

118TH CONGRESS
2D SESSION

H. R. 10397

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

DECEMBER 12, 2024

Mr. LOUDERMILK (for himself, Mr. CRAWFORD, Mr. HILL, Mr. COLLINS, Mr. VAN DREW, Mr. MEUSER, Mrs. LUNA, Mr. STEUBE, Mr. CARTER of Georgia, Mr. BAIRD, and Mr. ALLEN) introduced the following bill; which was referred to the Committee on Oversight and Accountability

A BILL

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

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 “Modern Employment Reform, Improvement, and Trans-
6 formation Act of 2024” or the “MERIT Act of 2024”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 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. Actions against supervisors for performance or conduct.
- Sec. 7. Modification of procedures for furlough.
- Sec. 8. Reduction of annuity of employee convicted of a felony for which an adverse action is or would have been taken.
- Sec. 9. Authority to recoup bonuses or awards paid to employees.
- Sec. 10. Extension of probationary period for positions within the Senior Executive Service.
- Sec. 11. Extension of probationary period for employees in the competitive service.
- Sec. 12. Application.

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

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4 Code, is repealed.

5 (b) APPLICATION.—Subsection (a) shall not apply to
6 any performance-based action under section 4303 of title
7 5, United States Code, commenced before the effective
8 date provided in section 12.

9 (c) CONFORMING AMENDMENTS.—

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

12 (A) in section 2302(e)(1)(A), by striking
13 “3504, and 4303(e)” and inserting “and
14 3504”;

15 (B) in section 4302(c)(6), by striking “but
16 only after an opportunity to demonstrate ac-
17 ceptable performance”;

18 (C) in section 7512, by striking subpara-
19 graph (D) and redesignating subparagraphs (E)

1 and (F) as subparagraphs (D) and (E), respec-
 2 tively;

3 (D) in section 7701(c)(1), by striking “de-
 4 cision” and all that follows through “preponder-
 5 ance of the evidence” and inserting “decision is
 6 supported by a preponderance of the evidence”;

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

10 (F) in section 9902(a)(2), by striking “sec-
 11 tions 4302 and 4303(e)” and inserting “section
 12 4302”.

13 (2) TITLE 31.—Section 732(d)(3) of title 31,
 14 United States Code, is amended by striking “con-
 15 sistent with section 4303 of title 5”.

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

19 **SEC. 3. ADVERSE ACTIONS BASED ON PERFORMANCE OR**
 20 **CONDUCT.**

21 (a) IN GENERAL.—Section 7513 of title 5, United
 22 States Code, is amended to read as follows:

23 **“§ 7513. Cause and procedure**

24 **“(a) IN GENERAL.—**

1 “(1) Under regulations prescribed by the Office
2 of Personnel Management, an agency may take an
3 action described in paragraphs (1) through (4) of
4 section 7512 against an employee if the agency de-
5 termines by a preponderance of the evidence the per-
6 formance or misconduct of the employee warrants
7 such action.

8 “(2)(A) When making an initial decision on an
9 action described in paragraphs (1) through (4) of
10 section 7512, the deciding employee of the agency
11 shall exclusively apply the following factors—

12 “(i) the nature and seriousness of the of-
13 fense, and its relation to the employee’s duties,
14 position, and responsibilities, including whether
15 the offense was intentional or technical or inad-
16 vertent, or was committed maliciously or for
17 gain, or was frequently repeated;

18 “(ii) the employee’s job level and type of
19 employment, including supervisory or fiduciary
20 role, and prominence of the position;

21 “(iii) the employee’s past disciplinary
22 records;

23 “(iv) the employee’s past work record, in-
24 cluding length of service, performance on the

1 job, ability to get along with fellow workers,
2 and dependability; and

3 “(v) mitigating circumstances surrounding
4 the offense such as unusual job tensions person-
5 ality problems, mental impairment, harassment,
6 or bad faith, malice or provocation on the part
7 of others involved in the matter.

8 “(B) The agency shall review the initial decision
9 and uphold such decision if it is supported by sub-
10 stantial evidence.

11 “(b) PAY OF CERTAIN EMPLOYEES SUBJECT TO A
12 REDUCTION IN GRADE.—

13 “(1) Notwithstanding any other provision of
14 law, an employee subject to a reduction in grade
15 shall, beginning on the date of such reduction, re-
16 ceive the annual rate of pay applicable to such
17 grade.

18 “(2) An employee subject to a reduction in
19 grade may not be placed on administrative leave
20 during the period during which an appeal (if any)
21 under this section is ongoing, and may only receive
22 pay if the employee reports for duty or is approved
23 to use accrued unused annual, sick, family medical,
24 military, or court leave.

1 “(3) If an employee subject to a reduction in
2 grade does not report for duty or receive approval to
3 use accrued unused leave, such employee shall not
4 receive pay or other benefits.

5 “(c) PROCEDURE.—

6 “(1)(A) The aggregate period for written no-
7 tice, response, and final decision of actions described
8 in paragraphs (1) through (4) of section 7512 may
9 not exceed 15 business days unless there are reason-
10 able causes to believe the employee has committed a
11 crime for which a sentence of imprisonment may be
12 imposed.

13 “(B) (B) The period for which an employee
14 may respond to a notice of actions described in para-
15 graphs (1) through (4) of section 7512 in writing
16 and to furnish affidavits and other documentary evi-
17 dence in support of the response shall be 7 business
18 days.

19 “(2) The agency shall issue a final decision with
20 respect to actions described in paragraphs (1)
21 through (4) of section 7512 not later than 15 busi-
22 ness days after the agency provides notice, including
23 a file containing all the evidence in support of the
24 proposed action, to the employee. The decision shall

1 be in writing and shall include the specific reasons
2 therefor.

3 “(d) PIP.—The agency may carry out such actions
4 described in paragraphs (1) through (4) of section 7512
5 without first placing an employee on a performance im-
6 provement plan.

7 “(e) EMPLOYEE RIGHTS.—An employee against
8 whom actions described in paragraphs (1) through (4) of
9 section 7512 is proposed is entitled to—

10 “(1) a written notice stating the specific rea-
11 sons for the proposed action;

12 “(2) be represented by an attorney or other
13 representative; and

14 “(3) a written decision and the specific reasons
15 therefor at the earliest practicable date.

16 “(f) HEARING.—An agency may provide, by regula-
17 tion, for a hearing which may be in lieu of or in addition
18 to the opportunity to answer provided under subsection
19 (c)(1)(b) of this section.

20 “(g) APPEAL.—An employee against whom an action
21 described in paragraphs (1) through (4) of section 7512
22 is taken is entitled to appeal to the Merit Systems Protec-
23 tion Board under section 7701 of this title not later than
24 10 business days after the effective date of the action.

1 “(h) PROCEDURE.—Copies of the notice of proposed
2 action, the answer of the employee when written, a sum-
3 mary thereof when made orally, the notice of decision and
4 reasons therefor, and any order effecting an action de-
5 scribed in paragraphs (1) through (4) of section 7512, to-
6 gether with any supporting material, shall be maintained
7 by the agency and shall be furnished to the Board upon
8 its request. Upon the affected employee’s request, copies
9 of the documents described in the preceding sentence shall
10 be furnished to the employee, to the extent those docu-
11 ments were not provided under subsection (c).”.

12 (b) DISCIPLINE OF SUPERVISORS BASED ON RETAL-
13 IATION AGAINST WHISTLEBLOWERS.—Section
14 7515(b)(2)(B) of title 5, United States Code, is amend-
15 ed—

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

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

21 (c) APPLICATION.—The amendments made by sub-
22 sections (a) and (b) shall not apply to any action under
23 section 7513 or 7515 of title 5, United States Code, as
24 amended by those subsections, respectively, commenced
25 before the effective date provided in section 12.

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

3 Section 7121 of title 5, United States Code, is
4 amended—

5 (1) in subsection (a)(1), by striking “the settle-
6 ment of”;

7 (2) in subsection (c)—

8 (A) by redesignating paragraphs (1)
9 through (5) as paragraphs (5) through (9), re-
10 spectively; and

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

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

15 “(2) a furlough of more than 30 days by a re-
16 duction in force action under subchapter I of chap-
17 ter 35;

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

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

22 (3) in subsection (e)—

23 (A) in paragraph (1)—

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

1 (ii) in the second sentence, by striking
 2 “Similar matters” and inserting “Matters
 3 similar to those covered under subchapter
 4 II of chapter 75”; and
 5 (B) by striking paragraph (2); and
 6 (4) in subsection (f)—
 7 (A) by striking the first sentence; and
 8 (B) in the second sentence, by striking “In
 9 matters similar to those covered under sections
 10 4303 and 7512 of this title” and inserting “In
 11 matters similar to those covered under sub-
 12 chapter II of chapter 75”.

13 **SEC. 5. ACTIONS AGAINST SENIOR EXECUTIVES FOR PER-**
 14 **FORMANCE OR CONDUCT.**

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

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

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

24 “(II) the rate of basic pay in effect at the
 25 time of the placement for the position the ca-

1 reer appointee held in the civil service imme-
2 diately before being appointed to the Senior Ex-
3 ecutive Service; or

4 “(III) the rate of basic pay in effect for
5 the career appointee immediately before being
6 placed under subsection (a) or (b) of this sec-
7 tion; and

8 “(ii) any career appointee placed under sub-
9 section (b)(1) of this section shall be entitled to re-
10 ceive basic pay at the rate of basic pay in effect for
11 the position in which placed; and”.

12 (b) APPRAISAL SYSTEM REQUIREMENTS.—Section
13 4314(b) of title 5, United States Code, is amended—

14 (1) in paragraph (3), by inserting before the
15 semicolon the following: “or, as warranted, from the
16 civil service”; and

17 (2) in paragraph (4), by inserting before the pe-
18 riod at the end the following: “or, as warranted,
19 from the civil service”.

20 (c) SUSPENSION FOR 14 DAYS OR LESS.—Paragraph
21 (1) of section 7501 of title 5, United States Code, is
22 amended to read as follows:

23 “(1) ‘employee’ means—

24 “(A) an individual in the competitive serv-
25 ice who is not serving a probationary period or

1 trial period under an initial appointment or who
 2 has completed 1 year of current continuous em-
 3 ployment in the same or similar positions under
 4 other than a temporary appointment limited to
 5 1 year or less; or

6 “(B) a career appointee in the Senior Ex-
 7 ecutive Service who—

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

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

14 (d) MODIFICATION OF CAUSE AND PROCEDURE FOR
 15 SUSPENSION AND TERMINATION.—Section 7543 of title
 16 5, United States Code, is amended to read as follows:

17 **“§ 7543. Cause and procedure**

18 “(a) Under regulations prescribed by the Office of
 19 Personnel Management, an agency may take an action
 20 covered by this subchapter against an employee if the
 21 agency determines by a preponderance of the evidence the
 22 performance or misconduct of the employee warrants such
 23 action.

1 “(b) When making an initial decision on an action
2 covered by this subchapter, the deciding employee of the
3 agency shall exclusively apply the following factors—

4 “(1) the nature and seriousness of the offense,
5 and its relation to the employee’s duties, position,
6 and responsibilities, including whether the offense
7 was intentional or technical or inadvertent, or was
8 committed maliciously or for gain, or was frequently
9 repeated; and

10 “(2) the employee’s job level and type of em-
11 ployment, including supervisory or fiduciary role,
12 and prominence of the position.

13 “(c) The agency shall review the initial decision and
14 uphold such decision if it is supported by substantial evi-
15 dence.

16 “(d)(1)(A) The aggregate period for written notice,
17 response, and final decision of actions covered by this sub-
18 chapter may not exceed 15 business days unless there are
19 reasonable causes to believe the employee has committed
20 a crime for which a sentence of imprisonment may be im-
21 posed.

22 “(B) The period for which an employee may respond
23 to a notice of actions covered by this subchapter in writing
24 and to furnish affidavits and other documentary evidence
25 in support of the response shall be 7 business days. (2)

1 The agency shall issue a final decision with respect to a
2 covered actions not later than 15 business days after the
3 agency provides notice, including a file containing all the
4 evidence in support of the proposed action, to the em-
5 ployee. The decision shall be in writing and shall include
6 the specific reasons therefor.

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

9 “(1) a written notice stating the specific rea-
10 sons for the proposed action;

11 “(2) be represented by an attorney or other
12 representative; and

13 “(3) a written decision and the specific reasons
14 therefor at the earliest practicable date.

15 “(f) An agency may provide, by regulation, for a
16 hearing which may be in lieu of or in addition to the op-
17 portunity to answer provided under subsection (d)(1)(B)
18 of this section.

19 “(g) An employee against whom an action is taken
20 under this section is entitled to appeal to the Merit Sys-
21 tems Protection Board under section 7701 of this title not
22 later than 10 business days after the effective date of the
23 action.

24 “(h) Copies of the notice of proposed action, the an-
25 swer of the employee when written, a summary thereof

1 when made orally, the notice of decision and reasons there-
2 for, and any order effecting an action covered by this sub-
3 chapter, together with any supporting material, shall be
4 maintained by the agency and shall be furnished to the
5 Board upon its request. Upon the affected employee's re-
6 quest, copies of the documents described in the preceding
7 sentence shall be furnished to the employee, to the extent
8 those documents were not provided under subsection (c).

9 “(i) In this section, the term ‘misconduct’ includes
10 neglect of duty, malfeasance, or failure to accept a di-
11 rected reassignment or to accompany a position in a trans-
12 fer of function.”.

13 (e) RELATION TO OTHER PROVISIONS OF LAW.—
14 Section 3592(b)(1) of title 5, United States Code, deso-
15 not apply to an action under section 7543(a), as amended
16 in subsection (d).

17 (f) CONFORMING AMENDMENTS.—Title 5, United
18 States Code, is amended—

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

22 (2) in section 3593(a)(2), by striking “mis-
23 conduct, neglect of duty, malfeasance,” and insert-
24 ing “a removal under section 7543”;

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

3 “(d) This section shall not apply to any career ap-
4 pointee who is subject to a personnel action under sub-
5 chapter V of chapter 75.”; and

6 (4) in section 7542, by striking “or to a re-
7 moval under section 3592 or 3595” and inserting
8 the following: “to a removal from the Senior Execu-
9 tive Service under section 3592 of this title, to a re-
10 duction in force as defined in section 3595(d) of this
11 title, or to a transfer of function as described in sec-
12 tion 3595(e)”.

13 (g) APPLICATION.—The amendments made by this
14 section shall not apply to any personnel action under sub-
15 chapter V of chapter 75 of title 5, United States Code,
16 commenced before the effective date of this Act.

17 **SEC. 6. ACTIONS AGAINST SUPERVISORS FOR PERFORM-**
18 **ANCE OR CONDUCT.**

19 Subchapter II of title 5, United States Code, is
20 amended—

21 (1) by redesignating sections 7514 and 7515 as
22 sections 7516 and 7517, respectively; and

23 (2) by inserting after section 7513 the fol-
24 lowing:

1 **“§ 7514. Supervisors**

2 “(a) IN GENERAL.—

3 “(1) The agency may take an action covered by
4 this subchapter against a supervisor, as defined in
5 section 7103(a)(10), if the agency determines by a
6 preponderance of the evidence that the performance
7 or misconduct of the supervisor warrants such ac-
8 tion.

9 “(2) When making an initial decision on an ac-
10 tion covered by this subchapter, the deciding em-
11 ployee of the agency shall exclusively apply the fol-
12 lowing factors:

13 “(A) The nature and seriousness of the of-
14 fense, and its relation to the supervisor’s duties,
15 position, and responsibilities, including whether
16 the offense was intentional or technical or inad-
17 vertent, or was committed maliciously or for
18 gain, or was frequently repeated.

19 “(B) The supervisor’s job level and type of
20 employment, including supervisory or fiduciary
21 role, and prominence of the position.

22 “(3) The agency shall review the initial decision
23 and uphold such decision if it is supported by sub-
24 stantial evidence.

25 “(4) A supervisor against whom an action cov-
26 ered by this subchapter is proposed is entitled to—

1 “(A) a written notice stating the specific
2 reasons for the proposed action;

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

5 “(C) a written decision and the specific
6 reasons therefor at the earliest practicable date.

7 “(5) The agency may carry out such action cov-
8 ered by this subchapter without first placing a su-
9 pervisor on a performance improvement plan.

10 “(6) The procedures under chapter 43 shall not
11 apply to an action covered by this subchapter.

12 “(b) PROCEDURE.—(1)(A) The aggregate period for
13 written notice, response, and final decision of actions cov-
14 ered by this subchapter may not exceed 15 business days
15 unless there are reasonable causes to believe the employee
16 has committed a crime for which a sentence of imprison-
17 ment may be imposed.

18 “(B) The period for which an employee may respond
19 to a notice of actions covered by this subchapter in writing
20 and to furnish affidavits and other documentary evidence
21 in support of the response shall be 7 business days.

22 “(2) The agency shall issue a final decision with re-
23 spect to a covered action not later than 15 business days
24 after the agency provides notice, including a file con-
25 taining all the evidence in support of the proposed action,

1 to the employee. The decision shall be in writing and shall
2 include the specific reasons therefor.

3 “(c) REDUCTION IN GRADE.—

4 “(1) A reduction in grade under subsection (a)
5 shall be carried out as a reduction in grade for
6 which the covered individual is qualified, that the
7 agency determines is appropriate, and that reduces
8 the annual rate of pay of the supervisor.

9 “(2) Notwithstanding any other provision of
10 law, any supervisor subject to a reduction in grade—

11 “(A) shall, beginning on the date of such
12 demotion, receive the annual rate of pay appli-
13 cable to such grade;

14 “(B) may not be placed on administrative
15 leave during the period during which an appeal
16 (if any) under this section is ongoing, and may
17 only receive pay if the supervisor reports for
18 duty or is approved to use accrued unused an-
19 nual, sick, family medical, military, or court
20 leave; and

21 “(C) who does not report for duty or re-
22 ceive approval to use accrued unused leave shall
23 not receive pay or other benefits.

1 “(d) DEFINITION.—In this section, the term ‘super-
 2 visor’ has the meaning given that term under section
 3 7103(a).”.

4 **SEC. 7. MODIFICATION OF PROCEDURES FOR FURLOUGH.**

5 (a) FURLOUGH OF 14 DAYS OR LESS; EMERGENCY
 6 FURLOUGH.—Subchapter I of chapter 75 of title 5,
 7 United States Code, is amended—

8 (1) in section 7501, as amended by section
 9 5(c),—

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

12 (B) by redesignating paragraph (2) as
 13 paragraph (4); and

14 (C) by inserting the following after para-
 15 graph (1) the following:

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

18 “(3) ‘emergency furlough’ means a furlough
 19 due to a lapse in appropriations;”;

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

1 “(1) a suspension for 14 days or less, but not
2 a suspension under section 7521 or 7532 or any ac-
3 tion initiated under section 1215;

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

5 “(3) an emergency furlough of any duration.”;

6 (3) by redesignating section 7504 as section
7 7505; and

8 (4) by inserting after section 7503, the fol-
9 lowing:

10 **“§ 7504. Furlough and emergency furlough cause and**
11 **procedure**

12 “(a) GENERAL FURLOUGH.—

13 “(1) IN GENERAL.—An employee may be sub-
14 ject to a furlough for such cause as will promote the
15 efficiency of the service. Any employee furloughed
16 under this section is entitled to the procedures es-
17 tablished under the regulations promulgated under
18 paragraph (2).

19 “(2) PROCEDURES.—Not later than 180 days
20 after the date of enactment of this section, the Of-
21 fice of Personnel Management shall promulgate reg-
22 ulations providing for—

23 “(A) the circumstances under which an
24 employee may be furloughed under this section;

1 “(B) the procedures to be afforded fur-
2 loughed employees, including, to the extent ap-
3 propriate and practicable under the cir-
4 cumstances of the furlough action—

5 “(i) a written notice stating the spe-
6 cific reasons for the proposed action;

7 “(ii) be represented by an attorney or
8 other representative; and

9 “(iii) a written decision and the spe-
10 cific reasons therefor at the earliest prac-
11 ticable date; and

12 “(C) the materials that shall be furnished
13 to a furloughed employee and the Merit Sys-
14 tems Protection Board upon request of the em-
15 ployee or the Board.

16 “(b) EMERGENCY FURLOUGH.—

17 “(1) IN GENERAL.—An employee may be sub-
18 ject to an emergency furlough.

19 “(2) PROCEDURES.—

20 “(A) NOTICE.—Under regulations pre-
21 scribed by the Office of Personnel Management,
22 any employee subject to an emergency furlough
23 shall be afforded notice explaining the reasons
24 for the emergency furlough. If the notice cannot
25 be provided in advance of the emergency fur-

1 lough, notice shall be provided as soon as rea-
 2 sonably practicable.

3 “(B) OTHER PROCEDURES.—No other pro-
 4 cedures, including those provided under sub-
 5 section (a) or any other provision of this title,
 6 shall be available to any employee subject to an
 7 emergency furlough under this subsection.

8 “(3) DEFINITION.—For the purposes of this
 9 section, the term ‘employee’ means any employee de-
 10 scribed under section 7501(1).”.

11 (b) FURLOUGH OF MORE THAN 14 DAYS.—Sub-
 12 chapter II of chapter 75 of title 5, United States Code,
 13 is amended—

14 (1) in section 7511(a)(5) by inserting before
 15 the period the following: “, but does not include an
 16 emergency furlough as defined in section 7501 of
 17 title 5”.

18 (2) in section 7512, as amended by section
 19 2(c)—

20 (A) in paragraph (5) by striking “a fur-
 21 lough of 30 days or less” and inserting “a fur-
 22 lough of more than 14 days but less than 31
 23 days”;

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

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

4 (D) by adding at the end the following:

5 “(F) an emergency furlough action under
6 section 7504.”;

7 (3) by inserting after section 7514, as added by
8 section 6, the following:

9 **“§ 7515. Furlough cause and procedure**

10 “(a) IN GENERAL.—An employee may be subject to
11 a furlough for such cause as will promote the efficiency
12 of the service. Any employee furloughed under this section
13 is entitled to the procedures established under the regula-
14 tions promulgated under subsection (b).

15 “(b) PROCEDURES.—Not later than 180 days after
16 the date of enactment of this section, the Office of Per-
17 sonnel Management shall promulgate regulations pro-
18 viding for—

19 “(1) the circumstances under which an em-
20 ployee may be furloughed under this section;

21 “(2) the procedures provided under section
22 7513 to the extent appropriate and practicable
23 under the circumstances of the furlough action; and

24 “(3) the materials that shall be furnished to a
25 furloughed employee and the Merit Systems Protec-

1 tion Board upon request of the employee or the
2 Board.

3 “(c) APPEAL.— An employee against whom a fur-
4 lough action is taken under this section is entitled to ap-
5 peal to the Merit Systems Protection Board under section
6 7701 not later than 10 business days after the effective
7 date of the action.”.

8 (c) ADMINISTRATIVE LAW JUDGES.—Section
9 7521(b) of title 5, United States Code, is amended—

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

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

14 (3) by adding at the end the following:

15 “(D) an emergency furlough action under
16 section 7504.”.

17 (d) TECHNICAL AMENDMENTS.—

18 (1) SECTION 7503.—The heading of section
19 7503 of title 5, United States Code, is amended by
20 striking “**Cause and procedure**” and inserting
21 “**Suspension cause and procedure**”,.

22 (2) SECTION 7513.—Section 7513 of title 5,
23 United States Code, is amended by striking
24 “**Cause and procedure**” and inserting “**Cause**

1 **and procedure for actions other than fur-**
 2 **lough”.**

3 (e) CLERICAL AMENDMENTS.—

4 (1) SUBCHAPTER I OF CHAPTER 75 OF TITLE
 5 5.—The table of sections for subchapter I of chapter
 6 75 of title 5, United States Code, is amended by
 7 striking the items relating to sections 7503 and
 8 7504 and inserting the following:

“7503. Suspension cause and procedure.

“7504. Furlough and emergency furlough cause and procedure.

“7505. Regulations.”.

9 (2) SUBCHAPTER II OF CHAPTER 75 OF TITLE
 10 5.—The table of sections for subchapter II of chap-
 11 ter 75 of title 5, United States Code, is amended by
 12 striking the items relating to sections 7513 through
 13 7515 and inserting the following:

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

“7514. Supervisors.

“7515. Furlough cause and procedure.

“7516. Regulations.

“7517. Discipline of supervisors based on retaliation against whistleblowers.”.

14 (f) APPLICATION.—Notwithstanding section 12, the
 15 amendments made by this section shall take effect on the
 16 earlier of—

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

19 (2) the date on which the Office of Personnel
 20 Management promulgates regulations provided

1 under sections 7504 and 7515 of title 5, United
2 States Code, as added by this section.

3 **SEC. 8. REDUCTION OF ANNUITY OF EMPLOYEE CON-**
4 **VICTED OF A FELONY FOR WHICH AN AD-**
5 **VERSE ACTION IS OR WOULD HAVE BEEN**
6 **TAKEN.**

7 (a) REDUCTION OF ANNUITY OF EMPLOYEE CON-
8 VICTED OF A FELONY FOR WHICH AN ADVERSE ACTION
9 IS TAKEN.—

10 (1) IN GENERAL.—Subchapter II of chapter 83
11 of title 5, United States Code, is amended by adding
12 at the end the following:

13 **“§ 8323. Reduction of benefits of employees convicted**
14 **of certain crimes**

15 “(a) REDUCTION OF ANNUITY.—

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

21 “(A) the covered individual is finally con-
22 victed of a felony; and

23 “(B) the head of the agency at which the
24 individual was employed determines that the

1 conviction was based on the acts or omissions
2 of the covered individual that—

3 “(i) were taken or not taken in the
4 performance of the covered individual’s of-
5 ficial duties at the agency; and

6 “(ii) are sufficient to support a re-
7 moval action under section 7513, 7543, or
8 any other provision of law against the cov-
9 ered individual.

10 “(2) PROCEDURES.—A covered individual
11 against whom a determination is made under para-
12 graph (1) shall be afforded—

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

16 “(B) an opportunity to respond to the de-
17 termination by not later than 10 business days
18 after receipt of the notice.

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

22 “(A) in the case of a covered individual
23 who responds under paragraph (2)(B), 5 busi-
24 ness days after receiving the response from the

1 covered individual, to the maximum extent
2 practicable; or

3 “(B) in the case of a covered individual
4 who does not so respond, 15 business days after
5 the date on which the head of the agency pro-
6 vided notice to the individual under paragraph
7 (2)(A), to the maximum extent practicable.

8 “(4) APPEAL.—A covered individual with re-
9 spect to whom an annuity is to be reduced under
10 this subsection may appeal the final order under
11 paragraph (3) to the Merit Systems Protection
12 Board in accordance with any regulations that the
13 Board may prescribe for purposes of this subsection.
14 An appeal may not be made under this paragraph
15 later than that date that is 10 business days after
16 the date on which an order is issued under para-
17 graph (3).

18 “(b) ADMINISTRATIVE REQUIREMENTS.—

19 “(1) IN GENERAL.—Not later than 30 business
20 days after the date on which the head of an agency
21 issues a final order under subsection (a) or a final
22 decision of the Merit Systems Protection Board is
23 rendered (as the case may be) with respect to an in-
24 dividual, the applicable employing agency shall
25 amend the covered individual’s retirement records to

1 reflect the period of service that is no longer cred-
2 itable by operation of this section and transmit the
3 amended records to the Director of the Office of
4 Personnel Management.

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

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

17 “(d) SPOUSE EXCEPTION.—The spouse of any cov-
18 ered individual referred to in subsection (a) shall be eligi-
19 ble for spousal annuity benefits that, but for subsection
20 (a), would otherwise have been payable if the Attorney
21 General of the United States or the attorney general of
22 a State, a territory, or the District of Columbia determines
23 that the spouse fully cooperated with authorities in the
24 conduct of a criminal investigation and subsequent pros-

1 ecution of the individual that resulted in the benefit reduc-
2 tion.

3 “(e) APPLICATION.—Nothing in this section shall be
4 construed to affect or otherwise mitigate the application
5 of any other section of this subchapter.

6 “(f) DEFINITIONS.—In this section—

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

8 “(A) an individual who is removed from a
9 position as an employee (as defined in section
10 2105) in the civil service for performance or
11 misconduct under section 7513, 7543, or any
12 other provision of law; or

13 “(B) an individual who—

14 “(i) is an employee (as defined in sec-
15 tion 2105) subject to a removal action for
16 performance or misconduct under section
17 7513, 7543, or any other provision of law;
18 and

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

23 “(2) the term ‘felonious service’ means, with re-
24 spect to a covered individual, the period of service—

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

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

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

12 “(ii) the date on which the individual
13 ceases engaging in the acts or omissions
14 that gave rise to the removal action or pro-
15 posed removal action described in para-
16 graph (1);

17 “(3) the term ‘finally convicted’ or ‘final convic-
18 tion’ refers to a conviction of a felony—

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

22 “(B) that has been appealed and the ap-
23 peals process for which is completed;

1 “(4) the term ‘lump-sum credit’ has the mean-
 2 ing given that term in section 8331(8) or 8401(19)
 3 (as the case may be); and

4 “(5) the term ‘service’ has the meaning given
 5 that term in section 8331(12) or 8401(26) (as the
 6 case may be).”.

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

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

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

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

18 **SEC. 9. AUTHORITY TO RECOUP BONUSES OR AWARDS**
 19 **PAID TO EMPLOYEES.**

20 (a) ADVERSE FINDINGS AND EMPLOYEES UNDER IN-
 21 VESTIGATION.—Chapter 45 of title 5, United States Code,
 22 is amended by adding at the end the following:

1 **“Subchapter IV—Limitations on Bonus**
2 **Authority**

3 **“§ 4531. Certain forms of misconduct**

4 “(a) DEFINITIONS.—In this section:

5 “(1) ADVERSE FINDING.—

6 “(A) IN GENERAL.—The term ‘adverse
7 finding’ means a determination by the head of
8 the agency employing an employee that the con-
9 duct of the employee—

10 “(i) violated a policy of the agency for
11 which the employee may be removed or
12 suspended for a period of not less than 14
13 days; or

14 “(ii) violated a law for which the em-
15 ployee may be imprisoned for more than 1
16 year.

17 “(B) BASIS.—A determination described in
18 subparagraph (A) may be based on an inves-
19 tigation by, a determination of, or information
20 provided by the Inspector General or another
21 senior ethics official of an agency or the Comp-
22 troller General of the United States, as part of
23 carrying out an activity, authority, or function
24 of the Inspector General, senior ethics official,

1 or Comptroller General, respectively, under a
2 provision of law other than this section.

3 “(2) AGENCY.—The term ‘agency’ has the
4 meaning given the term in section 551.

5 “(3) BONUS.—The term ‘bonus’ means any
6 performance award or cash award under—

7 “(A) section 4505a;

8 “(B) section 5384; or

9 “(C) section 5754.

10 “(4) EMPLOYEE.—The term ‘employee’ means
11 an employee of an agency.

12 “(b) PROHIBITION.—The head of an agency may not
13 award a bonus to an employee of the agency until the date
14 that is 5 years after the end of the fiscal year during which
15 the head of an agency makes an adverse finding relating
16 to the employee.

17 “(c) AFTER BONUS AWARDED.—

18 “(1) IN GENERAL.—For a bonus awarded to an
19 employee after the date of enactment of this section,
20 if the head of the agency employing the employee
21 makes an adverse finding relating to the employee
22 during the fiscal year in which the bonus is awarded,
23 the head of the agency, after notice and an oppor-
24 tunity for a hearing, shall issue an order directing
25 the employee to repay the amount of the bonus.

1 “(2) REPAYMENT PLAN.—An agency shall allow
2 an employee who is required to repay a bonus under
3 paragraph (1) to repay that bonus using a repay-
4 ment plan.

5 “(3) HEARINGS.—A hearing under this sub-
6 section shall be conducted in accordance with regula-
7 tions relating to hearings promulgated by the head
8 of the agency under chapter 75.

9 “(d) CONDITION OF RECEIPT.—As a condition of re-
10 ceiving a bonus awarded after the date of enactment of
11 this section, an employee shall sign a certification stating
12 that the employee shall repay the bonus in accordance with
13 a final order issued under subsection (c).

14 “(e) APPEAL.—An employee determined to be ineli-
15 gible for a bonus under subsection (b) or against whom
16 an order is issued under subsection (c) may submit an
17 appeal to the Merit Systems Protection Board under sec-
18 tion 7701.”.

19 (b) RULEMAKING.—The head of each agency, as de-
20 fined in section 551 of title 5, United States Code, may
21 promulgate rules to carry out section 4531 of title 5,
22 United States Code, as added by subsection (a).

23 (c) TECHNICAL AND CONFORMING AMENDMENT.—
24 The table of sections for chapter 45 of title 5, United

1 States Code, is amended by adding at the end the fol-
 2 lowing:

“SUBCHAPTER IV—LIMITATIONS ON BONUS AUTHORITY

“4531. Certain forms of misconduct.

3 **SEC. 10. EXTENSION OF PROBATIONARY PERIOD FOR POSI-**
 4 **TIONS WITHIN THE SENIOR EXECUTIVE**
 5 **SERVICE.**

6 (a) IN GENERAL.—Section 3393(d) of title 5, United
 7 States Code, is amended by striking “1-year” and insert-
 8 ing “2-year”.

9 (b) CONFORMING AMENDMENT.—Section 3592(a)(1)
 10 of title 5, United States Code, is amended by striking “1-
 11 year” and inserting “2-year”.

12 (c) APPLICATION.—The amendments made by this
 13 section shall apply in the case of any individual initially
 14 appointed as a career appointee under section 3393 of title
 15 5, United States Code, on or after the effective date pro-
 16 vided in section 12 of this Act.

17 **SEC. 11. EXTENSION OF PROBATIONARY PERIOD FOR EM-**
 18 **PLOYEES IN THE COMPETITIVE SERVICE.**

19 (a) EXTENSION OF PROBATIONARY PERIOD.—

20 (1) IN GENERAL.—Section 3321 of title 5,
 21 United States Code, is amended—

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

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

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

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

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

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

17 “(C) with respect to any position not covered by
18 subparagraph (A) or (B), be a period of 2 years be-
19 ginning on the date of the appointment to the posi-
20 tion.

21 “(2) For purposes of paragraph (1)—

22 “(A) the term ‘formal training’ means, with re-
23 spect to any position, a training program required
24 by law, rule, or regulation, or otherwise required by
25 the employing agency, to be completed by the em-

1 ployee before the employee is able to successfully
2 execute the duties of the applicable position; and

3 “(B) the term ‘license’ means a license, certifi-
4 cation, or other grant of permission to engage in a
5 particular activity.

6 “(d) The head of each agency shall, in the adminis-
7 tration of this section, take appropriate measures to en-
8 sure that—

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

15 “(2) any individual who is required to complete
16 a probationary period under this section receives
17 timely notice of any requirements, including per-
18 formance requirements, that must be met in order to
19 satisfactorily complete that period;

20 “(3) any supervisor or manager of an individual
21 who is required to complete a probationary period
22 under this section receives periodic notifications of
23 the end date of that period not later than 1 year,
24 6 months, 3 months, and 30 days before the end
25 date; and

1 “(4) if the agency head decides to retain an in-
2 dividual after the completion of a probationary pe-
3 riod under this section, the agency head submits a
4 certification to that effect to the President, sup-
5 ported by a brief statement of the basis for the cer-
6 tification, in such form and manner as the President
7 may by regulation prescribe.”.

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

13 (3) APPLICATION.—This subsection and the
14 amendments made by this subsection shall apply in
15 the case of any appointment (as referred to in sec-
16 tion 3321(a)(1) of title 5, United States Code) and
17 any initial appointment (as referred to in section
18 3321(a)(2) of that title) taking effect on or after the
19 effective date provided in section 12 of this Act.

20 (b) ADVERSE ACTIONS.—

21 (1) SUBCHAPTER I OF CHAPTER 75 OF TITLE
22 5.—Section 7501(1) of title 5, United States Code,
23 as amended by sections 5(c) and 7(a)(1), is further
24 amended—

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

3 (B) by striking “1 year of current” and in-
4 serting “2 years of current”.

5 (2) SUBCHAPTER II OF CHAPTER 75 OF TITLE
6 5.—Section 7511(a)(1) of title 5, United States
7 Code, is amended—

8 (A) in subparagraph (A)—

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

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

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

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

18 (3) APPLICATION.—The amendments made by
19 paragraphs (1) and (2) shall apply in the case of
20 any individual whose period of continuous service
21 commences on or after the effective date provided in
22 section 12.

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

1 **SEC. 12. APPLICATION.**

2 (a) **EFFECTIVE DATE.**—Unless otherwise specifically
3 provided for in this Act, the amendments made by this
4 Act shall take effect on the date that is 1 year after the
5 date of enactment of this Act.

6 (b) **COLLECTIVE BARGAINING AGREEMENTS.**—Not-
7 withstanding any other provision of law, the procedures
8 established or amended by this Act shall supersede any
9 collective bargaining agreement to the extent that the
10 agreement is inconsistent with those procedures.

11 (c) **DEFINITION OF BUSINESS DAY.**—For purposes
12 of carrying out this Act and the amendments made by this
13 Act, the term “business day” means any day other than
14 a Saturday, Sunday, or legal public holiday under section
15 6103(a) of title 5, United States Code.

○