

116TH CONGRESS
2D SESSION

S. 3430

To promote diversity at the Department of State, to direct the Secretary of State to review the termination characterization of former members of the Department who were fired by reason of the sexual orientation of the official, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2020

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To promote diversity at the Department of State, to direct the Secretary of State to review the termination characterization of former members of the Department who were fired by reason of the sexual orientation of the official, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Department of State Inclusivity Act of 2020”.

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

Sec. 1. Short title; table of contents.

TITLE I—A DIVERSE WORKFORCE: RECRUITMENT, RETENTION,
AND PROMOTION

- Sec. 101. Definitions.
 Sec. 102. Office of the Chief Diversity Officer.
 Sec. 103. Collection, analysis, and dissemination of workforce data.
 Sec. 104. Exit interviews for workforce.
 Sec. 105. Recruitment and retention.
 Sec. 106. Sense of Congress on support for equal employment opportunity and merit principles criteria.
 Sec. 107. Leadership engagement and accountability.
 Sec. 108. Professional development opportunities and tools.
 Sec. 109. Examination and oral assessment for the Foreign Service.
 Sec. 110. Sense of Congress on veterans recruitment for the Foreign Service.
 Sec. 111. Payne fellowship authorization.
 Sec. 112. Expansion of Diplomats in Residence Program.
 Sec. 113. Use of gender neutral terms in employee evaluation forms.
 Sec. 114. Voluntary participation.

TITLE II—LOVE ACT OF 2020

- Sec. 201. Short title.
 Sec. 202. Findings.
 Sec. 203. Director General review.
 Sec. 204. Reports on reviews.
 Sec. 205. Establishment of Reconciliation Board.
 Sec. 206. Issuance of apology.
 Sec. 207. Establishment of permanent exhibit on the Lavender Scare.
 Sec. 208. Guidance on issuing visas.
 Sec. 209. Establishment of Advancement Board.

1 TITLE I—A DIVERSE WORK-
2 FORCE: RECRUITMENT, RE-
3 TENTION, AND PROMOTION

4 SEC. 101. DEFINITIONS.

5 In this title:

6 (1) **APPLICANT FLOW DATA.**—The term “appli-
7 cant flow data” means data that tracks the rate of
8 applications for job positions among demographic
9 categories.

10 (2) **DEMOGRAPHIC DATA.**—The term “demo-
11 graphic data” means facts or statistics relating to

1 the demographic categories specified in the Office of
2 Management and Budget statistical policy directive
3 entitled “Standards for Maintaining, Collecting, and
4 Presenting Federal Data on Race and Ethnicity”
5 (81 Fed. Reg. 67398).

6 (3) DEPARTMENT.—The term “Department”
7 means the Department of State.

8 (4) DIVERSITY.—The term “diversity” means
9 those classes of persons protected under the Civil
10 Rights Act of 1964 (42 U.S.C. 2000a et seq.) and
11 the Americans with Disabilities Act of 1990 (42
12 U.S.C. 12101 et seq.).

13 (5) SECRETARY.—The term “Secretary” means
14 the Secretary of State.

15 (6) WORKFORCE.—The term “workforce”
16 means—

17 (A) individuals serving in a position in the
18 civil service (as defined in section 2101 of title
19 5, United States Code);

20 (B) individuals who are members of the
21 Foreign Service (as defined in section 103 of
22 the Foreign Service Act of 1980 (22 U.S.C.
23 3902));

1 (C) all individuals serving under a personal
 2 services agreement or personal services con-
 3 tract;

4 (D) all individuals serving under a Foreign
 5 Service Limited appointment under section 309
 6 of the Foreign Service Act of 1980 (22 U.S.C.
 7 3949); or

8 (E) individuals working in the Department
 9 of State under any other authority.

10 **SEC. 102. OFFICE OF THE CHIEF DIVERSITY OFFICER.**

11 Section 1 of the State Department Basic Authorities
 12 Act of 1956 (22 U.S.C. 2651a) is amended—

13 (1) by redesignating subsection (g) as sub-
 14 section (h); and

15 (2) by inserting after subsection (f) the fol-
 16 lowing new subsection:

17 “(g) CHIEF DIVERSITY OFFICER.—

18 “(1) IN GENERAL.—There shall be established
 19 within the Department of State in the immediate of-
 20 fice of the Secretary of State an Office of the Chief
 21 Diversity Officer. The head of the Office of the
 22 Chief Diversity Officer shall report directly to the
 23 Secretary.

24 “(2) DUTIES.—The Office of the Chief Diver-
 25 sity Officer shall—

1 “(A) lead the development and implemen-
2 tation of proactive diversity, equity, and inclu-
3 sion initiatives in support of the Department’s
4 strategic plan to create a culture for equity, di-
5 versity, and inclusion;

6 “(B) collaborate with other Department of-
7 fices and bureaus to support them in assessing
8 potential barriers and developing strategies to
9 recruit and retain a diverse workforce;

10 “(C) assess the Department’s need for,
11 and recommend training initiatives on, cultural
12 competency, gender differences, disability, sex-
13 ual harassment, and other topics designed to in-
14 crease awareness and support of equity and in-
15 clusion values; and

16 “(D) ensure the Department maintains
17 compliance with all relevant and applicable laws
18 and regulations.”.

19 **SEC. 103. COLLECTION, ANALYSIS, AND DISSEMINATION OF**
20 **WORKFORCE DATA.**

21 (a) INITIAL REPORT.—Not later than 180 days after
22 the date of the enactment of this Act, the Secretary shall,
23 in consultation with the Director of the Office of Per-
24 sonnel Management and the Director of the Office of Man-
25 agement and Budget, submit to the appropriate congres-

1 sional committees a report, which shall also be posted on
2 a publicly available website of the Department in a search-
3 able database format, that includes disaggregated demo-
4 graphic data and other information regarding the diversity
5 of the workforce of the Department.

6 (b) DATA.—The report under subsection (a) shall in-
7 clude the following data:

8 (1) Demographic data on each element of the
9 workforce of the Department, disaggregated by rank
10 and grade or grade-equivalent, with respect to the
11 following groups:

12 (A) Applicants for positions in the Depart-
13 ment.

14 (B) Individuals hired to join the workforce.

15 (C) Individuals promoted during the 2-year
16 period ending on the date of the enactment of
17 this Act, including promotions to and within the
18 Senior Executive Service or the Senior Foreign
19 Service.

20 (D) Individuals serving on applicable selec-
21 tion boards.

22 (E) Members of any external advisory com-
23 mittee or board who are subject to appointment
24 by individuals at senior positions in the Depart-
25 ment.

1 (F) Individuals participating in profes-
2 sional development programs of the Depart-
3 ment, and the extent to which such participants
4 have been placed into senior positions within
5 the Department after such participation.

6 (G) Individuals participating in mentorship
7 or retention programs.

8 (H) Individuals who separated from the
9 agency during the 2-year period ending on the
10 date of the enactment of this Act, including in-
11 dividuals in the Senior Executive Service or the
12 Senior Foreign Service.

13 (2) An assessment of agency compliance with
14 the essential elements identified in Equal Employ-
15 ment Opportunity Commission Management Direc-
16 tive 715, effective October 1, 2003.

17 (3) Data on the overall number of individuals
18 who are part of the workforces of the Department
19 of State overall and within each bureau of the De-
20 partment, the percentages of such workforce cor-
21 responding to each element listed in section 101(6),
22 and the percentages corresponding to each rank,
23 grade, or grade-equivalent.

1 (4) Data on the promotion outcomes of women
2 and racial or ethnic minorities in mid-career ranks
3 of the workforce.

4 (5) Demographic data, disaggregated by rank
5 and grade or grade-equivalent, of contractors and
6 subcontractors, as well as the nongovernmental orga-
7 nizations and civil society organizations that win
8 bids or obtain contracts and grants and serve as
9 subcontractors.

10 (c) RECOMMENDATION.—The Secretary may include
11 in the report under subsection (a) a recommendation to
12 the Director of Office of Management and Budget and to
13 the appropriate congressional committees regarding
14 whether the Department should collect more detailed data
15 on demographic categories in addition to the race and eth-
16 nicity categories specified in the Office of Management
17 and Budget statistical policy directive entitled “Standards
18 for Maintaining, Collecting, and Presenting Federal Data
19 on Race and Ethnicity” (81 Fed. Reg. 67398).

20 (d) OTHER CONTENTS.—The report under sub-
21 section (a) shall also describe the efforts of the Depart-
22 ment—

23 (1) to propagate fairness, impartiality, and in-
24 clusion in the work environment, both domestically
25 and abroad;

1 (2) to enforce anti-harassment and anti-dis-
2 crimination policies;

3 (3) to refrain from engaging in unlawful dis-
4 crimination in any phase of the employment process,
5 including recruitment, hiring, evaluation, assign-
6 ments, promotion, retention, and training;

7 (4) to prevent retaliation against employees for
8 participating in a protected equal employment op-
9 portunity activity;

10 (5) to provide reasonable accommodation for
11 qualified employees and applicants with disabilities;
12 and

13 (6) to recruit a representative workforce by—

14 (A) recruiting women and minorities;

15 (B) recruiting at women’s colleges, histori-
16 cally Black colleges and universities, minority-
17 serving institutions, and other institutions serv-
18 ing a significant percentage of minority stu-
19 dents;

20 (C) placing job advertisements in news-
21 papers, magazines, and job sites oriented to-
22 ward women and minorities;

23 (D) sponsoring and recruiting at job fairs
24 in urban and rural communities and land-grant
25 colleges or universities;

1 (E) providing opportunities through the
2 Foreign Service Internship Program under
3 chapter 12 of the Foreign Service Act of 1980
4 (22 U.S.C. 4141 et seq.) and other hiring ini-
5 tiatives, including a description of efforts to
6 provide opportunities for paid internships;

7 (F) recruiting mid-level and senior-level
8 professionals through programs designed to in-
9 crease minority representation in international
10 affairs;

11 (G) offering the Foreign Service written
12 and oral assessment examinations in several lo-
13 cations throughout the United States to reduce
14 the burden of applicants having to travel at
15 their own expense to take either or both such
16 examinations; and

17 (H) supporting recruiting and hiring op-
18 portunities through—

19 (i) the Charles B. Rangel Inter-
20 national Affairs Fellowship Program;

21 (ii) the Thomas R. Pickering Foreign
22 Affairs Fellowship Program;

23 (iii) the Donald M. Payne Inter-
24 national Development Fellowship Program;
25 and

1 (iv) other initiatives, including agency-
2 wide policy initiatives.

3 (e) ANNUAL UPDATES.—Not later than one year
4 after the publication of the report required under sub-
5 section (a), and annually thereafter for five years, the Sec-
6 retary shall work with the Director of the Office of Per-
7 sonnel Management and the Director of the Office of Man-
8 agement and Budget to provide a report to the appro-
9 priate congressional committees, which shall be posted on
10 the Department’s website, which may be included in an-
11 other annual report required under another provision of
12 law, that includes—

13 (1) disaggregated demographic data relating to
14 the workforce and information on the status of di-
15 versity and inclusion efforts of the Department;

16 (2) an analysis of applicant flow data; and

17 (3) disaggregated demographic data relating to
18 participants in professional development programs of
19 the Department and the rate of placement into sen-
20 ior positions for participants in such programs.

21 **SEC. 104. EXIT INTERVIEWS FOR WORKFORCE.**

22 (a) RETAINED MEMBERS.—The Director General of
23 the Foreign Service and the Director of Human Resources
24 of the Department should conduct periodic interviews with

1 a representative and diverse cross-section of the workforce
2 of the Department—

3 (1) to understand the reasons of individuals in
4 such workforce for remaining in a position in the
5 Department; and

6 (2) to receive feedback on workplace policies,
7 professional development opportunities, and other
8 issues affecting the decision of individuals in the
9 workforce to remain in the Department.

10 (b) DEPARTING MEMBERS.—The Director General of
11 the Foreign Service and the Director of Human Resources
12 shall provide an opportunity for an exit interview to each
13 individual in the workforce of the Department who sepa-
14 rates from service with the Department to better under-
15 stand the reasons of such individual for leaving such serv-
16 ice.

17 (c) USE OF ANALYSIS FROM INTERVIEWS.—The Di-
18 rector General of the Foreign Service and the Director of
19 Human Resources shall analyze demographic data and
20 other information obtained through interviews under sub-
21 sections (a) and (b) to determine—

22 (1) to what extent, if any, the diversity of those
23 participating in the interviews impacts the results;
24 and

1 (2) whether to implement any policy changes or
2 include any recommendations in a report required
3 under subsection (a) or (e) of section 102 relating
4 to the determination reached pursuant to paragraph
5 (1).

6 (d) TRACKING DATA.—The Department shall—

7 (1) track demographic data relating to partici-
8 pants in professional development programs and the
9 rate of placement into senior positions for partici-
10 pants in such programs;

11 (2) annually evaluate such data—

12 (A) to identify ways to improve outreach
13 and recruitment for such programs, consistent
14 with merit system principles; and

15 (B) to understand the extent to which par-
16 ticipation in any professional development pro-
17 gram offered or sponsored by the Department
18 differs among the demographic categories of the
19 workforce; and

20 (3) actively encourage participation from a
21 range of demographic categories, especially from cat-
22 egories with consistently low participation, in such
23 professional development programs.

24 **SEC. 105. RECRUITMENT AND RETENTION.**

25 (a) IN GENERAL.—The Secretary should—

1 (1) continue to seek a diverse and talented pool
2 of applicants; and

3 (2) instruct the Director General of the Foreign
4 Service and the Director of the Bureau of Human
5 Resources of the Department to have a recruitment
6 plan of action for the recruitment of people belong-
7 ing to traditionally under-represented groups, which
8 should include outreach at appropriate colleges, uni-
9 versities, affinity groups, and professional associa-
10 tions.

11 (b) SCOPE.—The diversity recruitment initiatives de-
12 scribed in subsection (a) should include—

13 (1) recruiting at women’s colleges, historically
14 Black colleges and universities, minority-serving in-
15 stitutions, and other institutions serving a signifi-
16 cant percentage of minority students;

17 (2) placing job advertisements in newspapers,
18 magazines, and job sites oriented toward diverse
19 groups;

20 (3) sponsoring and recruiting at job fairs in
21 urban and rural communities and land-grant colleges
22 or universities;

23 (4) providing opportunities through highly re-
24 spected, international leadership programs, that
25 focus on diversity recruitment and retention; and

1 (5) cultivating partnerships with organizations
2 dedicated to the advancement of the profession of
3 international affairs and national security to advance
4 shared diversity goals.

5 (c) EXPAND TRAINING ON ANTI-HARASSMENT AND
6 ANTI-DISCRIMINATION.—

7 (1) IN GENERAL.—The Secretary shall, through
8 the Foreign Service Institute and other educational
9 and training opportunities—

10 (A) expand the provision of training on
11 workplace rights and responsibilities to focus on
12 anti-harassment and anti-discrimination infor-
13 mation and policies;

14 (B) expand the provision of training on
15 workplace rights and responsibilities to focus on
16 implicit bias, including training on the effects of
17 implicit bias; and

18 (C) make such expanded training manda-
19 tory for—

20 (i) individuals in senior and super-
21 visory positions; and

22 (ii) individuals having responsibilities
23 related to recruitment, retention, or pro-
24 motion of employees.

1 (2) BEST PRACTICES.—Each agency shall give
 2 special attention to ensuring the continuous incorpo-
 3 ration of research-based best practices in training
 4 provided under this subsection.

5 **SEC. 106. SENSE OF CONGRESS ON SUPPORT FOR EQUAL**
 6 **EMPLOYMENT OPPORTUNITY AND MERIT**
 7 **PRINCIPLES CRITERIA.**

8 It is the sense of Congress that—

9 (1) the “support for equal employment oppor-
 10 tunity and merit principles” criteria for tenure and
 11 promotion in the Foreign Service is critical to pro-
 12 moting a more diverse Foreign Service; and

13 (2) the Department should—

14 (A) develop mechanisms to ensure that the
 15 Foreign Service promotion list appropriately
 16 promotes a diverse workforce; and

17 (B) establish criteria within the Foreign
 18 Service Employee Evaluation Report that in-
 19 clude evaluating the support of Foreign Service
 20 officers for equal employment opportunities.

21 **SEC. 107. LEADERSHIP ENGAGEMENT AND ACCOUNT-**
 22 **ABILITY.**

23 (a) REWARD AND RECOGNIZE EFFORTS TO PRO-
 24 MOTE DIVERSITY AND INCLUSION.—

1 (1) IN GENERAL.—The Secretary shall imple-
2 ment performance and advancement requirements
3 that reward and recognize the efforts of individuals
4 in senior positions and supervisors in the Depart-
5 ment in fostering an inclusive environment and culti-
6 vating talent consistent with merit system principles,
7 such as through participation in mentoring pro-
8 grams or sponsorship initiatives, recruitment events,
9 and other similar opportunities.

10 (2) OUTREACH EVENTS.—The Secretary shall
11 create opportunities for individuals in senior posi-
12 tions and supervisors in the Department to partici-
13 pate in outreach events and to discuss issues relat-
14 ing to diversity and inclusion with the workforce on
15 a regular basis, including with employee resource
16 groups.

17 (b) EXTERNAL ADVISORY COMMITTEES AND
18 BOARDS.—For each external advisory committee or board
19 to which individuals in senior positions in the Department
20 appoint members, the Secretary is strongly encouraged by
21 Congress to ensure such external advisory committee or
22 board is developed, reviewed, and carried out by qualified
23 teams that represent the diversity of the organization.

1 **SEC. 108. PROFESSIONAL DEVELOPMENT OPPORTUNITIES**
 2 **AND TOOLS.**

3 (a) EXPAND PROVISION OF PROFESSIONAL DEVEL-
 4 OPMENT AND CAREER ADVANCEMENT OPPORTUNITIES.—

5 The Secretary is authorized to expand professional devel-
 6 opment opportunities that support the mission needs of
 7 the Department, such as—

8 (1) academic programs;

9 (2) private-public exchanges; and

10 (3) detail assignments to relevant positions in—

11 (A) private or international organizations;

12 (B) State, local, and Tribal governments;

13 (C) other branches of the Federal Govern-
 14 ment; or

15 (D) professional schools of international
 16 affairs.

17 (b) TRAINING FOR SENIOR POSITIONS.—

18 (1) IN GENERAL.—The Secretary shall offer, or
 19 sponsor members of the workforce to participate in,
 20 a Senior Executive Service candidate development
 21 program or other program that trains members on
 22 the skills required for appointment to senior posi-
 23 tions in the Department.

24 (2) REQUIREMENTS.—In determining which
 25 members of the workforce are granted professional

development or career advancement opportunities under subparagraph, the Secretary shall—

(A) ensure any program offered or sponsored by the Department under such subparagraph comports with the requirements of subpart C of part 412 of title 5, Code of Federal Regulations, or any successor thereto, including merit staffing and assessment requirements;

(B) consider the number of expected vacancies in senior positions as a factor in determining the number of candidates to select for such programs;

(C) understand how participation in any program offered or sponsored by the Department under such subparagraph differs by gender, race, national origin, disability status, or other demographic categories; and

(D) actively encourage participation from a range of demographic categories, especially from categories with consistently low participation.

SEC. 109. EXAMINATION AND ORAL ASSESSMENT FOR THE FOREIGN SERVICE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Department should offer both the Foreign

1 Service written examination and oral assessment in more
2 locations throughout the United States. Doing so would
3 ease the financial burden on potential candidates who do
4 not currently reside in and must travel at their own ex-
5 pense to one of the few locations where these assessments
6 are offered.

7 (b) FOREIGN SERVICE EXAMINATIONS.—Section
8 301(b) of the Foreign Service Act of 1980 (22 U.S.C.
9 3941) is amended—

10 (1) by striking “The Secretary” and inserting:

11 “(1) The Secretary”; and

12 (2) by adding at the end the following new
13 paragraphs:

14 “(2) The Secretary shall ensure that the Board of
15 Examiners for the Foreign Service annually offers the oral
16 assessment examinations described in paragraph (1) in
17 cities, chosen on a rotating basis, located in at least three
18 different time zones across the United States, and that
19 such examinations give sufficient weight to diversity.

20 “(3) The Secretary shall consider whether partici-
21 pants in Department fellowship programs should be re-
22 quired to take oral examinations, and whether there is any
23 justification for requiring certain, but not all, fellowship
24 participants to take such examinations.”.

1 **SEC. 110. SENSE OF CONGRESS ON VETERANS RECRUIT-**
2 **MENT FOR THE FOREIGN SERVICE.**

3 It is the sense of Congress that the Foreign Service
4 exam should be offered in multiple diverse locations, at
5 least in three different time zones in a calendar year, to
6 encourage more accessibility to the test, especially for vet-
7 erans and members of the United States Armed Forces
8 transitioning to civilian life.

9 **SEC. 111. PAYNE FELLOWSHIP AUTHORIZATION.**

10 (a) IN GENERAL.—Undergraduate and graduate
11 components of the Donald M. Payne International Devel-
12 opment Fellowship Program may conduct outreach to at-
13 tract outstanding students with an interest in pursuing
14 a Foreign Service career who represent diverse ethnic and
15 socioeconomic backgrounds.

16 (b) REVIEW OF PAST PROGRAMS.—The Secretary
17 shall review past programs designed to increase minority
18 representation in international affairs positions.

19 **SEC. 112. EXPANSION OF DIPLOMATS IN RESIDENCE PRO-**
20 **GRAM.**

21 Not later than one year after the date of the enact-
22 ment of this Act, the Secretary of State shall double the
23 number of diplomats in the Diplomats in Residence Pro-
24 gram as of the date of the enactment of this Act.

1 **SEC. 113. USE OF GENDER NEUTRAL TERMS IN EMPLOYEE**
 2 **EVALUATION FORMS.**

3 The Secretary shall develop a pilot program to use
 4 gender neutral terms in employee evaluation forms.

5 **SEC. 114. VOLUNTARY PARTICIPATION.**

6 (a) IN GENERAL.—Nothing in this title shall be con-
 7 strued so as to compel any employee to participate in the
 8 collection of the data or divulge any personal information.
 9 Department employees shall be informed that their par-
 10 ticipation in the data collection contemplated by this title
 11 is voluntary.

12 (b) PRIVACY PROTECTION.—Any data collected
 13 under this title shall be subject to the relevant privacy pro-
 14 tection statutes and regulations applicable to Federal em-
 15 ployees.

16 **TITLE II—LOVE ACT OF 2020**

17 **SEC. 201. SHORT TITLE.**

18 This title may be cited as the “Lavender Offense Vic-
 19 tim Exoneration Act of 2020” or the “LOVE Act of
 20 2020”.

21 **SEC. 202. FINDINGS.**

22 Congress makes the following findings:

23 (1) During the so-called “Lavender Scare”, at
 24 least 1,000 people were wrongfully dismissed from
 25 the Department of State for alleged homosexuality
 26 during the 1950s and well into the 1960s.

1 (2) According to the Department of State's Bu-
2 reau of Diplomatic Security, Department of State
3 employees were forced out of the Department on the
4 grounds that their sexual orientation ostensibly ren-
5 dered them vulnerable to blackmail and made them
6 security risks.

7 (3) In addition to those wrongfully terminated,
8 many other patriotic Americans were prevented from
9 joining the Department due to a screening process
10 that was put in place to prevent the hiring of those
11 who, according to the findings of the Bureau of Dip-
12 lomatic Security, "seemed like they might be gay or
13 lesbian".

14 (4) Congress bears a special measure of respon-
15 sibility for these discriminatory actions as the De-
16 partment's actions were in part in response to con-
17 gressional investigations into "sex perversion of Fed-
18 eral employees", reports on the employment of
19 "moral perverts by Government Agencies", hearings
20 and pressure placed on the Department through the
21 appropriations process and congressional complaints
22 that Foggy Bottom was "rampant with homosexuals
23 who were sympathetic to Communism and vulnerable
24 to blackmail.

1 (5) Between 1950 and 1969, the Department of
2 State was required to report on the number of ho-
3 mosexuals fired each year as part of their annual ap-
4 peals before Committees on Appropriations.

5 (6) Although the worst effects of the “Lavender
6 Scare” are behind us, as recently as the early 1990s,
7 the Department of State’s diplomatic security office
8 was investigating State personnel thought to be gay
9 and driving them out of government service as “se-
10 curity risks”.

11 (7) In 1994, Secretary of State Warren Chris-
12 topher issued a prohibition against discrimination in
13 the Department of State, including that based on
14 sexual orientation.

15 (8) In 1998, President William Jefferson Clin-
16 ton signed Executive Order 13087 barring discrimi-
17 nation on the basis of sexual orientation.

18 (9) On January 9, 2017, Secretary of State
19 John Kerry issued a statement regarding the “Lav-
20 ender Scare”, saying, “On behalf of the Department,
21 I apologize to those who were impacted by the prac-
22 tices of the past and reaffirm the Department’s
23 steadfast commitment to diversity and inclusion for
24 all our employees, including members of the LGBTI
25 community”.

1 **SEC. 203. DIRECTOR GENERAL REVIEW.**

2 (a) REVIEW.—The Director General of the Foreign
3 Service and Director of Human Resources of the Depart-
4 ment of State, in consultation with the Historian of the
5 Department of State, shall review all employee termi-
6 nations that occurred after January 1, 1950, to determine
7 who was wrongfully terminated owing to their sexual ori-
8 entation, whether real or perceived.

9 (b) REPORT.—Not later than 270 days after the date
10 of the enactment of this Act, the Director General shall,
11 consistent with applicable privacy regulations, compile the
12 information compiled under subsection (a) in a publicly
13 available report. The report shall include historical state-
14 ments made by officials of the Department of State and
15 Congress encouraging and implementing policies and tac-
16 tics that led to the termination of employees due to their
17 sexual orientation.

18 **SEC. 204. REPORTS ON REVIEWS.**

19 (a) REVIEWS.—The Secretary of State shall conduct
20 reviews of the consistency and uniformity of the reviews
21 conducted by the Director General under section 203.

22 (b) REPORTS.—Not later than 270 days after the
23 date of the enactment of this Act, and annually thereafter
24 for 2 years, the Secretary shall submit to Congress a re-
25 port on the reviews conducted under section 203. Each

1 report shall include any comments or recommendations for
2 continued actions.

3 **SEC. 205. ESTABLISHMENT OF RECONCILIATION BOARD.**

4 (a) ESTABLISHMENT.—The Secretary of State shall
5 establish, within the Office of Civil Rights of the Depart-
6 ment of State, an independent Reconciliation Board to re-
7 view the reports released by the Director General of the
8 Foreign Service and Director of Human Services under
9 section 203(b).

10 (b) DUTIES.—The Reconciliation Board shall—

11 (1) consistent with applicable privacy regula-
12 tions, contact all employees found to be fired due to
13 the “Lavender Scare” or, in the case of deceased
14 former employees, the family members of the em-
15 ployees, to inform them that their termination from
16 the Department of State has been deemed inappro-
17 priate and that, if they wish, their employment
18 record can be changed to reflect these findings;

19 (2) designate a point of contact at a senior level
20 position within the Office of the Director General of
21 the Foreign Service and Director of Human Re-
22 sources to receive oral testimony of any employees or
23 family members of deceased employees mentioned in
24 the report who personally experienced discrimination
25 and termination because of the actual or perceived

1 sexual orientation in order that such testimony may
 2 serve as an official record of these discriminatory
 3 policies and their impact on the lives of United
 4 States citizens serving their Nation; and

5 (3) provide an opportunity for any former em-
 6 ployee not mentioned in the report to bring forth a
 7 grievance to the Board if they believe they were ter-
 8 minated due to their sexual orientation.

9 (c) REVIEW OF CLAIMS.—

10 (1) IN GENERAL.—The Board shall review each
 11 claim described in subsection (b) within 150 days of
 12 receiving the claim. Lack of paperwork may not be
 13 used as a basis for dismissing any claims.

14 (2) COOPERATION.—The Department of State
 15 shall be responsible for producing pertinent informa-
 16 tion regarding each claim to prove the employee was
 17 not wrongfully terminated.

18 (d) TERMINATION.—The Board shall terminate 5
 19 years after the date of the enactment of this Act.

20 **SEC. 206. ISSUANCE OF APOLOGY.**

21 (a) FINDING.—Secretary of State Kerry delivered the
 22 following apology on January 9, 2017: “Throughout my
 23 career, including as Secretary of State, I have stood
 24 strongly in support of the LGBTI community, recognizing
 25 that respect for human rights must include respect for all

1 individuals. LGBTI employees serve as proud members of
2 the State Department and valued colleagues dedicated to
3 the service of our country. For the last several years, the
4 Department has pressed for the families of LGBTI offi-
5 cers to have the same protections overseas as families of
6 other officers. In 2015, to further promote LGBTI rights
7 throughout the world, I appointed the first ever Special
8 Envoy for the Human Rights of LGBTI Persons. In the
9 past—as far back as the 1940s, but continuing for dec-
10 ades—the Department of State was among many public
11 and private employers that discriminated against employ-
12 ees and job applicants on the basis of perceived sexual ori-
13 entation, forcing some employees to resign or refusing to
14 hire certain applicants in the first place. These actions
15 were wrong then, just as they would be wrong today. On
16 behalf of the Department, I apologize to those who were
17 impacted by the practices of the past and reaffirm the De-
18 partment’s steadfast commitment to diversity and inclu-
19 sion for all our employees, including members of the
20 LGBTI community.”.

21 (b) CONGRESSIONAL APOLOGY.—Congress hereby of-
22 fers a formal apology for its responsibility in encouraging
23 the “Lavender Scare” and similar policies at the Depart-
24 ment of State, as these policies were in part a response
25 to congressional investigations into “sex perversion of

1 Federal employees”, reports on the employment of “moral
2 perverts by Government Agencies”, and hearings or pres-
3 sure otherwise placed on the Department of State through
4 the appropriations process.

5 **SEC. 207. ESTABLISHMENT OF PERMANENT EXHIBIT ON**
6 **THE LAVENDER SCARE.**

7 (a) IN GENERAL.—The Secretary of State, working
8 with the current public-private partnership associated with
9 the Department of State’s new United States Diplomacy
10 Center, shall establish a permanent exhibit on the “Lav-
11 ender Scare” in the museum to assure that the history
12 of this discriminatory episode is not brushed aside.

13 (b) SPECIFICATIONS.—The exhibit—

14 (1) shall be installed at the museum not later
15 than one year after the date of enactment of this
16 Act;

17 (2) should provide access to the reports com-
18 piled by the Director General of the Foreign Service
19 and Director of Human Resources under section
20 203(b); and

21 (3) shall readily display material gathered from
22 oral testimony received pursuant to section
23 205(b)(2) from employees or family members of de-
24 ceased employees who were subject to these discrimi-
25 natory policies during the “Lavender Scare”.

1 **SEC. 208. GUIDANCE ON ISSUING VISAS.**

2 To demonstrate the Department of State's commit-
3 ment to ensuring fairness for current employees, not later
4 than 100 days after the date of the enactment of this Act,
5 the Secretary of State shall submit to Congress a report
6 on countries not issuing spousal visas to the spouses of
7 all Foreign Service personnel posted overseas due to their
8 sexual orientation. This report shall include any comments
9 or recommendations for actions, including eliminating visa
10 reciprocity with countries found to be instituting these
11 practices against the spouses of Foreign Service personnel,
12 that will lead to ensuring that all spouses of Foreign Serv-
13 ice personnel receive spousal visas for the country their
14 spouse is assigned, regardless of sexual orientation.

15 **SEC. 209. ESTABLISHMENT OF ADVANCEMENT BOARD.**

16 (a) ESTABLISHMENT.—The Secretary of State shall
17 establish, within the Office of the Director General of the
18 Department of State, a board comprised of senior-level of-
19 ficials to address the issues faced by LGBTQI Foreign
20 Service employees and their families.

21 (b) HEARING OF TESTIMONY.—The Advancement
22 Board shall hear testimony from any willing LGBTQI
23 Foreign Service employees and their families regarding
24 any discrimination they have faced due to their sexual ori-
25 entation.

26 (c) REPORT.—

1 (1) IN GENERAL.—Not later than 100 days
2 after completing collection of testimony described
3 under subsection (b), and annually thereafter for 5
4 years, the Advancement Board shall submit to Con-
5 gress a report based on the testimony.

6 (2) CONTENT.—The report required under
7 paragraph (1) shall include any comments or rec-
8 ommendations for continued actions to improve the
9 Department of State to ensure that no employee or
10 their family members experience discrimination due
11 to their sexual orientation.

12 (3) PRIVACY.—The report required under para-
13 graph (1) shall remain private and will only be ac-
14 cessible to Members of Congress, their appropriate
15 staff, and members of the Advancement Board.

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