H. R. 3348

To amend title 5, United States Code, to provide for an alternative removal for performance or misconduct for Federal employees.

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2019

Mr. LOUDERMILK (for himself, Mr. MITCHELL, Mr. HICE of Georgia, Mr. HIGGINS of Louisiana, Mr. NORMAN, Mr. ALLEN, Mr. BABIN, Mr. WALKER, Mr. GREEN of Tennessee, Mr. JOYCE of Pennsylvania, Mr. CHABOT, Mr. BANKS, Mr. GROTHMAN, Mr. MCCINTOCK, Mr. HILL of Arkansas, Mr. GIANFORTE, and Mr. FLORES) introduced the following bill; which was referred to the Committee on Oversight and Reform

A BILL

To amend title 5, United States Code, to provide for an alternative removal for performance or misconduct for Federal employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Modern Employment Reform, Improvement, and Transformation Act of 2019” or the “MERIT Act of 2019”.

(b) Table of Contents.—The table of contents for this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. Termination of authority for chapter 43 performance-based actions.
Sec. 3. Adverse actions based on performance or conduct.
Sec. 4. Prohibition on grieving adverse actions and reductions in force.
Sec. 5. Actions against senior executives for performance or conduct.
Sec. 6. Modification of procedures for furlough.
Sec. 7. Reduction of annuity of employee convicted of a felony for which an adverse action is or would have been taken.
Sec. 8. Authority to recoup bonuses or awards paid to employees.
Sec. 9. Extension of probationary period for positions within the Senior Executive Service.
Sec. 10. Extension of probationary period for employees in the competitive service.
Sec. 11. Application.

SEC. 2. TERMINATION OF AUTHORITY FOR CHAPTER 43 PERFORMANCE-BASED ACTIONS.

(a) REPEAL.—Section 4303 of title 5, United States Code, is repealed.

(b) APPLICATION.—Subsection (a) shall not apply to any performance-based action under section 4303 of title 5, United States Code, commenced before the effective date provided in section 11.

(c) CONFORMING AMENDMENTS.—

(1) TITLE 5.—Title 5, United States Code, is amended—

(A) in section 2302(e)(1)(A), by striking “3504, and 4303(e)” and inserting “and 3504”;

(B) in section 4302(c)(6), by striking “but only after an opportunity to demonstrate acceptable performance”; 

(C) in section 7512, by striking subparagraph (D) and redesignating subparagraphs (E)
and (F) as subparagraphs (D) and (E), respectively;

(D) in section 7701(c)(1), by striking “decision” and all that follows through “preponderance of the evidence” and inserting “decision is supported by a preponderance of the evidence”;

(E) in section 9508(d), by striking “(1) In applying” and all that follows through “(2)”;

and

(F) in section 9902(a)(2), by striking “sections 4302 and 4303(e)” and inserting “section 4302”.

(2) Title 31.—Section 732(d)(3) of title 31, United States Code, is amended by striking “consistent with section 4303 of title 5”.

(d) Clerical Amendment.—The table of sections for chapter 43 of title 5, United States Code, is amended by striking the item relating to section 4303.

SEC. 3. ADVERSE ACTIONS BASED ON PERFORMANCE OR CONDUCT.

(a) In General.—Section 7513 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—
(i) by striking “at least 30 days’ advance written notice” and inserting “written notice 15 business days in advance”; and

(ii) by inserting before the semicolon at the end the following: “, and including a file containing all the evidence in support of the proposed action”;

(B) in paragraph (2), by striking “but not less than 7 days” and inserting “but not more than 7 business days”; and

(C) in paragraph (4), by striking “at the earliest practicable date”; and

(2) by amending subsection (c) to read as follows:

“(c) An agency shall issue the decision not later than 15 business days after the agency provides notice, to the maximum extent practicable, to the employee affected.”;

(3) in subsection (d), by inserting before the period at the end the following: “not later than 10 business days after the effective date of the action”; and

(4) in subsection (e)—

(A) by striking “and to the employee affected upon the employee’s request”; and
(B) by adding at the end the following: “Upon the affected employee’s request, copies of the documents described in the preceding sentence shall be furnished to the employee, to the extent those documents were not provided under subsection (c).”.

(b) DISCIPLINE OF SUPERVISORS BASED ON RETALIATION AGAINST WHISTLEBLOWERS.—Section 7515(b)(2)(B) of title 5, United States Code, is amended—

(1) in clause (i), by striking “not later than 14 days” and inserting “not more than 7 business days”; and

(2) in clause (ii), by striking “14-day period” and inserting “7-business-day period”.

(c) APPLICATION.—The amendments made by subsections (a) and (b) shall not apply to any action under section 7513 or 7515 of title 5, United States Code, as amended by those subsections, respectively, commenced before the effective date provided in section 11.

SEC. 4. PROHIBITION ON GRIEVING ADVERSE ACTIONS AND REDUCTIONS IN FORCE.

Section 7121 of title 5, United States Code, is amended—
(1) in subsection (a)(1), by striking “the settlement of”; 

(2) in subsection (c)—

(A) by redesignating paragraphs (1) through (5) as paragraphs (5) through (9), respectively; and

(B) by inserting before paragraph (5), as so redesignated, the following:

“(1) an adverse action under subchapter II of chapter 75; 

“(2) a furlough of more than 30 days by a reduction in force action under subchapter I of chapter 35; 

“(3) a separation by a reduction in force action under subchapter I of chapter 35; 

“(4) a demotion by a reduction in force action under subchapter I of chapter 35;”;

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking “(1) Matters” and all that follows through “but not both.”; and

(ii) in the second sentence, by striking “Similar matters” and inserting “Matters similar to those covered under subchapter II of chapter 75”; and
(B) by striking paragraph (2); and

(4) in subsection (f)—

(A) by striking the first sentence; and

(B) in the second sentence, by striking “In matters similar to those covered under sections 4303 and 7512 of this title” and inserting “In matters similar to those covered under subchapter II of chapter 75”.

SEC. 5. ACTIONS AGAINST SENIOR EXECUTIVES FOR PERFORMANCE OR CONDUCT.

(a) REPEAL OF PAY RETENTION FOR CAREER APPOINTEES REMOVED FROM THE SENIOR EXECUTIVE SERVICE.—Section 3594(c)(1)(B) of title 5, United States Code, is amended to read as follows:

“(B)(i) any career appointee placed under subsection (a) or (b)(2) of this section shall be entitled to receive basic pay at the highest of—

“(I) the rate of basic pay in effect for the position in which placed;

“(II) the rate of basic pay in effect at the time of the placement for the position the career appointee held in the civil service immediately before being appointed to the Senior Executive Service; or

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“(III) the rate of basic pay in effect for
the career appointee immediately before being
placed under subsection (a) or (b) of this sec-
tion; and
“(ii) any career appointee placed under sub-
section (b)(1) of this section shall be entitled to re-
ceive basic pay at the rate of basic pay in effect for
the position in which placed; and”.
(b) Appraisal System Requirements.—Section
4314(b) of title 5, United States Code, is amended—
(1) in paragraph (3), by inserting before the
semicolon the following: “or, as warranted, from the
civil service”; and
(2) in paragraph (4), by inserting before the pe-
riod at the end the following: “or, as warranted,
from the civil service”.
(c) Suspension for 14 Days or Less.—Paragraph
(1) of section 7501 of title 5, United States Code, is
amended to read as follows:
“(1) ‘employee’ means—
“(A) an individual in the competitive serv-
ice who is not serving a probationary period or
trial period under an initial appointment or, ex-
cept as provided in section 1599e of title 10,
who has completed 1 year of current continuous
employment in the same or similar positions under other than a temporary appointment limited to 1 year or less; or

“(B) a career appointee in the Senior Executive Service who—

“(i) has completed the probationary period prescribed under section 3393(d); or

“(ii) was covered by the provisions of subchapter II of this chapter immediately before appointment to the Senior Executive Service; and”.

(d) MODIFICATION OF CAUSE AND PROCEDURE FOR SUSPENSION AND TERMINATION.—Section 7543 of title 5, United States Code, is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

“(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as would promote the efficiency of the service.

“(b) An employee against whom an action covered by this subchapter is proposed is entitled to—

“(1) written notice 15 business days in advance, unless there is reasonable cause to believe the employee has committed a crime for which a sentence
of imprisonment can be imposed, stating specific reasons for the proposed action, and including a file containing all the evidence in support of the proposed action;

“(2) a reasonable time, but not more than 7 business days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

“(3) be represented by an attorney or other representative; and

“(4) a written decision and the specific reasons therefor.

“(c) An agency shall issue the decision not later than 15 business days after the agency provides notice, to the maximum extent practicable, to the employee affected.”;

(2) in subsection (d), by inserting before the period at the end the following: “not later than 10 business days after the effective date of the action”; and

(3) in subsection (c)—

(A) by striking “and to the employee affected upon the employee’s request”; and

(B) by adding at the end the following:

“Upon the affected employee’s request, copies of the documents described in the preceding
sentence shall be furnished to the employee, to the extent those documents were not provided under subsection (c).”.

(e) CONFORMING AMENDMENTS.—Title 5, United States Code, is amended—

(1) in section 3592(b)(2)(B), by striking “any disciplinary action” and inserting “any action under section 7543”;

(2) in section 3593(a)(2), by striking “misconduct, neglect of duty, malfeasance,” and inserting “a removal under section 7543”;

(3) in section 3594, by adding at the end the following:

“(d) This section shall not apply to any career appointee who is subject to a personnel action under subchapter V of chapter 75.”; and

(4) in section 7542, by striking “or to a removal under section 3592 or 3595” and inserting the following: “to a removal from the Senior Executive Service under section 3592 of this title, to a reduction in force as defined in section 3595(d) of this title, or to a transfer of function as described in section 3595(e)”.

(f) APPLICATION.—The amendments made by this section shall not apply to any personnel action under sub-
chapter V of chapter 75 of title 5, United States Code, commenced before the effective date provided in section 11.

SEC. 6. MODIFICATION OF PROCEDURES FOR FURLOUGH.

(a) General Furlough of 14 Days or Less; Furlough Due to Lapse in Appropriations.—Subchapter I of chapter 75 of title 5, United States Code, is amended—

(1) in section 7501, as amended by section 5(c)—

(A) in paragraph (1), by striking “and” at the end;

(B) by redesignating paragraph (2) as paragraph (5); and

(C) by inserting after paragraph (1) the following:

“(2) ‘furlough’ has the meaning given that term in section 7511(a)(5);

“(3) ‘furlough due to lapse in appropriations’ means a furlough due to a lapse in appropriations;

“(4) ‘general furlough’ means a furlough that is not due to a lapse in appropriations; and”;

(2) in section 7502, by striking “This subchapter” and all that follows through “this title.”
and inserting the following: “This subchapter applies to—

“(1) a suspension for 14 days or less, but not a suspension under section 7521 or 7532 or any action initiated under section 1215;

“(2) a general furlough for 14 days or less; and

“(3) a furlough due to lapse in appropriations of any duration.”;

(3) by redesignating section 7504 as section 7505; and

(4) by inserting after section 7503 the following:

§ 7504. Furlough cause and procedure

“(a) General Furlough.—

“(1) In General.—An employee may be subject to a general furlough for such cause as will promote the efficiency of the service. Any employee furloughed under this subsection is entitled to the procedures established under the regulations promulgated under paragraph (2).

“(2) Procedures.—Not later than 180 days after the date of enactment of this section, the Office of Personnel Management shall promulgate regulations providing for—
“(A) the circumstances under which an employee may be furloughed under this subsection;

“(B) the procedures to be afforded furloughed employees, including, to the extent appropriate and practicable under the circumstances of the furlough action—

“(i) advanced notice stating the specific reasons for the proposed furlough;

“(ii) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

“(iii) representation by an attorney or other representative; and

“(iv) a written decision and specific reasons therefor at the earliest practicable date; and

“(C) the materials that shall be furnished to a furloughed employee and the Merit Systems Protection Board upon request of the employee or the Board.

“(b) Furlough Due to Lapse in Appropriations.—
“(1) IN GENERAL.—An employee may be subject to a furlough due to lapse in appropriations.

“(2) PROCEDURES.—

“(A) NOTICE.—Under regulations prescribed by the Office of Personnel Management, any employee subject to a furlough due to lapse in appropriations shall be afforded notice explaining the reasons for the furlough. If the notice cannot be provided in advance of the furlough, notice shall be provided as soon as reasonably practicable.

“(B) OTHER PROCEDURES.—No other procedures, including those provided under subsection (a) or any other provision of this title, shall be available to any employee subject to a furlough due to lapse in appropriations under this subsection.

“(c) DEFINITION.—For purposes of this section, the term ‘employee’ means any employee described under section 7501(1)(A).”.

(b) GENERAL FURLough OF More Than 14 Days.—Subchapter II of chapter 75 of title 5, United States Code, is amended—

(1) in section 7511(a)—
(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(6) ‘furlough due to lapse in appropriations’ means a furlough due to a lapse in appropriations; and

“(7) ‘general furlough’ means a furlough that is not due to a lapse in appropriations.”;

(2) in section 7512, as amended by section 2(c)—

(A) in paragraph (5), by striking “a furlough of 30 days or less” and inserting “a general furlough of more than 14 days but less than 31 days”; 

(B) in subparagraph (D), as redesignated by section 2(e), by striking “or” at the end;

(C) in subparagraph (E), as redesignated by section 2(e), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(F) a furlough due to lapse in appropriations action under section 7504.”;
(3) in section 7513(a), by striking “an action covered by this subchapter” and inserting “an action described in paragraphs (1) through (4) of section 7512”; and

(4) by inserting after section 7515 the follow-

§ 7516. General furlough cause and procedure

“(a) In General.—An employee may be subject to

a general furlough for such cause as will promote the effi-

ciency of the service. An employee furloughed under this

section is entitled to the procedures established under the

regulations promulgated under subsection (b).

“(b) Procedures.—Not later than 180 days after

the date of enactment of this section, the Office of Per-

sonnel Management shall promulgate regulations pro-

viding for—

“(1) the circumstances under which an em-

ployee may be furloughed under this section;

“(2) the procedures provided under section

7513 to the extent appropriate and practicable

under the circumstances of the furlough; and

“(3) the materials that shall be furnished to a

furloughed employee and the Merit Systems Protec-

tion Board upon request of the employee or the

Board.
“(c) APPEAL.—An employee against whom a furlough action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 not later than 10 business days after the effective date of the action.”.

(e) ADMINISTRATIVE LAW JUDGES.—Section 7521(b) of title 5, United States Code, is amended—

(1) in subparagraph (B), by striking “or” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(D) a furlough due to lapse in appropriations action under section 7504.”.

(d) TECHNICAL AMENDMENTS.—

(1) SECTION 7503.—The heading of section 7503 of title 5, United States Code, is amended by striking “Cause and procedure” and inserting “Suspension cause and procedure”.

(2) SECTION 7513.—The heading of section 7513 of title 5, United States Code, is amended by striking “Cause and procedure” and inserting “Cause and procedure for actions other than furlough”.

(e) CLERICAL AMENDMENTS.—
(1) **Subchapter I of chapter 75 of title 5.**—The table of sections for subchapter I of chapter 75 of title 5, United States Code, is amended by striking the items relating to sections 7503 and 7504 and inserting the following:

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7503. Suspension cause and procedure.
7504. Furlough cause and procedure.
7505. Regulations.
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(2) **Subchapter II of chapter 75 of title 5.**—The table of sections for subchapter II of chapter 75 of title 5, United States Code, is amended—

(A) by striking the item relating to section 7513 and inserting the following:

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7513. Cause and procedure for actions other than furlough.
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and

(B) by inserting after the item relating to section 7515 the following:

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7516. General furlough cause and procedure.
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(f) **Application.**—Notwithstanding section 11, the amendments made by this section shall take effect on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act; or

(2) the date on which the Office of Personnel Management promulgates regulations under sections 7504 and 7516 of title 5, United States Code, as added by this section.
SEC. 7. REDUCTION OF ANNUITY OF EMPLOYEE CONVICTED OF A FELONY FOR WHICH AN ADVERSE ACTION IS OR WOULD HAVE BEEN TAKEN.

(a) Reduction of Annuity of Employee Convicted of a Felony for Which an Adverse Action Is Taken.—

(1) In general.—Subchapter II of chapter 83 of title 5, United States Code, is amended by adding at the end the following:

“§ 8323. Reduction of benefits of employees convicted of certain crimes

“(a) REDUCTION OF ANNUITY.—

“(1) IN GENERAL.—The felonious service of a covered individual shall not be taken into account for purposes of calculating an annuity with respect to the individual under subchapter III of this chapter or chapter 84 if—

“(A) the covered individual is finally convicted of a felony; and

“(B) the head of the agency at which the individual was employed determines that the conviction was based on the acts or omissions of the covered individual that—


“(i) were taken or not taken in the performance of the covered individual’s official duties at the agency; and

“(ii) are sufficient to support a removal action under section 7513, 7543, or any other provision of law against the covered individual.

“(2) Procedures.—A covered individual against whom a determination is made under paragraph (1) shall be afforded—

“(A) notice of the determination not later than 15 business days in advance of a final order under paragraph (3); and

“(B) an opportunity to respond to the determination by not later than 10 business days after receipt of the notice.

“(3) Final order.—The head of the agency shall issue a final order to carry out paragraph (1) not later than—

“(A) in the case of a covered individual who responds under paragraph (2)(B), 5 business days after receiving the response from the covered individual, to the maximum extent practicable; or
“(B) in the case of a covered individual who does not so respond, 15 business days after the date on which the head of the agency provided notice to the individual under paragraph (2)(A), to the maximum extent practicable.

“(4) APPEAL.—A covered individual with respect to whom an annuity is to be reduced under this subsection may appeal the final order under paragraph (3) to the Merit Systems Protection Board in accordance with any regulations that the Board may prescribe for purposes of this subsection. An appeal may not be made under this paragraph later than that date that is 10 business days after the date on which an order is issued under paragraph (3).

“(b) ADMINISTRATIVE REQUIREMENTS.—

“(1) IN GENERAL.—Not later than 30 business days after the date on which the head of an agency issues a final order under subsection (a) or a final decision of the Merit Systems Protection Board is rendered (as the case may be) with respect to an individual, the applicable employing agency shall amend the covered individual’s retirement records to reflect the period of service that is no longer creditable by operation of this section and transmit the
amended records to the Director of the Office of Personnel Management.

“(2) ANNUITANTS.—With respect to any covered individual who is an annuitant on the date on which a final order is so issued, the Director of the Office of Personnel Management shall, not later than 30 business days after the receipt of amended retirement records from an agency under paragraph (1), recalculate the annuity of the annuitant.

“(c) LUMP-SUM ANNUITY CREDIT.—A covered individual with respect to whom an annuity is reduced under subsection (a) shall be entitled to be paid so much of the individual’s lump-sum credit as is attributable to the period of felonious service.

“(d) SPOUSE EXCEPTION.—The spouse of any covered individual referred to in subsection (a) shall be eligible for spousal annuity benefits that, but for subsection (a), would otherwise have been payable if the Attorney General of the United States or the attorney general of a State, a territory, or the District of Columbia determines that the spouse fully cooperated with authorities in the conduct of a criminal investigation and subsequent prosecution of the individual that resulted in the benefit reduction.
“(e) APPLICATION.—Nothing in this section shall be construed to affect or otherwise mitigate the application of any other section of this subchapter.

“(f) DEFINITIONS.—In this section—

“(1) the term ‘covered individual’ means—

“(A) an individual who is removed from a position as an employee (as defined in section 2105) in the civil service for performance or misconduct under section 7513, 7543, or any other provision of law; or

“(B) an individual who—

“(i) is an employee (as defined in section 2105) subject to a removal action for performance or misconduct under section 7513, 7543, or any other provision of law; and

“(ii) voluntarily separates from service with the employing agency prior to the issuance of a final decision with respect to the removal action;

“(2) the term ‘felonious service’ means, with respect to a covered individual, the period of service—

“(A) beginning on the date on which the head of the employing agency determines that the individual commenced engaging in the acts
or omissions that gave rise to the removal action or proposed removal action described in paragraph (1); and

“(B) ending on the date that is the earlier of—

“(i) the date on which the individual is removed from or voluntarily separates from a position at the agency; or

“(ii) the date on which the individual ceases engaging in the acts or omissions that gave rise to the removal action or proposed removal action described in paragraph (1);

“(3) the term ‘finally convicted’ or ‘final conviction’ refers to a conviction of a felony—

“(A) that has not been appealed and is no longer appealable because the time for taking an appeal has expired; or

“(B) that has been appealed and the appeals process for which is completed;

“(4) the term ‘lump-sum credit’ has the meaning given that term in section 8331(8) or 8401(19) (as the case may be); and
“(5) the term ‘service’ has the meaning given
that term in section 8331(12) or 8401(26) (as the
case may be).”.

(2) CLERICAL AMENDMENT.—The table of sec-
tions for subchapter II of chapter 83 of title 5,
United States Code, is amended by adding at the
end the following:

“8323. Reduction of benefits of employees convicted of certain crimes.”.

(b) APPLICATION.—Section 8323 of title 5, United
States Code, as added by subsection (a), shall apply to
acts or omissions described in subsection (a)(1)(B) of that
section occurring after the date of enactment of this Act.

(c) REGULATIONS.—The Office of Personnel Man-
agement may prescribe regulations to carry out this sec-
tion and the amendments made by this section.

SEC. 8. AUTHORITY TO RECOUP BONUSES OR AWARDS
PAID TO EMPLOYEES.

(a) Authority.—

(1) In general.—Chapter 45 of title 5, United
States Code, is amended by adding at the end the
following:
“SUBCHAPTER IV—REPAYMENT OF BONUSES OR AWARDS

§ 4531. Recoupment of bonuses or awards paid to employees

“(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (c), the head of an agency may issue an order directing an employee or former employee of the agency to repay the amount, or a portion of the amount, of any award or bonus paid to the employee under this title, including under this chapter or section 5384, 5753, or 5754, if—

“(1) the agency head determines by clear and convincing evidence that—

“(A) the employee or former employee engaged in misconduct or unsatisfactory performance prior to payment of the award or bonus; and

“(B) the award or bonus would not have been paid, in whole or in part, had the misconduct or unsatisfactory performance described in subparagraph (A) been known by the agency prior to payment;

“(2) before the repayment, the employee or former employee is afforded—
“(A) notice of the determination not later than 15 business days in advance of a final order under this subsection; and

“(B) an opportunity to respond to the proposed order by not later than 10 business days after the receipt of the notice; and

“(3) the agency head issues the order not later than—

“(A) in the case of a proposed order to which an employee or former employee responds under paragraph (2)(B), 5 business days after receiving the response of the employee or former employee (as the case may be), to the maximum extent practicable; or

“(B) in the case of a proposed order to which an employee or former employee does not respond, 15 business days after the agency head provides notice to the employee or former employee (as the case may be) under paragraph (2)(A), to the maximum extent practicable.

“(b) Recruitment, Relocation, or Retention Bonus.—

“(1) In general.—In addition to ordering an employee to repay any payments received under a service agreement under subsection (a), the head of
an agency shall terminate a recruitment, relocation, or retention service agreement and make no further recruitment, relocation, or retention bonus payments under the agreement.

“(2) APPLICATION.—A bonus repayment order or a termination or withholding of a bonus payment under this subsection shall supersede any other bonus payment or repayment requirement established by law or regulation.

“(c) OFFICE OF SPECIAL COUNSEL FILING.—If an employee or former employee has filed a claim with the Office of Special Counsel, an agency seeking repayment of any bonus or award from the employee or former employee shall provide the Office with notice of intent to seek repayment, and the repayment order shall not be effective unless and until the Office approves the order.

“(d) APPEAL.—Upon the issuance of an order by an agency head under subsection (a) with respect to an employee or former employee, the employee or former employee (as the case may be) shall have an opportunity to appeal the order to the Merit Systems Protection Board under section 7701 not later than 10 business days after the date of the issuance.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code,
is amended by adding after the item relating to section 4523 the following:

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4531. Recoupment of bonuses or awards paid to employees.''.

(b) OTHER BONUSES OR AWARDS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a bonus or award to an employee (as that term is defined in section 2105 of title 5, United States Code) that is similar to a bonus or award covered by section 4531 of that title (as added by subsection (a)) shall be subject to the requirements in such section 4531. The head of the applicable agency shall ensure that such section 4531 shall apply to employees of that agency.

(2) APPLICATION.—An employee covered by such section 4531 by operation of paragraph (1) may not appeal any decision regarding a bonus under that section or paragraph to the Merit Systems Protection Board if the employee is not otherwise authorized by law to appeal to the Board.

(c) SERVICE AGREEMENTS.—

(1) IN GENERAL.—The Director of the Office of Personnel Management shall direct each agency (as that term is defined in section 4501(1) of title 5, United States Code) to incorporate into service agreements entered into after the date of enactment
of this Act under sections 5753 and 5754 of that

title terms addressing the conditions under which

the agreement and bonus payments shall be termi-
nated and employees may be required to repay bonus

payments under such section 4531.

(2) CONFORMING AMENDMENTS.—Subchapter

IV of chapter 57 of title 5, United States Code, is

amended—

(A) in section 5753(e)(2)(A)—

(i) in clause (iii), by striking “and” at

the end;

(ii) by redesignating clause (iv) as

clause (v); and

(iii) by inserting after clause (iii) the

following:

“(iv) notwithstanding any additional bonus pay-

ment and service agreement termination require-

ments under this subsection, the conditions under

which—

“(I) the agreement and bonus payments

shall be terminated under section 4531; and

“(II) the employee may be required to

repay bonus payments under section 4531 dur-

ing or after the completion of the service pe-

riod; and”; and
(B) in section 5754(d)—

(i) in paragraph (2)(A)—

(I) in clause (iii), by striking “and” at the end;

(II) by redesignating clause (iv) as clause (v); and

(III) by inserting after clause (iii) the following:

“(iv) notwithstanding any additional bonus pay-
ment and service agreement termination require-
ments under this subsection, the conditions under
which—

“(I) the agreement and bonus payments
shall be terminated under section 4531; and

“(II) the employee may be required to
repay bonus payments under section 4531 dur-
ning or after the completion of the service pe-
riod; and”;

(ii) by striking paragraph (3); and

(iii) by redesignating paragraph (4) as
paragraph (3).

(d) REGULATIONS.—Not later than 1 year after the
date of enactment of this Act, the Director of the Office
of Personnel Management shall issue any regulations nec-
essary to carry out section 4531 of title 5, United States Code, as added by subsection (a).

(e) Effective Date.—Section 4531 of title 5, United States Code, as added by subsection (a), shall apply with respect to an award or bonus authorized by an agency to an employee of the agency on or after the effective date provided in section 11 of this Act.

SEC. 9. EXTENSION OF PROBATIONARY PERIOD FOR POSITIONS WITHIN THE SENIOR EXECUTIVE SERVICE.

(a) In General.—Section 3393(d) of title 5, United States Code, is amended by striking “1-year” and inserting “2-year”.

(b) Conforming Amendment.—Section 3592(a)(1) of title 5, United States Code, is amended by striking “1-year” and inserting “2-year”.

(c) Application.—The amendments made by this section shall apply in the case of any individual initially appointed as a career appointee under section 3393 of title 5, United States Code, on or after the effective date provided in section 11 of this Act.

SEC. 10. EXTENSION OF PROBATIONARY PERIOD FOR EMPLOYEES IN THE COMPETITIVE SERVICE.

(a) Extension of Probationary Period.—
(1) IN GENERAL.—Section 3321 of title 5, United States Code, is amended—

(A) in subsection (a), by striking “The President” and inserting “Subject to sub-
sections (c) and (d), the President”;

(B) by redesignating subsection (c) as sub-
section (e); and

(C) by inserting after subsection (b) the
following:

“(c)(1) The length of a probationary period estab-
lished under paragraph (1) or (2) of subsection (a) shall—

“(A) with respect to any position that requires
formal training, begin on the date of the appoint-
ment to the position and end on the date that is 2
years after the date on which the formal training is
completed;

“(B) with respect to any position that requires
a license, begin on the date of the appointment to
the position and end on the date that is 2 years
after the date of the appointment or the date on
which the license is granted, whichever is later; and

“(C) with respect to any position not covered by
subparagraph (A) or (B), be a period of 2 years be-
ginning on the date of the appointment to the posi-
tion.
“(2) For purposes of paragraph (1)—

“(A) the term ‘formal training’ means, with respect to any position, a training program required by law, rule, or regulation, or otherwise required by the employing agency, to be completed by the employee before the employee is able to successfully execute the duties of the applicable position; and

“(B) the term ‘license’ means a license, certification, or other grant of permission to engage in a particular activity.

“(d) The head of each agency shall, in the administration of this section, take appropriate measures to ensure that—

“(1) any announcement of a vacant position and any offer of appointment made to an individual with respect to a vacant position clearly states the terms and conditions of any applicable probationary period, including any formal training period and any license requirement;

“(2) any individual who is required to complete a probationary period under this section receives timely notice of any requirements, including performance requirements, that must be met in order to satisfactorily complete that period;
“(3) any supervisor or manager of an individual who is required to complete a probationary period under this section receives periodic notifications of the end date of that period not later than 1 year, 6 months, 3 months, and 30 days before the end date; and

“(4) if the agency head decides to retain an individual after the completion of a probationary period under this section, the agency head submits a certification to that effect to the President, supported by a brief statement of the basis for the certification, in such form and manner as the President may by regulation prescribe.”.

(2) TECHNICAL AMENDMENT.—Section 3321(e) of title 5, United States Code (as so redesignated by paragraph (1)), is amended by striking “Subsections (a) and (b)” and inserting “Subsections (a) through (d)”.

(3) APPLICATION.—This subsection and the amendments made by this subsection shall apply in the case of any appointment (as referred to in section 3321(a)(1) of title 5, United States Code) and any initial appointment (as referred to in section 3321(a)(2) of that title) taking effect on or after the effective date provided in section 11 of this Act.
(b) Adverse Actions.—

(1) Subchapter I of Chapter 75 of Title 5.—Section 7501(1) of title 5, United States Code, as amended by sections 5(e) and 6(a)(1), is further amended—

(A) by striking “or, except” and inserting “and, except”; and

(B) by striking “1 year of current” and inserting “2 years of current”.

(2) Subchapter II of Chapter 75 of Title 5.—Section 7511(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (A)—

(i) in clause (i), by striking “; or” and inserting “; and”; and

(ii) in clause (ii), by striking “1 year” the first place it appears and inserting “2 years”;

(B) in subparagraph (B), by striking “1 year” and inserting “2 years”; and

(C) in subparagraph (C)(i), by striking “; or” and inserting “; and”.

(3) Application.—The amendments made by paragraphs (1) and (2) shall apply in the case of any individual whose period of continuous service
commences on or after the effective date provided in section 11.

(c) Regulations.—The Office of Personnel Management may prescribe regulations to carry out this section and the amendments made by this section.

SEC. 11. APPLICATION.

(a) Effective Date.—Unless otherwise specifically provided for in this Act, the amendments made by this Act shall take effect on the date that is 1 year after the date of enactment of this Act.

(b) Collective Bargaining Agreements.—Notwithstanding any other provision of law, the procedures established or amended by this Act shall supersede any collective bargaining agreement to the extent that the agreement is inconsistent with those procedures.

(e) Definition of Business Day.—For purposes of carrying out this Act and the amendments made by this Act, the term “business day” means any day other than a Saturday, Sunday, or legal public holiday under section 6103(a) of title 5, United States Code.