bargaining objectives
4 that advance the policies of section 502 of this title,
5 with such objectives informed, as appropriate, by the
6 reports required by subsection (a) of this section;

7 (2) consider the analysis and advice of the
8 Labor Relations Group in establishing these collec-
9 tive bargaining objectives and when evaluating col-
10 lective bargaining representative proposals;

11 (3) make every effort to secure a CBA that
12 meets these objectives; and

13 (4) ensure management and supervisor partici-
14 pation in the negotiating team representing the
15 agency.

16 **SEC. 506. COLLECTIVE BARGAINING PROCEDURES.**

17 (a) IN GENERAL.—To achieve the purposes of this
18 title, agencies shall begin collective bargaining negotia-
19 tions by making their best effort to negotiate ground rules
20 that minimize delay, set reasonable time limits for good-
21 faith negotiations, call for Federal Mediation and Concilia-
22 tion Service mediation of disputed issues not resolved
23 within those time limits, and, as appropriate, promptly
24 bring remaining unresolved issues to the Panel for resolu-
25 tion. For collective bargaining negotiations, a negotiating

1 period of six weeks or less to achieve ground rules, and
2 a negotiating period of between four and six months for
3 a CBA under those ground rules, shall ordinarily be con-
4 sidered reasonable and to satisfy the goal set forth in sec-
5 tion 502(3)(A) of this title. Agencies shall commit the time
6 and resources necessary to satisfy these temporal objec-
7 tives and to fulfill their obligation to bargain in good faith.
8 Any negotiations to establish ground rules that do not con-
9 clude after a reasonable period shall be expeditiously ad-
10 vanced to mediation and, as necessary, to the Panel.

11 (b) NEGOTIATIONS DEADLINES.—During any collec-
12 tive bargaining negotiations under chapter 71 of title 5,
13 United States Code, and consistent with section 7114(b)
14 of that chapter, the agency shall negotiate in good faith
15 to reach agreement on a CBA, memorandum of under-
16 standing, or any other type of binding agreement that pro-
17 motes the policies outlined in section 502 of this title. If
18 such negotiations last longer than the period established
19 by the CBA ground rules—or, absent a pre-set deadline,
20 a reasonable time—the agency shall consider whether re-
21 questing assistance from the Federal Mediation and Con-
22 ciliation Service and, as appropriate, the Panel, would bet-
23 ter promote effective and efficient Government than would
24 continuing negotiations. Such consideration should evalu-
25 ate the likelihood that continuing negotiations without

1 Federal Mediation and Conciliation Service assistance or
2 referral to the Panel would produce an agreement con-
3 sistent with the goals of section 502 of this title, as well
4 as the cost to the public of continuing to pay for both
5 agency and collective bargaining representative negoti-
6 ating teams. Upon the conclusion of the sixth month of
7 any negotiation, the agency head shall receive notice from
8 appropriate agency staff and shall receive monthly notifi-
9 cations thereafter regarding the status of negotiations
10 until they are complete. The agency head shall notify the
11 President through the Office of Personnel Management of
12 any negotiations that have lasted longer than nine months,
13 in which the assistance of the Federal Mediation and Con-
14 ciliation Service either has not been requested or, if re-
15 quested, has not resulted in agreement or advancement
16 to the Panel.

17 (c) FAILURE TO NEGOTIATE IN GOOD FAITH.—If the
18 commencement or any other stage of bargaining is delayed
19 or impeded because of a collective bargaining representa-
20 tive’s failure to comply with the duty to negotiate in good
21 faith pursuant to section 7114(b) of title 5, United States
22 Code, the agency shall consider whether to—

23 (1) file an unfair labor practice complaint under
24 section 7118 of title 5, United States Code, after
25 considering evidence of bad-faith negotiating, includ-

1 ing refusal to meet to bargain, refusal to meet as
2 frequently as necessary, refusal to submit proposals
3 or counterproposals, undue delays in bargaining,
4 undue delays in submission of proposals or counter-
5 proposals, inadequate preparation for bargaining,
6 and other conduct that constitutes bad-faith negoti-
7 ating; or

8 (2) propose a new contract, memorandum, or
9 other change in agency policy and implement that
10 proposal if the collective bargaining representative
11 does not offer counter-proposals in a timely manner.

12 (d) NO DELAY FOR UNFAIR LABOR PRACTICE COM-
13 PLAINT.—An agency’s filing of a an unfair labor practice
14 complaint under section 7118 of title 5, United States
15 Code, against a collective bargaining representative shall
16 not further delay negotiations. Agencies shall negotiate in
17 good faith or request assistance from the Federal Medi-
18 ation and Conciliation Service and, as appropriate, the
19 Panel, while such an unfair labor practice complaint is
20 pending.

21 (e) WRITTEN PROPOSAL EXCHANGE.—In developing
22 proposed ground rules, and during any negotiations, agen-
23 cy negotiators shall request the exchange of written pro-
24 posals, so as to facilitate resolution of negotiability issues
25 and assess the likely effects of specific proposals on agency

1 operations and management rights. To the extent that an
2 agency's CBAs, ground rules, or other agreements contain
3 requirements for a bargaining approach other than the ex-
4 change of written proposals addressing specific issues, the
5 agency shall, at the soonest opportunity, take steps to
6 eliminate them. If such requirements are based on now-
7 revoked Executive Orders, including Executive Order
8 12871 (58 Fed. Reg. 52201; relating to Labor-Manage-
9 ment Partnerships) and Executive Order 13522 (74 Fed.
10 Reg. 66203; relating to Creating Labor-Management Fo-
11 rums to Improve Delivery of Government Services), agen-
12 cies shall take action to rescind these requirements.

13 (f) AGREEMENT REVIEW.—Pursuant to section
14 7114(c)(2) of title 5, United States Code, the agency head
15 shall review all binding agreements with collective bar-
16 gaining representatives to ensure that all their provisions
17 are consistent with all applicable laws, rules, and regula-
18 tions. When conducting this review, the agency head shall
19 ascertain whether the agreement contains any provisions
20 concerning subjects that are non-negotiable, including pro-
21 visions that violate Government-wide requirements set
22 forth in any applicable law, rule, or regulation. If an
23 agreement contains any such provisions, the agency head
24 shall disapprove such provisions. The agency head shall
25 take all practicable steps to render the determinations re-

1 quired by this subsection within 30 days of the date the
2 agreement is executed, in accordance with section 7114(c)
3 of title 5, United States Code, so as not to permit any
4 part of an agreement to become effective that is contrary
5 to applicable law, rule, or regulation.

6 **SEC. 507. PERMISSIVE BARGAINING.**

7 The heads of agencies subject to the provisions of
8 chapter 71 of title 5, United States Code, may not nego-
9 tiate over the substance of the subjects set forth in section
10 7106(b)(1) of title 5, United States Code, and shall in-
11 struct subordinate officials that they may not negotiate
12 over those same subjects.

13 **SEC. 508. EFFICIENT BARGAINING OVER PROCEDURES AND**
14 **APPROPRIATE ARRANGEMENTS.**

15 (a) **MATTERS COVERED BY EXISTING AGREE-**
16 **MENTS.**—Before beginning negotiations during a CBA
17 over matters addressed by sections 7106(b)(2) or
18 7106(b)(3) of title 5, United States Code, agencies shall
19 evaluate whether or not such matters are already covered
20 by the CBA and therefore are not subject to the duty to
21 bargain. If such matters are already covered by a CBA,
22 the agency shall not bargain over such matters.

23 (b) **PERMISSIBLE BARGAINING.**—Consistent with
24 section 502 of this title, agencies that engage in bar-
25 gaining over procedures pursuant to section 7106(b)(2) of

1 title 5, United States Code, shall, consistent with their ob-
2 ligation to negotiate in good faith, bargain over only those
3 items that constitute procedures associated with the exer-
4 cise of management rights, which do not include measures
5 that excessively interfere with the exercise of such rights.
6 Likewise, consistent with section 502 of this title, agencies
7 that engage in bargaining over appropriate arrangements
8 pursuant to section 7106(b)(3) of title 5, United States
9 Code, shall, consistent with their obligation to negotiate
10 in good faith, bargain over only those items that constitute
11 appropriate arrangements for employees adversely af-
12 fected by the exercise of management rights. In such nego-
13 tiations, agencies shall ensure that a resulting appropriate
14 arrangement does not excessively interfere with the exer-
15 cise of management rights.

16 **SEC. 509. PUBLIC ACCESSIBILITY.**

17 (a) REPORT CBAS.—Each agency subject to chapter
18 71 of title 5, United States Code, that engages in any ne-
19 gotiation with a collective bargaining representative, as de-
20 fined therein, shall submit to the Director each CBA cur-
21 rently in effect and its expiration date. Such agency shall
22 also submit any new CBA and its expiration date to the
23 Director within 30 days of its effective date, and submit
24 new arbitral awards to the Director within 10 business

1 days of receipt. The Director shall make each CBA pub-
2 licly accessible on the Internet as soon as practicable.

3 (b) CBA REPORT FORMAT.—Within 90 days of the
4 date of enactment of this Act, the Director shall prescribe
5 a reporting format for submissions required by subsection
6 (a) of this section. Within 30 days of the Director’s having
7 prescribed the reporting format, agencies shall use this re-
8 porting format and make the submissions required under
9 subsection (a) of this section.

10 **SEC. 510. LACK OF REPORT.**

11 The failure to produce a report for the agency head
12 prior to the termination or renewal of a CBA under sec-
13 tion 505(a) shall not prevent an agency from opening a
14 CBA for renegotiation.

15 **SEC. 511. APPLICATION.**

16 Nothing in this title shall abrogate any collective bar-
17 gaining agreement in effect on the date of enactment of
18 this title.

