

Calendar No. 505

114TH CONGRESS
2^D SESSION**S. 3011**

To improve the accountability, efficiency, transparency, and overall effectiveness of the Federal Government.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2016

Mr. JOHNSON introduced the following bill; which was read the first time

JUNE 6, 2016

Read the second time and placed on the calendar

A BILL

To improve the accountability, efficiency, transparency, and overall effectiveness of the Federal Government.

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.**

4 This Act may be cited as the “Bolster Accountability
5 to Drive Government Efficiency and Reform Washington
6 Act of 2016”.

7 **SEC. 2. TABLE OF CONTENTS.**

8 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—EFFICIENCY, TRANSPARENCY, AND OTHER REFORMS

Subtitle A—Federal Real Property Sale and Management

- Sec. 1101. Definitions.
- Sec. 1102. Federal Real Property Reform Board.
- Sec. 1103. Property management.
- Sec. 1104. Agency retention of proceeds.
- Sec. 1105. Surplus property donations to museums.
- Sec. 1106. Duties of Federal agencies.
- Sec. 1107. Streamlining the McKinney-Vento Homeless Assistance Act.

Subtitle B—Taxpayers Right to Know

- Sec. 1201. Short title.
- Sec. 1202. Inventory of Government programs.
- Sec. 1203. Guidance and implementation.

Subtitle C—Stopping Improper Payments to Deceased People

- Sec. 1301. Short title.
- Sec. 1302. Distribution of death information furnished to or maintained by the social security administration.
- Sec. 1303. Improving the use of death data by government agencies to curb improper payments.
- Sec. 1304. Plan for ensuring the accuracy and completeness of death data maintained and distributed by the Social Security Administration.
- Sec. 1305. Report on information security.

Subtitle D—Fraud Reduction and Data Analytics

- Sec. 1401. Short title.
- Sec. 1402. Definitions.
- Sec. 1403. Establishment of financial and administrative controls relating to fraud and improper payments.
- Sec. 1404. Working group.

Subtitle E—Duplication Reduction and Agency Coordination

- Sec. 1501. Short title.
- Sec. 1502. Purpose.
- Sec. 1503. Identification, consolidation, and elimination of unnecessarily duplicative Government programs.
- Sec. 1504. Improvements to elimination of unnecessary duplication.

Subtitle F—Administrative Leave

- Sec. 1601. Short title.
- Sec. 1602. Sense of Congress.
- Sec. 1603. Administrative leave.
- Sec. 1604. Investigative leave and notice leave.
- Sec. 1605. Leave for weather and safety issues.
- Sec. 1606. Additional oversight.

Subtitle G—Enhancements for Inspectors General

PART I—INSPECTOR GENERAL EMPOWERMENT

- Sec. 1701. Short title.
- Sec. 1702. Nonduty status of Inspectors General; nominal supervision.
- Sec. 1703. Additional authority provisions for Inspectors General.
- Sec. 1704. Additional responsibilities and resources of the Council of the Inspectors General on Integrity and Efficiency.
- Sec. 1705. Reports and additional information.
- Sec. 1706. Full and prompt access to all documents.
- Sec. 1707. Access to information for certain Inspectors General.
- Sec. 1708. Technical and conforming amendments.

PART II—INSPECTOR GENERAL MANDATES REPORTING

- Sec. 1751. Short title.
- Sec. 1752. Reporting requirements of Inspectors General.

Subtitle H—Enhancements for Government Accountability Office

PART I—GOVERNMENT ACCOUNTABILITY OFFICE MANDATES REVISIONS

- Sec. 1801. Short title.
- Sec. 1802. Reports eliminated.
- Sec. 1803. Reports modified.

PART II—GOVERNMENT ACCOUNTABILITY OFFICE ACCESS AND OVERSIGHT

- Sec. 1851. Short title.
- Sec. 1852. Access to certain information.

Subtitle I—Stopping Wasteful Federal Bonuses

- Sec. 1901. Short title.
- Sec. 1902. Bonuses.

Subtitle J—Eliminating Government-funded Oil-paintings

- Sec. 1921. Short title.
- Sec. 1922. Prohibition on use of funds for portraits.

Subtitle K—Presidential Allowance Modernization

- Sec. 1941. Short title.
- Sec. 1942. Amendments.
- Sec. 1943. Rule of construction.
- Sec. 1944. Transition rules.
- Sec. 1945. Applicability.

Subtitle L—Making Electronic Government Accountable

- Sec. 1961. Short title.
- Sec. 1962. OMB Directive on management of software licenses.

Subtitle M—Construction Consensus Procurement Improvement

- Sec. 1981. Short title.
- Sec. 1982. Congressional findings.
- Sec. 1983. Design-build construction process improvement.

Sec. 1984. Prohibition on the use of a reverse auction for the award of a contract for design and construction services.

TITLE II—ACCOUNTABILITY ENHANCEMENTS

Subtitle A—Expanded Whistleblower Protections for Employees

Sec. 2101. Short title.

PART I—EMPLOYEES GENERALLY

- Sec. 2121. Definitions.
- Sec. 2122. Stays; probationary employees.
- Sec. 2123. Adequate access of Special Counsel to information.
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- Sec. 2125. Discipline of supervisors based on retaliation against whistleblowers.
- Sec. 2126. Suicide by employees.
- Sec. 2127. Training for supervisors.
- Sec. 2128. Information on whistleblower protections.

PART II—DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES

- Sec. 2141. Prevention of unauthorized access to medical records of employees of the Department of Veterans Affairs.
- Sec. 2142. Outreach on availability of mental health services available to employees of the Department of Veterans Affairs.
- Sec. 2143. Protocols to address threats against employees of the Department of Veterans Affairs.
- Sec. 2144. Comptroller General of the United States study on accountability of chiefs of police of Department of Veterans Affairs medical centers.

Subtitle B—Enhanced Whistleblower Protection for Contractor and Grantee Employees

Sec. 2201. Enhancement of whistleblower protection for contractor and grantee employees.

Subtitle C—Office of Special Counsel Reauthorization

- Sec. 2301. Short title.
- Sec. 2302. Adequate access of Special Counsel to information.
- Sec. 2303. Prohibited personnel practices; information on whistleblower protections.
- Sec. 2304. Additional whistleblower provisions.
- Sec. 2305. Termination of certain investigations by the Office of Special Counsel.
- Sec. 2306. Allegations of wrongdoing within the Office of Special Counsel.
- Sec. 2307. Reporting requirements.
- Sec. 2308. Establishment of survey pilot program.
- Sec. 2309. Authorization of appropriations.

1 **TITLE I—EFFICIENCY, TRANS-**
2 **PARENCY, AND OTHER RE-**
3 **FORMS**

4 **Subtitle A—Federal Real Property**
5 **Sale and Management**

6 **SEC. 1101. DEFINITIONS.**

7 In this subtitle:

8 (1) ADMINISTRATOR.—The term “Adminis-
9 trator” means the Administrator of General Serv-
10 ices.

11 (2) BOARD.—The term “Board” means the
12 Federal Real Property Reform Board established by
13 section 1102.

14 (3) DIRECTOR.—The term “Director” means
15 the Director of the Office of Management and Budg-
16 et.

17 (4) FEDERAL AGENCY.—The term “Federal
18 agency” means—

19 (A) an executive department or inde-
20 pendent establishment in the executive branch
21 of the Government; and

22 (B) a wholly owned Government corpora-
23 tion.

24 (5) FEDERAL CIVILIAN REAL PROPERTY AND
25 CIVILIAN REAL PROPERTY.—

1 (A) IN GENERAL.—The terms “Federal ci-
2 vilian real property” and “civilian real prop-
3 erty” mean Federal real property assets, includ-
4 ing—

5 (i) public buildings (as defined in sec-
6 tion 3301 of title 40, United States Code);

7 (ii) occupied and improved grounds;

8 (iii) leased space; and

9 (iv) other physical structures under
10 the custody and control of any Federal
11 agency.

12 (B) EXCLUSIONS.—The terms “Federal ci-
13 vilian real property” and “civilian real prop-
14 erty” do not include—

15 (i) any military installation (as de-
16 fined in section 2910 of the Defense Base
17 Closure and Realignment Act of 1990 (10
18 U.S.C. 2687 note; Public Law 101–510));

19 (ii) any property that is excepted from
20 the definition of the term “property”
21 under section 102 of title 40, United
22 States Code;

23 (iii) Indian and native Eskimo prop-
24 erty held in trust by the Federal Govern-
25 ment as described in section

1 3301(a)(5)(C)(iii) of title 40, United
2 States Code;

3 (iv) real property operated and main-
4 tained by the Tennessee Valley Authority
5 pursuant to the Tennessee Valley Author-
6 ity Act of 1933 (16 U.S.C. 831 et seq.);

7 (v) any real property the Director ex-
8 cludes for reasons of national security;

9 (vi) any public lands (as defined in
10 section 203 of the Public Lands Corps Act
11 of 1993 (16 U.S.C. 1722)) administered
12 by—

13 (I) the Secretary of the Interior,
14 acting through—

15 (aa) the Director of the Bu-
16 reau of Land Management;

17 (bb) the Director of the Na-
18 tional Park Service;

19 (cc) the Commissioner of
20 Reclamation; or

21 (dd) the Director of the
22 United States Fish and Wildlife
23 Service; or

1 (II) the Secretary of Agriculture,
2 acting through the Chief of the Forest
3 Service; or

4 (vii) any postal property.

5 (6) FIELD OFFICE.—The term “field office”
6 means any office of a Federal agency that is not the
7 headquarters office location for the Federal agency.

8 (7) POSTAL PROPERTY.—The term “postal
9 property” means any property owned or leased by
10 the United States Postal Service.

11 **SEC. 1102. FEDERAL REAL PROPERTY REFORM BOARD.**

12 (a) ESTABLISHMENT.—

13 (1) IN GENERAL.—There is established an inde-
14 pendent board to be known as the Federal Real
15 Property Reform Board.

16 (2) DUTIES.—The Board shall carry out the
17 duties described in subsection (c).

18 (3) MEMBERSHIP.—

19 (A) IN GENERAL.—The Board shall be
20 composed of—

21 (i) a Chairperson appointed by the
22 President, by and with the advice and con-
23 sent of the Senate; and

24 (ii) 6 members appointed by the
25 President.

1 (B) APPOINTMENTS.—In making appoint-
2 ments to the Board under subparagraph (A)(ii),
3 the President shall consult with—

4 (i) the Speaker of the House of Rep-
5 resentatives concerning the appointment of
6 2 members;

7 (ii) the majority leader of the Senate
8 concerning the appointment of 2 members;

9 (iii) the minority leader of the House
10 of Representatives concerning the appoint-
11 ment of 1 member; and

12 (iv) the minority leader of the Senate
13 concerning the appointment of 1 member.

14 (C) TERMS.—The term for each member
15 of the Board shall be 6 years.

16 (D) VACANCIES.—A vacancy on the Board
17 shall be filled in the same manner in which the
18 original appointment was made.

19 (E) QUALIFICATIONS.—In making appoint-
20 ments to the Board, the President shall ensure
21 that the Board contains individuals with exper-
22 tise representative of—

23 (i) commercial real estate and redev-
24 opment;

- 1 (ii) space optimization and utilization;
2 and
3 (iii) community development, includ-
4 ing transportation and planning.

5 (4) BOARD MEETINGS.—

6 (A) OPEN MEETINGS.—

7 (i) IN GENERAL.—Each meeting of
8 the Board, other than meetings in which
9 classified information is to be discussed,
10 shall—

11 (I) be open to the public; and

12 (II) be announced in the Federal
13 Register and the Federal website es-
14 tablished by the Board at least 14 cal-
15 endar days in advance of a meeting.

16 (ii) AGENDA; MATERIALS.—For each
17 meeting, the Board shall release an agenda
18 and a listing of materials relevant to the
19 topics to be discussed.

20 (B) QUORUM AND MEETINGS.—Of the
21 members of the Board—

22 (i) 5 shall constitute a quorum for the
23 purposes of conducting business; and

24 (ii) 3 or more shall constitute a meet-
25 ing of the Board.

1 (C) TRANSPARENCY OF INFORMATION.—

2 (i) CONGRESS.—All the proceedings,
3 information, and deliberations of the
4 Board shall be open, on request, to the
5 Chairperson and the ranking minority
6 party member, and the respective sub-
7 committee Chairperson and ranking minor-
8 ity party member, of—

9 (I) the Committee on Homeland
10 Security and Governmental Affairs of
11 the Senate;

12 (II) the Committee on Oversight
13 and Government Reform of the House
14 of Representatives;

15 (III) the Committee on Environ-
16 ment and Public Works of the Senate;

17 (IV) the Committee on Transpor-
18 tation and Infrastructure of the
19 House of Representatives;

20 (V) the Committee on Appropria-
21 tions of the Senate; and

22 (VI) the Committee on Appro-
23 priations of the House of Representa-
24 tives.

1 (ii) GOVERNMENT ACCOUNTABILITY
2 OFFICE.—All proceedings, information,
3 and deliberations of the Board shall be
4 open, on request, to the Comptroller Gen-
5 eral of the United States.

6 (5) COMPENSATION AND TRAVEL EXPENSES.—

7 (A) COMPENSATION.—

8 (i) RATE OF PAY FOR MEMBERS.—
9 Each member of the Board, other than the
10 Chairperson, shall be paid at a rate equal
11 to the daily equivalent of the minimum an-
12 nual rate of basic pay payable for level IV
13 of the Executive Schedule under section
14 5315 of title 5, United States Code, for
15 each day (including travel time) during
16 which the member is engaged in the actual
17 performance of duties vested in the Board.

18 (ii) RATE OF PAY FOR CHAIR-
19 PERSON.—The Chairperson of the Board
20 shall be paid for each day referred to in
21 clause (i) at a rate equal to the daily
22 equivalent of the minimum annual rate of
23 basic pay payable for level III of the Exec-
24 utive Schedule under section 5314, of title
25 5, United States Code.

1 (B) TRAVEL.—A member of the Board
2 shall receive travel expenses, including per diem
3 in lieu of subsistence, in accordance with sec-
4 tions 5702 and 5703 of title 5, United States
5 Code.

6 (6) EXECUTIVE DIRECTOR.—

7 (A) APPOINTMENT.—The Board—

8 (i) shall appoint an Executive Direc-
9 tor; and

10 (ii) shall not be required to comply
11 with the provisions of title 5, United States
12 Code, governing appointments in the com-
13 petitive service.

14 (B) RATE OF PAY FOR DIRECTOR.—The
15 Executive Director shall be paid at the rate of
16 basic pay payable for level IV of the Executive
17 Schedule under section 5315 of title 5, United
18 States Code.

19 (7) STAFF.—

20 (A) ADDITIONAL PERSONNEL.—Subject to
21 subparagraph (B), the Executive Director may
22 request additional personnel detailed from Fed-
23 eral agencies.

24 (B) DETAIL EMPLOYEES FROM OTHER
25 AGENCIES.—On request of the Chairperson and

1 after approval of the Director, the head of any
2 Federal agency shall detail the requested per-
3 sonnel of that agency to the Board to assist the
4 Board in carrying out the duties of the Board.

5 (C) QUALIFICATIONS.—Appointments shall
6 be made with consideration of a balance of ex-
7 pertise consistent with the qualifications of rep-
8 resentatives described in paragraph (3)(E).

9 (8) CONTRACTING AUTHORITY.—

10 (A) EXPERTS AND CONSULTANTS.—The
11 Board, to the maximum extent practicable and
12 subject to the availability of appropriations,
13 shall use existing contracts, including non-
14 appropriated contracts, entered into by the Ad-
15 ministrator for services necessary to carry out
16 the duties of the Board.

17 (B) OFFICE SPACE.—The Administrator,
18 in consultation with the Board, shall identify
19 and provide, without charge, suitable office
20 space within the Federal property inventory to
21 house the operations of the Board.

22 (C) PERSONAL PROPERTY.—The Adminis-
23 trator shall provide to the Board any personal
24 property already in the custody and control of

1 the Administrator that is needed to carry out
2 the duties of the Board.

3 (9) TERMINATION OF BOARD.—The Board and
4 the authority of the Board shall terminate on the
5 date that is 6 years after the date of enactment of
6 this Act.

7 (b) DEVELOPMENT OF RECOMMENDATIONS TO THE
8 BOARD.—

9 (1) SUBMISSIONS OF AGENCY INFORMATION
10 AND RECOMMENDATIONS.—Not later than 120 days
11 after the date of enactment of this Act and not later
12 than 120 days after the beginning of each fiscal year
13 thereafter, the head of each Federal agency shall
14 submit to the Administrator and the Director a re-
15 port that includes—

16 (A) current data of all Federal civilian real
17 properties owned, leased, or controlled by the
18 respective agency (including all relevant infor-
19 mation prescribed by the Administrator and the
20 Director), including data relating to—

- 21 (i) the age and condition of the prop-
22 erty;
23 (ii) operating costs;
24 (iii) the history of capital expendi-
25 tures;

1 (iv) sustainability metrics;

2 (v) the number of Federal employees
3 and functions housed in the respective
4 property; and

5 (vi) the square footage (including
6 gross, rentable, and usable) of each prop-
7 erty; and

8 (B) recommendations as to—

9 (i) any Federal civilian properties that
10 can be sold for proceeds and otherwise dis-
11 posed of, reported as excess, declared sur-
12 plus, or outleased or are otherwise no
13 longer meeting the needs of the agency, ex-
14 cluding leasebacks or other exchange
15 agreements where the property continues
16 to be used by the agency;

17 (ii) any Federal civilian properties
18 that can be transferred, exchanged, con-
19 solidated, colocated, reconfigured, or rede-
20 veloped—

21 (I) to reduce the civilian real
22 property inventory;

23 (II) to reduce the operating costs
24 of the Federal Government; and

1 (III) to create the highest value
2 and return for the taxpayer; and
3 (iii) operational efficiencies that may
4 be realized by the Federal Government in
5 the operation and maintenance of Federal
6 civilian real properties.

7 (2) STANDARDS AND CRITERIA.—Not later than
8 60 days after each date specified in paragraph (1),
9 the Director, in consultation with the Administrator,
10 shall—

11 (A) review agency recommendations sub-
12 mitted pursuant to paragraph (1);

13 (B) develop consistent standards and cri-
14 teria against which agency recommendations
15 will be reviewed, which shall be developed tak-
16 ing into consideration—

17 (i) the extent to which a Federal
18 building or facility could be sold (including
19 property that is no longer meeting the
20 needs of the Federal Government), redev-
21 oped, outleased, or otherwise used to
22 produce the highest and best value and re-
23 turn for the taxpayer;

24 (ii) the extent to which the operating
25 and maintenance costs are reduced

1 through consolidating, co-locating, and re-
2 configuring space, and through realizing
3 other operational efficiencies;

4 (iii) the extent to which the utilization
5 rate is being maximized and is consistent
6 with nongovernmental industry standards
7 for the given function or operation;

8 (iv) the extent and timing of potential
9 costs and savings, including the number of
10 years, beginning with the date of comple-
11 tion of the proposed recommendation;

12 (v) the extent to which reliance on
13 leasing for long-term space needs is re-
14 duced;

15 (vi) the extent to which a Federal
16 building or facility aligns with the current
17 mission of the applicable Federal agency;

18 (vii) the extent to which there are op-
19 portunities to consolidate similar oper-
20 ations across multiple agencies or within
21 agencies;

22 (viii) the economic impact on commu-
23 nities in the vicinity of the Federal build-
24 ing or facility; and

1 (ix) the extent to which energy con-
2 sumption is reduced; and

3 (C) develop recommendations for the
4 Board based on the standards and criteria de-
5 veloped under subparagraph (B).

6 (3) SPECIAL RULE FOR UTILIZATION RATES.—

7 (A) IN GENERAL.—Standards developed by
8 the Director under paragraph (2)(B) shall in-
9 corporate and apply clear standard utilization
10 rates consistent throughout each category of
11 space and with nongovernment space utilization
12 rates.

13 (B) UTILIZATION RATE.—To the extent
14 the space utilization rate of a given agency ex-
15 ceeds the utilization rates to be applied under
16 this subsection, the Director may recommend
17 realignment, colocation, consolidation, or other
18 type of action to improve space utilization.

19 (4) SUBMISSION TO THE BOARD.—

20 (A) IN GENERAL.—The standards, criteria,
21 and recommendations developed pursuant to
22 paragraph (2)(B) shall be submitted to the
23 Board with all supporting information, data,
24 analyses, and documentation.

1 (B) PUBLICATION.—The standards, cri-
2 teria, and recommendations developed pursuant
3 to paragraph (2)(B) shall be—

4 (i) published in the Federal Register;

5 and

6 (ii) submitted to—

7 (I) the committees described in
8 subsection (a)(4)(C)(i); and

9 (II) the Comptroller General of
10 the United States.

11 (C) ACCESS TO INFORMATION.—

12 (i) IN GENERAL.—The Board shall
13 have access to all information pertaining to
14 the recommendations, including supporting
15 information, data, analyses, and docu-
16 mentation submitted pursuant to para-
17 graph (1).

18 (ii) INFORMATION FROM FEDERAL
19 AGENCIES.—On request, a Federal agency
20 shall provide to the Board any additional
21 information pertaining to the civilian real
22 property of the agency.

23 (c) DUTIES OF BOARD.—

1 (1) IDENTIFICATION OF PROPERTY REDUCTION
2 OPPORTUNITIES.—The Board shall identify opportu-
3 nities for the Federal Government—

4 (A) to significantly reduce the inventory of
5 civilian real property held by the Federal Gov-
6 ernment; and

7 (B) to reduce costs to the Federal Govern-
8 ment.

9 (2) IDENTIFICATION OF HIGH VALUE ASSETS.—

10 (A) IDENTIFICATION OF CERTAIN PROP-
11 erties.—Not later than 180 days after the
12 date on which the last Board member has been
13 appointed pursuant to subsection (a)(3), the
14 Board shall—

15 (i) identify not less than 5 Federal
16 properties that are not on the list of sur-
17 plus or excess as of that date with a total
18 fair market value of not less than
19 \$500,000,000; and

20 (ii) submit to the Director and to
21 Congress a list of the properties identified
22 pursuant to clause (i), which shall be—

23 (I) treated as a recommendation
24 under subsection (b); and

1 (II) subject to the approval pro-
2 cess described in subsection (d).

3 (B) INFORMATION AND DATA.—

4 (i) IN GENERAL.—To assist the Board
5 in carrying out subparagraph (A), a Fed-
6 eral agency shall provide to the Board, on
7 request, any information and data regard-
8 ing the properties of the Federal agency.

9 (ii) FAILURE TO COMPLY.—The
10 Board shall notify the committees de-
11 scribed in subsection (a)(4)(C)(i) of any
12 failure by any agency to comply with a re-
13 quest of the Board.

14 (C) LEASEBACK RESTRICTIONS.—The Fed-
15 eral Government may not lease back any of the
16 existing improvements on properties sold under
17 this paragraph.

18 (D) REPORT OF EXCESS.—Not later than
19 60 days after the date on which the rec-
20 ommendations of the Board pursuant to sub-
21 paragraph (A) have been approved, each Fed-
22 eral agency with custody, control, or adminis-
23 trative jurisdiction over the identified properties
24 shall submit to the Administrator a report of
25 excess.

1 (E) SALE.—Notwithstanding any other
2 provision of law (except as provided in sub-
3 section (e)(7)), the Administrator shall—

4 (i) not later than 120 days after the
5 date on which the Administrator receives
6 the report of excess under subparagraph
7 (D), initiate the sale of the properties iden-
8 tified pursuant to subparagraph (A)(i);
9 and

10 (ii) not later than 1 year after the
11 date on which the Administrator receives
12 the report of excess under subparagraph
13 (D), sell the properties referred to in
14 clause (i) at fair market value at highest
15 and best use.

16 (3) ANALYSIS OF INVENTORY.—The Board—

17 (A) shall perform an independent analysis
18 of the inventory of Federal civilian real prop-
19 erty and the recommendations submitted pursu-
20 ant to subsection (b);

21 (B) shall not be bound or limited by the
22 recommendations submitted pursuant to sub-
23 section (b); and

24 (C) in any case in which the Board deter-
25 mines that a Federal agency has failed to pro-

1 vide necessary information, data, or adequate
2 recommendations that meet the standards and
3 criteria developed under subsection (b)(2), shall
4 develop such recommendations as the Board
5 considers to be appropriate based on existing
6 data contained in the Federal Real Property
7 Profile or other relevant information.

8 (4) RECEIPT OF INFORMATION AND PRO-
9 POSALS.—Notwithstanding any other provision of
10 law, the Board—

11 (A) may receive and consider proposals, in-
12 formation, and other data submitted by State
13 and local officials and the private sector; and

14 (B) shall make any information received
15 under subparagraph (A) publicly available.

16 (5) ACCOUNTING SYSTEM.—The Board shall—

17 (A) not later than 120 days after the date
18 of enactment of this Act, identify or develop
19 and implement a system of accounting to be
20 used to independently evaluate the costs of and
21 returns on the recommendations provided to the
22 Board under this subtitle;

23 (B) use the accounting system referred to
24 in subparagraph (A) to assist in—

1 (i) developing the recommendations of
2 the Board; and

3 (ii) determining the highest return to
4 the taxpayer; and

5 (C) establish a standard performance pe-
6 riod for use in carrying out subparagraphs (A)
7 and (B).

8 (6) PUBLIC HEARINGS.—

9 (A) IN GENERAL.—The Board shall con-
10 duct public hearings.

11 (B) TESTIMONY.—All testimony before the
12 Board at a public hearing under this paragraph
13 shall be presented under oath.

14 (7) REPORTING OF INFORMATION AND REC-
15 OMMENDATIONS.—

16 (A) IN GENERAL.—Not later than 120
17 days after the date of receipt of recommenda-
18 tions pursuant to subsection (b), and annually
19 thereafter, the Board shall submit to the Direc-
20 tor, and publicly post on a Federal website
21 maintained by the Board, a report that includes
22 the findings, conclusions, and recommendations
23 of the Board for the consolidation, exchange,
24 colocation, reconfiguration, lease reduction,
25 sale, outlease, or redevelopment of Federal civil-

1 ian real properties, and for other operational ef-
2 ficiencies that can be realized in the operation
3 and maintenance of those properties.

4 (B) CONSENSUS IN MAJORITY.—The
5 Board—

6 (i) shall seek to develop consensus rec-
7 ommendations; but

8 (ii) if a consensus cannot be obtained,
9 may include in the report under subpara-
10 graph (A) recommendations that are sup-
11 ported by a majority of the Board.

12 (8) FEDERAL WEBSITE.—The Board shall es-
13 tablish and maintain a Federal website for the pur-
14 poses of making relevant information publicly avail-
15 able.

16 (9) REVIEW BY GAO.—The Comptroller General
17 of the United States shall submit to Congress and
18 to the Board a report that includes—

19 (A) a detailed analysis of the recommenda-
20 tions provided by the Board under paragraph
21 (7); and

22 (B) a description of the selection process
23 used to develop the recommendations.

24 (d) REVIEW BY THE OFFICE OF MANAGEMENT AND
25 BUDGET.—

1 (1) REVIEW OF RECOMMENDATIONS.—On re-
2 receipt of the recommendations of the Board under
3 subsection (c)(7), the Director shall conduct a review
4 of the recommendations.

5 (2) REPORT TO BOARD AND CONGRESS.—

6 (A) IN GENERAL.—Not later than 30 days
7 after the date of receipt of the recommenda-
8 tions of the Board under subsection (c)(7), the
9 Director shall submit to the Board and to Con-
10 gress a report that describes the approval or
11 disapproval of the recommendations.

12 (B) TESTIMONY BY BOARD.—On request
13 of any of the Committee on Environment and
14 Public Works of the Senate, the Committee on
15 Transportation and Infrastructure of the House
16 of Representatives, the Committee on Home-
17 land Security and Governmental Affairs of the
18 Senate, or the Committee on Oversight and
19 Government Reform of the House of Represent-
20 atives and before the Director submits the re-
21 port under subparagraph (A), the Board shall
22 appear and testify before the requesting com-
23 mittee.

24 (3) APPROVAL OR DISAPPROVAL.—If the Direc-
25 tor—

1 (A) approves the recommendations of the
2 Board, the Director shall submit to Congress a
3 copy of the recommendations and a certification
4 of the approval;

5 (B) disapproves of the recommendations of
6 the Board, in whole or in part—

7 (i) the Director shall submit to the
8 Board and to Congress the reasons for the
9 disapproval; and

10 (ii) not later than 30 days after the
11 date of disapproval, the Board shall submit
12 to the Director a revised list of rec-
13 ommendations;

14 (C) approves the revised recommendations
15 of the Board submitted under subparagraph
16 (B)(ii), the Director shall submit to Congress a
17 copy of the revised recommendations and a cer-
18 tification of the approval; and

19 (D) does not submit to Congress an ap-
20 proval and certification in accordance with sub-
21 paragraph (A) or (C) by the date that is 30
22 days after the date of receipt of the rec-
23 ommendations or revised recommendations of
24 the Board, the review process under this sub-
25 section shall terminate until the following year.

1 (e) IMPLEMENTATION OF BOARD RECOMMENDA-
2 TIONS.—

3 (1) CARRYING OUT RECOMMENDATIONS.—

4 (A) IN GENERAL.—A Federal agency
5 shall—

6 (i) not later than 60 days after the
7 date on which the Board submits rec-
8 ommendations to the Director and to Con-
9 gress under subparagraph (A) or (C) of
10 subsection (d)(3), begin preparation to
11 carry out the recommendations of the
12 Board;

13 (ii) initiate all activities not later than
14 2 years after the date on which the Direc-
15 tor submits the recommendations of the
16 Board to Congress; and

17 (iii) not later than the end of the 6-
18 year period beginning on the date on which
19 the Director submits to Congress the rec-
20 ommendations of the Board, complete the
21 implementation of all recommended ac-
22 tions.

23 (B) ACTIONS.—Each recommended action
24 taken by a Federal agency under subparagraph
25 (A) shall be economically beneficial and cost-

1 neutral or otherwise favorable to the Federal
2 Government.

3 (C) EXTENUATING CIRCUMSTANCES.—In
4 the case of a recommended action that will take
5 longer than the 6-year period described in sub-
6 paragraph (A)(iii) due to extenuating cir-
7 cumstances, a Federal agency shall notify the
8 Director and Congress as soon as the extenu-
9 ating circumstance becomes apparent with an
10 estimated time to complete the relevant action.

11 (2) ACTIONS OF FEDERAL AGENCIES.—Pursu-
12 ant to paragraph (3), in taking an action related to
13 any Federal building or facility under this subtitle,
14 a Federal agency may take all such necessary and
15 proper actions, including—

16 (A) acquiring land, constructing replace-
17 ment facilities, performing such other activities,
18 and conducting such advance planning and de-
19 sign as may be required to transfer functions
20 from a Federal asset or property to another
21 Federal civilian property;

22 (B) reimbursing other Federal agencies for
23 actions performed at the request of the Board;
24 and

1 (C) taking such actions as are practicable
2 to maximize the value of property to be sold by
3 clarifying zoning and other limitations on use of
4 the property.

5 (3) NECESSARY AND PROPER ACTIONS.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), in acting on a recommenda-
8 tion of the Board, a Federal agency shall—

9 (i) act within any authority delegated
10 to the agency; and

11 (ii) if the agency has not been dele-
12 gated the authority to act on the rec-
13 ommendation, work in partnership with the
14 Administrator to carry out the rec-
15 ommendation.

16 (B) ACTIONS OF ADMINISTRATOR.—The
17 Administrator may take such necessary and
18 proper actions, including the sale, conveyance,
19 or exchange of civilian real property, as are re-
20 quired to implement the recommendations of
21 the Board in the time period described in para-
22 graph (1)(A)(iii).

23 (C) EXPERT COMMERCIAL REAL ESTATE
24 SERVICES.—A Federal agency may enter into
25 no-cost nonappropriated contracts for expert

1 commercial real estate services to carry out the
2 responsibilities of the agency pursuant to the
3 recommendations.

4 (4) DISCRETION OF ADMINISTRATOR REGARD-
5 ING TRANSACTIONS.—For any transaction identified,
6 recommended, or commenced as a result of this sub-
7 title, any otherwise required legal priority given to,
8 or requirement to enter into, a transaction to convey
9 a Federal civilian real property for less than fair
10 market value, for no consideration at all, or in a
11 transaction that mandates the exclusion of other
12 market participants, shall be at the discretion of the
13 Administrator.

14 (5) DISPOSAL OF REAL PROPERTIES.—Any rec-
15 ommendation or commencement of a sale, disposal,
16 consolidation, reconfiguration, colocation, or realign-
17 ment of civilian real property shall not be subject
18 to—

19 (A) the first section through section 3 of
20 the Act of May 19, 1948 (16 U.S.C. 667b et
21 seq.);

22 (B) sections 107 and 317 of title 23,
23 United States Code;

24 (C) section 545(b)(8) of title 40, United
25 States Code;

1 (D) sections 550, 553, and 554 of title 40,
2 United States Code;

3 (E) section 1304(b) of title 40, United
4 States Code;

5 (F) section 47151 of title 49, United
6 States Code;

7 (G) section 13(d) of the Surplus Property
8 Act of 1944 (50 U.S.C. App. 1622(d));

9 (H) any other provision of law authorizing
10 the conveyance of real property owned by the
11 Federal Government for no consideration; and

12 (I) any congressional notification require-
13 ment (other than that under section 545 of title
14 40, United States Code).

15 (6) PUBLIC BENEFIT.—

16 (A) IN GENERAL.—On the date on which
17 the Director submits to Congress the rec-
18 ommendations of the Board under subpara-
19 graph (A) or (C) of subsection (d)(3) (except
20 those buildings recommended under subsection
21 (c)(2)), the Director shall submit to the Sec-
22 retary of Housing and Urban Development all
23 known information on the buildings or prop-
24 erties included in the recommendations.

1 (B) ACTION BY SECRETARY.—Not later
2 than 30 days after the Secretary of Housing
3 and Urban Development receives the informa-
4 tion described in subparagraph (A), the Sec-
5 retary shall identify any suitable properties for
6 use as a property benefitting the mission of as-
7 sistance to the homeless for the purposes of fur-
8 ther screening pursuant to section 501 of the
9 McKinney-Vento Homeless Assistance Act (42
10 U.S.C. 11411).

11 (7) ENVIRONMENTAL CONSIDERATIONS.—

12 (A) TRANSFER OF REAL PROPERTY.—

13 (i) IN GENERAL.—In implementing
14 the recommendations of the Board under
15 subsection (c)(7), and subject to subpara-
16 graph (B) a Federal agency may enter into
17 an agreement with any person to transfer
18 real property by deed pursuant to section
19 120(h)(3) of the Comprehensive Environ-
20 mental Response, Compensation, and Li-
21 ability Act of 1980 (42 U.S.C.
22 9620(h)(3)).

23 (ii) ADDITIONAL TERMS.—

24 (I) IN GENERAL.—The head of
25 the Federal agency disposing of prop-

1 erty under this subparagraph may re-
2 quire any additional terms and condi-
3 tions in connection with an agreement
4 authorized by clause (i) as the head of
5 the agency considers appropriate to
6 protect the interests of the United
7 States.

8 (II) NO EFFECT ON RIGHTS OR
9 OBLIGATIONS.—Additional terms and
10 conditions described in subclause (I)
11 shall not affect or diminish any rights
12 or obligations of a Federal agency
13 under section 120 of the Comprehen-
14 sive Environmental Response, Com-
15 pensation, and Liability Act of 1980
16 (42 U.S.C. 9620).

17 (B) COST CERTIFICATION.—The head of a
18 Federal agency shall not transfer real property
19 or facilities under subparagraph (A) unless the
20 head of the agency certifies to the Board and
21 Congress that—

22 (i) the costs of all environmental res-
23 toration, waste management, and environ-
24 mental compliance activities otherwise to
25 be paid by the Federal agency disposing of

1 the property with respect to the property
2 or facilities are equal to or greater than
3 the fair market value of the property or fa-
4 cilities to be transferred, as determined by
5 the head of the agency; or

6 (ii) if the costs described in clause (i)
7 are less than the fair market value of the
8 property or facilities, the recipient of the
9 property or facilities has agreed to pay the
10 difference between the fair market value
11 and those costs.

12 (C) PAYMENT TO RECIPIENT OF REAL
13 PROPERTY.—In the case of a property covered
14 by a certification under subparagraph (B)(i),
15 the Federal agency disposing of the property
16 may pay the recipient of the property or facili-
17 ties an amount equal to the lesser of—

18 (i) the amount by which the costs in-
19 curred by the recipient of the property or
20 facilities for all environmental restoration,
21 waste management, and environmental
22 compliance activities with respect to the
23 property or facilities exceed the fair market
24 value of the property or facilities as speci-
25 fied in the certification; and

1 (ii) the amount by which the costs (as
2 determined by the head of the Federal
3 agency disposing of the property) that
4 would otherwise have been incurred by the
5 Secretary of Housing and Urban Develop-
6 ment for the restoration, waste manage-
7 ment, and environmental compliance activi-
8 ties with respect to the property or facili-
9 ties exceed the fair market value of the
10 property or facilities as specified in the
11 certification.

12 (D) DISCLOSURE TO RECIPIENT.—As part
13 of an agreement under subparagraph (A), the
14 head of the Federal agency disposing of the
15 property shall, in accordance with applicable
16 law and before entering into an agreement, dis-
17 close to the person to whom the property or fa-
18 cilities will be transferred information possessed
19 by the agency regarding the environmental res-
20 toration, waste management, and environmental
21 compliance activities described in this para-
22 graph that relate to the property or facilities.

23 (E) TIME EXTENSIONS.—For the purposes
24 of granting time extensions under paragraph
25 (1), the Director shall give the need for signifi-

1 cant environmental remediation to a piece of
2 property more weight than any other factor in
3 determining whether to grant a 2-year exten-
4 sion to implement a Board recommendation.

5 (F) SAVINGS PROVISION.—Nothing in this
6 subtitle modifies, alters, or amends—

7 (i) the Comprehensive Environmental
8 Response, Compensation, and Liability Act
9 of 1980 (42 U.S.C. 9601 et seq.);

10 (ii) the National Environmental Policy
11 Act of 1969 (42 U.S.C. 4321 et seq.); or

12 (iii) the Solid Waste Disposal Act (42
13 U.S.C. 6901 et seq.).

14 (f) FUNDING.—

15 (1) ESTABLISHMENT OF SALARIES AND EX-
16 PENSES ACCOUNT.—

17 (A) ESTABLISHMENT OF ACCOUNT.—

18 There is established in the Treasury of the
19 United States an account to be known as the
20 “Federal Real Property Reform Board —Sala-
21 ries and Expenses” account.

22 (B) NECESSARY PAYMENTS.—There shall
23 be deposited into the account established by
24 subparagraph (B) such amounts as are pro-
25 vided in appropriations Acts for those necessary

1 payments for salaries and expenses to accom-
2 plish the administrative needs of the Board.

3 (2) ESTABLISHMENT OF ASSET PROCEEDS AND
4 SPACE MANAGEMENT FUND.—

5 (A) IN GENERAL.—There is established
6 within the Federal Buildings Fund established
7 by section 592 of title 40, United States Code,
8 an account to be known as the “Federal Real
9 Property Reform Board —Asset Proceeds and
10 Space Management Fund”, which shall be used
11 solely for the purposes of carrying out actions
12 under subsection (e), pursuant to the rec-
13 ommendations of the Board approved under
14 subsection (d).

15 (B) AMOUNTS DEPOSITED INTO FUND.—
16 Notwithstanding section 3307 of title 40,
17 United States Code, the fund established by
18 paragraph (1) shall consist of—

19 (i) such amounts as are provided in
20 appropriations Acts, to remain available
21 until expended, for the consolidation, co-
22 location, exchange, redevelopment, recon-
23 figuration of space, disposal, and other ac-
24 tions recommended by the Board for Fed-
25 eral agencies; and

1 (ii) amounts received from the sale of
2 any civilian real property action taken pur-
3 suant to a recommendation of the Board.

4 (C) USE OF FUNDS.—

5 (i) IN GENERAL.—The amounts de-
6 posited in the fund under subparagraph
7 (B) shall be made available for obligation
8 or expenditure only as provided in advance
9 in appropriation Acts for the purposes de-
10 scribed in clauses (i) and (ii) of subpara-
11 graph (B).

12 (ii) USE OF PROCEEDS.—As provided
13 in appropriations Acts, proceeds under
14 subparagraph (B)(ii) may be made avail-
15 able to cover necessary costs associated
16 with implementing the recommendations
17 pursuant to subsection (e), including costs
18 associated with—

19 (I) sales transactions;

20 (II) acquiring land, construction,
21 constructing replacement facilities,
22 conducting advance planning and de-
23 sign as may be required to transfer
24 functions from a Federal asset or

1 property to another Federal civilian
2 property;

3 (III) colocation, redevelopment,
4 disposal, and reconfiguration of space;
5 and

6 (IV) other actions recommended
7 by the Board for Federal agencies.

8 (3) ADDITIONAL REQUIREMENT.—

9 (A) IN GENERAL.—Not less frequently
10 than annually, the President shall submit to
11 Congress a report that includes—

12 (i) an estimate of proceeds from im-
13 plementing the recommendations of the
14 Board; and

15 (ii) the obligations and expenditures
16 needed to support those recommendations.

17 (B) SUBMISSION.—The report under sub-
18 paragraph (A) may be submitted along with an-
19 other annual submission to Congress, including
20 the budget submitted by the President under
21 section 1105 of title 31, United States Code.

22 (g) CONGRESSIONAL APPROVAL OF PROPOSED
23 PROJECTS.—Section 3307(b) of title 40, United States
24 Code, is amended—

1 (1) in paragraph (6), by striking “and” at the
2 end;

3 (2) in paragraph (7), by striking the period at
4 the end and inserting “; and”; and

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

6 “(8) a description of how the proposed project
7 is consistent with criteria established in section
8 1102(b)(2) of the Bolster Accountability to Drive
9 Government Efficiency and Reform Washington Act
10 of 2016.”.

11 (h) PRECLUSION OF JUDICIAL REVIEW.—The fol-
12 lowing actions shall not be subject to judicial review:

13 (1) An action taken pursuant to subsection (c)
14 or subsection (d).

15 (2) An action taken by the Board.

16 (i) IMPLEMENTATION REVIEW BY GAO.—On trans-
17 mittal of the recommendations of the Board from the Di-
18 rector to Congress under subsection (d), and not less fre-
19 quently than annually thereafter, the Comptroller General
20 of the United States shall—

21 (1) monitor and review the implementation ac-
22 tivities of Federal agencies pursuant to subsection
23 (e); and

24 (2) report to Congress any findings and rec-
25 ommendations for improvement of those activities.

1 (j) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section—

3 (1) \$2,000,000 for salaries and expenses of the
4 Board; and

5 (2) \$40,000,000 to be deposited into the Fed-
6 eral Real Property Reform Board—Asset Proceeds
7 and Space Management Fund established by sub-
8 section (f)(2) for activities related to the implemen-
9 tation of recommendations of the Board.

10 **SEC. 1103. PROPERTY MANAGEMENT.**

11 (a) IN GENERAL.—Chapter 5 of subtitle I of title 40,
12 United States Code, is amended by adding at the end the
13 following:

14 **“Subchapter VII—Property Management**

15 **“§ 621. Definitions**

16 “In this subchapter:

17 “(1) ADMINISTRATOR.—The term ‘Adminis-
18 trator’ means the Administrator of General Services.

19 “(2) COUNCIL.—The term ‘Council’ means the
20 Federal Property Council established by section
21 622(a).

22 “(3) DIRECTOR.—The term ‘Director’ means
23 the Director of the Office of Management and Budg-
24 et.

1 “(4) FEDERAL AGENCY.—The term ‘Federal
2 agency’ means—

3 “(A) an executive department or inde-
4 pendent establishment in the executive branch
5 of the Government; or

6 “(B) a wholly owned Government corpora-
7 tion (other than the United States Postal Serv-
8 ice).

9 “(5) FIELD OFFICE.—The term ‘field office’
10 means any office of a Federal agency that is not the
11 headquarters office location for the Federal agency.

12 “(6) POSTAL PROPERTY.—The term ‘postal
13 property’ means any property owned or leased by the
14 United States Postal Service.

15 “(7) PUBLIC-PRIVATE PARTNERSHIP.—The
16 term ‘public-private partnership’ means any partner-
17 ship or working relationship between a Federal
18 agency and a corporation, individual, or nonprofit
19 organization for the purpose of financing, con-
20 structing, operating, managing, or maintaining 1 or
21 more Federal real property assets.

22 “(8) UNDERUTILIZED PROPERTY.—The term
23 ‘underutilized property’ means a portion or the en-
24 tirety of any real property, including any improve-
25 ments, that is used—

1 “(A) irregularly or intermittently by the
2 accountable Federal agency for program pur-
3 poses of the Federal agency; or

4 “(B) for program purposes that can be
5 satisfied only with a portion of the property.

6 **“§ 622. Establishment of Federal Property Council**

7 “(a) ESTABLISHMENT.—There is established a Fed-
8 eral Property Council.

9 “(b) PURPOSE.—The purpose of the Council shall
10 be—

11 “(1) to develop guidance and ensure implemen-
12 tation of an efficient and effective property manage-
13 ment strategy;

14 “(2) to identify opportunities for the Federal
15 Government to better manage property and assets of
16 the Federal Government; and

17 “(3) to reduce the costs of managing property
18 of the Federal Government, including operations,
19 maintenance, and security associated with Federal
20 property.

21 “(c) COMPOSITION.—

22 “(1) IN GENERAL.—The Council shall be com-
23 posed exclusively of—

24 “(A) the senior real property officers of
25 each Federal agency and the Postal Service;

1 “(B) the Deputy Director for Management
2 of the Office of Management and Budget;

3 “(C) the Controller of the Office of Man-
4 agement and Budget;

5 “(D) the Administrator; and

6 “(E) any other full-time or permanent
7 part-time Federal officials or employees, as the
8 Chairperson determines to be necessary.

9 “(2) CHAIRPERSON.—The Deputy Director for
10 Management of the Office of Management and
11 Budget shall serve as Chairperson of the Council.

12 “(3) EXECUTIVE DIRECTOR.—

13 “(A) IN GENERAL.—The Chairperson shall
14 designate an Executive Director to assist in
15 carrying out the duties of the Council.

16 “(B) QUALIFICATIONS; FULL-TIME.—The
17 Executive Director shall—

18 “(i) be appointed from among individ-
19 uals who have substantial experience in the
20 areas of commercial real estate and devel-
21 opment, real property management, and
22 Federal operations and management;

23 “(ii) serve full time; and

1 “(iii) hold no outside employment that
2 may conflict with duties inherent to the po-
3 sition.

4 “(d) MEETINGS.—

5 “(1) IN GENERAL.—The Council shall meet
6 subject to the call of the Chairperson.

7 “(2) MINIMUM.—The Council shall meet not
8 fewer than 4 times each year.

9 “(e) DUTIES.—The Council, in consultation with the
10 Director and the Administrator, shall—

11 “(1) not later than 1 year after the date of en-
12 actment of this subchapter, establish a property
13 management plan template, to be updated annually,
14 which shall include performance measures, specific
15 milestones, measurable savings, strategies, and Gov-
16 ernment-wide goals based on the goals established
17 under section 524(a)(7) to reduce surplus property,
18 to achieve better utilization of underutilized prop-
19 erty, or to enhance management of high value per-
20 sonal property, and evaluation criteria to determine
21 the effectiveness of property management that are
22 designed—

23 “(A) to enable Congress and heads of Fed-
24 eral agencies to track progress in the achieve-

1 ment of property management objectives on a
2 Government-wide basis;

3 “(B) to improve the management of real
4 property; and

5 “(C) to allow for comparison of the per-
6 formance of Federal agencies against industry
7 and other public sector agencies in terms of
8 performance;

9 “(2) develop utilization rates consistent
10 throughout each category of space, considering the
11 diverse nature of the Federal portfolio and con-
12 sistent with nongovernmental space use rates;

13 “(3) develop a strategy to reduce the reliance of
14 Federal agencies on leased space for long-term needs
15 if ownership would be less costly;

16 “(4) provide guidance on eliminating inefficien-
17 cies in the Federal leasing process;

18 “(5) compile a list of field offices that are suit-
19 able for collocation with other property assets;

20 “(6) research best practices regarding the use
21 of public-private partnerships to manage properties
22 and develop guidelines for the use of those partner-
23 ships in the management of Federal property;

24 “(7) not later than 1 year after the date of en-
25 actment of this subchapter—

1 “(A) examine the disposal of surplus prop-
2 erty through the State Agencies for Surplus
3 Property program; and

4 “(B) issue a report that includes rec-
5 ommendations on how the program could be im-
6 proved to ensure accountability and increase ef-
7 ficiencies in the property disposal process; and

8 “(8) not later than 1 year after the date of en-
9 actment of this subchapter and annually during the
10 4-year period beginning on the date that is 1 year
11 after the date of enactment of this subchapter and
12 ending on the date that is 5 years after the date of
13 enactment of this subchapter, the Council shall sub-
14 mit to the Director a report that contains—

15 “(A) a list of the remaining excess prop-
16 erty or surplus property that is real property,
17 and underutilized properties of each Federal
18 agency;

19 “(B) the progress of the Council toward
20 developing guidance for Federal agencies to en-
21 sure that the assessment required under section
22 524(a)(11)(B) is carried out in a uniform man-
23 ner;

1 “(C) the progress of Federal agencies to-
2 ward achieving the goals established under sec-
3 tion 524(a)(7); and

4 “(D) if necessary, recommendations for
5 legislation or statutory reforms that would fur-
6 ther the goals of the Council, including stream-
7 lining the disposal of excess real or personal
8 property or underutilized property.

9 “(f) CONSULTATION.—In carrying out the duties de-
10 scribed in subsection (e), the Council shall also consult
11 with representatives of—

12 “(1) State, local, tribal authorities, and affected
13 communities; and

14 “(2) appropriate private sector entities and
15 nongovernmental organizations that have expertise
16 in areas of—

17 “(A) commercial real estate and develop-
18 ment;

19 “(B) government management and oper-
20 ations;

21 “(C) space planning;

22 “(D) community development, including
23 transportation and planning;

24 “(E) historic preservation;

1 “(F) providing housing to the homeless
2 population; and

3 “(G) personal property management.

4 “(g) COUNCIL RESOURCES.—The Director and the
5 Administrator shall provide staffing, and administrative
6 support for the Council, as appropriate.

7 “(h) ACCESS TO INFORMATION.—The Council shall
8 make available, on request, all information generated by
9 the Council in performing the duties of the Council to—

10 “(1) the Committee on Homeland Security and
11 Governmental Affairs of the Senate;

12 “(2) the Committee on Environment and Public
13 Works of the Senate;

14 “(3) the Committee on Oversight and Govern-
15 ment Reform of the House of Representatives;

16 “(4) the Committee on Transportation and In-
17 frastructure of the House of Representatives; and

18 “(5) the Comptroller General of the United
19 States.

20 “(i) EXCLUSIONS.—In this section, surplus property
21 shall not include—

22 “(1) any military installation (as defined in sec-
23 tion 2910 of the Defense Base Closure and Realign-
24 ment Act of 1990 (10 U.S.C. 2687 note; Public Law
25 101–510));

1 “(2) any property that is excepted from the def-
2 inition of the term ‘property’ under section 102;

3 “(3) Indian and native Eskimo property held in
4 trust by the Federal Government as described in
5 section 3301(a)(5)(C)(iii);

6 “(4) real property operated and maintained by
7 the Tennessee Valley Authority pursuant to the Ten-
8 nessee Valley Authority Act of 1933 (16 U.S.C. 831
9 et seq.);

10 “(5) any real property the Director excludes for
11 reasons of national security;

12 “(6) any public lands (as defined in section 203
13 of the Public Lands Corps Act of 1993 (16 U.S.C.
14 1722)) administered by—

15 “(A) the Secretary of the Interior, acting
16 through—

17 “(i) the Director of the Bureau of
18 Land Management;

19 “(ii) the Director of the National
20 Park Service;

21 “(iii) the Commissioner of Reclama-
22 tion; or

23 “(iv) the Director of the United
24 States Fish and Wildlife Service; or

1 “(B) the Secretary of Agriculture, acting
2 through the Chief of the Forest Service; or

3 “(7) any property operated and maintained by
4 the United States Postal Service.

5 **“§ 623. Inventory and database**

6 “(a) IN GENERAL.—Not later than 1 year after the
7 date of enactment of this subchapter, the Administrator
8 shall establish and maintain a single, comprehensive, and
9 descriptive database of all real property under the custody
10 and control of all Federal agencies.

11 “(b) CONTENTS.—The database shall include—

12 “(1) information provided to the Administrator
13 under section 524(a)(11)(B); and

14 “(2) a list of property disposals completed, in-
15 cluding—

16 “(A) the date and disposal method used
17 for each property;

18 “(B) the proceeds obtained from the dis-
19 posal of each property;

20 “(C) the amount of time required to dis-
21 pose of the property, including the date on
22 which the property is designated as excess prop-
23 erty;

1 “(D) the date on which the property is
2 designated as surplus property and the date on
3 which the property is disposed; and

4 “(E) all costs associated with the disposal.

5 “(c) ACCESSIBILITY.—

6 “(1) COMMITTEES.—The database established
7 under subsection (a) shall be made available on re-
8 quest to the Committee on Homeland Security and
9 Governmental Affairs and the Committee on Envi-
10 ronment and Public Works of the Senate and the
11 Committee on Oversight and Government Reform
12 and the Committee on Transportation and Infra-
13 structure of the House of Representatives.

14 “(2) GENERAL PUBLIC.—Not later than 3 years
15 after the date of enactment of this subchapter and
16 to the extent consistent with national security, the
17 Administrator shall make the database established
18 under subsection (a) accessible to the public at no
19 cost through the website of the General Services Ad-
20 ministration.

21 “(d) EXCLUSIONS.—In this section, surplus property
22 shall not include—

23 “(1) any military installation (as defined in sec-
24 tion 2910 of the Defense Base Closure and Realign-

1 ment Act of 1990 (10 U.S.C. 2687 note; Public Law
2 101–510));

3 “(2) any property that is excepted from the def-
4 inition of the term ‘property’ under section 102;

5 “(3) Indian and native Eskimo property held in
6 trust by the Federal Government as described in
7 section 3301(a)(5)(C)(iii);

8 “(4) real property operated and maintained by
9 the Tennessee Valley Authority pursuant to the Ten-
10 nessee Valley Authority Act of 1933 (16 U.S.C. 831
11 et seq.);

12 “(5) any real property the Director excludes for
13 reasons of national security;

14 “(6) any public lands (as defined in section 203
15 of the Public Lands Corps Act of 1993 (16 U.S.C.
16 1722)) administered by—

17 “(A) the Secretary of the Interior, acting
18 through—

19 “(i) the Director of the Bureau of
20 Land Management;

21 “(ii) the Director of the National
22 Park Service;

23 “(iii) the Commissioner of Reclama-
24 tion; or

1 “(iv) the Director of the United
2 States Fish and Wildlife Service; or

3 “(B) the Secretary of Agriculture, acting
4 through the Chief of the Forest Service; or

5 “(7) any property operated and maintained by
6 the United States Postal Service.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) TABLE OF SECTIONS.—The table of sections
9 for chapter 5 of subtitle I of title 40, United States
10 Code, is amended by inserting after the item relating
11 to section 611 the following:

 “SUBCHAPTER VII—PROPERTY MANAGEMENT

 “Sec. 621. Definitions.

 “Sec. 622. Establishment of a Federal Property Council.

 “Sec. 623. Inventory and database.”.

12 (2) TECHNICAL AMENDMENT.—Section 102 of
13 title 40, United States Code, is amended in the mat-
14 ter preceding paragraph (1) by striking “The” and
15 inserting “Except as provided in subchapter VII of
16 chapter 5 of this title, the”.

17 **SEC. 1104. AGENCY RETENTION OF PROCEEDS.**

18 Section 571 of title 40, United States Code, is
19 amended to read as follows:

20 **“§ 571. General rules for deposit and use of proceeds**

21 “(a) PROCEEDS FROM TRANSFER OR SALE OF REAL
22 PROPERTY.—

1 “(1) DEPOSIT OF NET PROCEEDS.—Net pro-
2 ceeds described in subsection (d) shall be deposited
3 into the appropriate account of the agency that had
4 custody and accountability for the property at the
5 time the property is determined to be excess.

6 “(2) EXPENDITURE OF NET PROCEEDS.—The
7 net proceeds deposited pursuant to paragraph (1)
8 may only be expended as authorized in annual ap-
9 propriations Acts, for—

10 “(A) activities described in sections 543
11 and 545, including paying costs incurred by the
12 General Services Administration for any dis-
13 posal-related activity authorized by this title;
14 and

15 “(B) activities pursuant to implementation
16 of the Federal Buildings Personnel Training
17 Act of 2010 (40 U.S.C. 581 note; Public Law
18 111–308).

19 “(3) DEFICIT REDUCTION.—Any net proceeds
20 described in subsection (d) from the sale, lease, or
21 other disposition of surplus real property that are
22 not expended under paragraph (2) shall be used for
23 deficit reduction.

24 “(b) EFFECT ON OTHER SECTIONS.—Nothing in this
25 section is intended to affect section 572(b), 573, or 574.

1 “(c) DISPOSAL AGENCY FOR REVERTED PROP-
2 ERTY.—For the purposes of this section, for any property
3 that reverts to the United States under sections 550 and
4 553, the General Services Administration, as the disposal
5 agency, shall be treated as the agency with custody and
6 accountability for the property at the time the property
7 is determined to be excess.

8 “(d) NET PROCEEDS.—The net proceeds described in
9 this subsection are proceeds under this chapter, less ex-
10 penses of the transfer or disposition as provided in section
11 572(a), from—

12 “(1) a transfer of excess real property to a Fed-
13 eral agency for agency use; or

14 “(2) a sale, lease, or other disposition of sur-
15 plus real property.

16 “(e) PROCEEDS FROM TRANSFER OR SALE OF PER-
17 SONAL PROPERTY.—

18 “(1) IN GENERAL.—Except as otherwise pro-
19 vided in this subchapter, proceeds described in para-
20 graph (2) shall be deposited in the Treasury as mis-
21 cellaneous receipts.

22 “(2) PROCEEDS.—The proceeds described in
23 this paragraph are proceeds under this chapter
24 from—

1 “(A) a transfer of excess personal property
2 to a Federal agency for agency use; or

3 “(B) a sale, lease, or other disposition of
4 surplus personal property.

5 “(3) PAYMENT OF EXPENSES OF SALE BEFORE
6 DEPOSIT.—

7 “(A) IN GENERAL.—Subject to regulations
8 under this subtitle, the expenses of the sale of
9 personal property may be paid from the pro-
10 ceeds of the sale so that only the net proceeds
11 are deposited in the Treasury.

12 “(B) APPLICATION.—This paragraph ap-
13 plies whether proceeds are deposited as mis-
14 cellaneous receipts or to the credit of an appro-
15 priation as authorized by law.”.

16 **SEC. 1105. SURPLUS PROPERTY DONATIONS TO MUSEUMS.**

17 Section 549(c)(3)(B) of title 40, United States Code,
18 is amended by striking clause (vii) and inserting the fol-
19 lowing:

20 “(vii) a museum open to the public on
21 a regularly scheduled weekly basis, and the
22 hours of operation are, at a minimum, dur-
23 ing normal business hours (as determined
24 by the Administrator);”.

1 **SEC. 1106. DUTIES OF FEDERAL AGENCIES.**

2 (a) IN GENERAL.—Section 524(a) of title 40, United
3 States Code, is amended—

4 (1) in paragraph (4), by striking “and” at the
5 end;

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

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

9 “(6) develop current and future workforce pro-
10 jections so as to have the capacity to assess the
11 needs of the Federal workforce regarding the use of
12 real property;

13 “(7) establish goals and policies that will lead
14 the executive agency to reduce excess property and
15 underutilized property in the inventory of the execu-
16 tive agency;

17 “(8) submit to the Federal Property Council an
18 annual report on all excess property that is real
19 property and underutilized property in the inventory
20 of the executive agency, including—

21 “(A) whether underutilized property can be
22 better utilized, including through collocation
23 with other executive agencies or consolidation
24 with other facilities; and

25 “(B) the extent to which the executive
26 agency believes that retention of the underuti-

1 lized property serves the needs of the executive
2 agency;

3 “(9) adopt workplace practices, configurations,
4 and management techniques that can achieve in-
5 creased levels of productivity and decrease the need
6 for real property assets;

7 “(10) assess leased space to identify space that
8 is not fully used or occupied;

9 “(11) on an annual basis and subject to the
10 guidance of the Federal Property Council—

11 “(A) conduct an inventory of real property
12 under control of the executive agency; and

13 “(B) make an assessment of each property,
14 which shall include—

15 “(i) the age and condition of the prop-
16 erty;

17 “(ii) the size of the property in square
18 footage and acreage;

19 “(iii) the geographical location of the
20 property, including an address and descrip-
21 tion;

22 “(iv) the extent to which the property
23 is being utilized;

24 “(v) the actual annual operating costs
25 associated with the property;

1 “(vi) the total cost of capital expendi-
2 tures incurred by the Federal Government
3 associated with the property;

4 “(vii) sustainability metrics associated
5 with the property;

6 “(viii) the number of Federal employ-
7 ees and contractor employees and functions
8 housed at the property;

9 “(ix) the extent to which the mission
10 of the executive agency is dependent on the
11 property;

12 “(x) the estimated amount of capital
13 expenditures projected to maintain and op-
14 erate the property during the 5-year period
15 beginning on the date of enactment of this
16 paragraph; and

17 “(xi) any additional information re-
18 quired by the Administrator of General
19 Services to carry out section 622; and

20 “(12) provide to the Federal Property Council
21 and the Administrator of General Services the infor-
22 mation described in paragraph (11)(B) to be used
23 for the establishment and maintenance of the data-
24 base described in section 623.”.

1 (b) DEFINITION OF EXECUTIVE AGENCY.—Section
2 524 of title 40, United States Code, is amended by adding
3 at the end the following:

4 “(c) DEFINITION OF EXECUTIVE AGENCY.—For the
5 purpose of paragraphs (6) through (12) of subsection (a),
6 the term ‘executive agency’ shall have the meaning given
7 the term ‘Federal agency’ in section 621.”.

8 **SEC. 1107. STREAMLINING THE MCKINNEY-VENTO HOME-**
9 **LESS ASSISTANCE ACT.**

10 Section 501 of the McKinney-Vento Homeless Assist-
11 ance Act (42 U.S.C. 11411) is amended—

12 (1) in subsection (b)(2)(A), by amending clause
13 (ii) to read as follows:

14 “(ii) in the case of surplus property—

15 “(I) for use to assist the homeless ei-
16 ther in accordance with this section or as
17 a public health use in accordance with
18 paragraphs (1) and (4) of section 203(k)
19 of the Federal Property and Administra-
20 tive Services Act of 1949 (40 U.S.C.
21 484(k) (1) and (4)); and

22 “(II) to provide permanent housing
23 with or without supportive services to as-
24 sist the homeless in accordance with this
25 section.”;

1 (2) in subsection (c)(1)(A), in the matter pre-
2 ceding clause (i), by striking “in the Federal Reg-
3 ister” and inserting “on the website of the Depart-
4 ment of Housing and Urban Development or the
5 General Services Administration”;

6 (3) in subsection (d)—

7 (A) in paragraph (1), by striking “60
8 days” and inserting “30 days”;

9 (B) by striking “60-day period” each place
10 that term appears and inserting “30-day pe-
11 riod”; and

12 (C) in paragraph (3), by adding at the end
13 the following: “If the representative of the
14 homeless does not request a review of the deter-
15 mination of unsuitability during the 20-day pe-
16 riod described in this paragraph, the property
17 shall not be included in any subsequent publica-
18 tion under subsection (c)(1)(A)(ii) unless the
19 landholding agency makes changes to the prop-
20 erty, including improvements, that may change
21 the unsuitable determination and the Secretary
22 subsequently determines the property is suit-
23 able.”;

24 (4) in subsection (e)—

25 (A) in paragraph (2)—

1 (i) by striking “90 days” and insert-
2 ing “75 days”;

3 (ii) by striking “a complete applica-
4 tion” and inserting “an initial applica-
5 tion”; and

6 (iii) by adding at the end the fol-
7 lowing: “An initial application shall set
8 forth (A) the services that will be offered,
9 (B) the need for the services, and (C) the
10 experience that the applicant has that
11 demonstrates the ability to provide the
12 services.”;

13 (B) in paragraph (3)—

14 (i) by striking “25 days after receipt
15 of a completed application” and inserting
16 “10 days after the date on which the Sec-
17 retary of Health and Human Services re-
18 ceives an initial application under para-
19 graph (2)”; and

20 (ii) by striking “an application” and
21 inserting “an initial application”; and

22 (C) by adding at the end the following:

23 “(4) Not later than 45 days after the date on
24 which the Secretary of Health and Human Services
25 approves an initial application under paragraph (3),

1 the applicant shall submit to the Secretary of Health
 2 and Human Services a final application, which shall
 3 set forth a reasonable plan to finance the approved
 4 program.

5 “(5) Not later than 15 days after the date on
 6 which the Secretary of Health and Human Services
 7 receives a final application under paragraph (4), the
 8 Secretary of Health and Human Services shall re-
 9 view, make a final determination, and complete all
 10 actions on the final application. The Secretary of
 11 Health and Human Services shall maintain a public
 12 record of all actions taken in response to a final ap-
 13 plication.”; and

14 (5) in subsection (f)(1), by striking “available
 15 by” and inserting “available, at the discretion of the
 16 applicant, by”.

17 **Subtitle B—Taxpayers Right to**
 18 **Know**

19 **SEC. 1201. SHORT TITLE.**

20 This subtitle may be cited as the “Taxpayers Right-
 21 To-Know Act”.

22 **SEC. 1202. INVENTORY OF GOVERNMENT PROGRAMS.**

23 (a) IN GENERAL.—Section 1122(a) of title 31,
 24 United States Code, is amended—

1 (1) by redesignating paragraphs (1) and (2) as
2 paragraphs (2) and (3), respectively;

3 (2) by inserting before paragraph (2), as so re-
4 designated, the following:

5 “(1) DEFINITION OF PROGRAM.—For purposes
6 of this subsection, the term ‘program’ means an or-
7 ganized set of activities by 1 or more agencies di-
8 rected toward a common purpose or goal.”;

9 (3) in paragraph (2), as so redesignated—

10 (A) by striking “IN GENERAL.—Not later
11 than October 1, 2012, the Office of Manage-
12 ment and Budget shall” and inserting
13 “WEBSITE AND PROGRAM INVENTORY.—The
14 Director of the Office of Management and
15 Budget shall”;

16 (B) by striking subparagraph (C) and in-
17 serting the following:

18 “(C) include on the website—

19 “(i) a program inventory that shall
20 identify each program of the Federal Gov-
21 ernment for which there is more than
22 \$1,000,000 in annual budget authority,
23 which shall include—

24 “(I) any activity that is com-
25 monly referred to as a program by a

1 Federal agency in communications
2 with Congress, including any activity
3 identified as a program in a budget
4 request;

5 “(II) any activity that is com-
6 monly referred to as a program by a
7 Federal agency in communications
8 with the public, including each pro-
9 gram for which financial awards are
10 made on a competitive basis; and

11 “(III) any activity referenced in
12 law as a program after June 30,
13 2019; and

14 “(ii) for each program identified in
15 the program inventory, the information re-
16 quired under paragraph (3) or paragraph
17 (4), as applicable.”;

18 (4) in paragraph (3), as so redesignated—

19 (A) in the matter preceding subparagraph
20 (A), by striking “INFORMATION.—Information
21 for each program described under paragraph
22 (1)” and inserting “INFORMATION FOR LARGER
23 PROGRAMS.—Information for each program
24 identified in the program inventory required

1 under paragraph (2) for which there is more
2 than \$10,000,000 in annual budget authority”;

3 (B) by striking subparagraph (C);

4 (C) by redesignating subparagraph (B) as
5 subparagraph (D);

6 (D) by striking subparagraph (A) and in-
7 serting the following:

8 “(A) an identification of the program ac-
9 tivities that are aggregated, disaggregated, or
10 consolidated as part of identifying programs;

11 “(B) for each program activity described in
12 subparagraph (A), the amount of funding for
13 the current fiscal year and previous 2 fiscal
14 years;

15 “(C) an estimate of the amount of funding
16 for the program;”;

17 (E) in subparagraph (D), as so redesign-
18 ated, by striking “and” at the end; and

19 (F) by adding at the end the following:

20 “(E) an identification of the statutes that
21 authorize the program and any major regula-
22 tions specific to the program;

23 “(F) for any program that provides grants
24 or other financial assistance to individuals or
25 entities, for the most recent fiscal year—

1 “(i) a description of the individuals
2 served by the program and beneficiaries
3 who received financial assistance under the
4 program, including an estimate of the
5 number of individuals and beneficiaries, to
6 the extent practicable;

7 “(ii) for each program for which the
8 head of an agency determines it is not
9 practicable to provide an estimate of the
10 number of individuals and beneficiaries
11 served by the program—

12 “(I) an explanation of why data
13 regarding the number of such individ-
14 uals and beneficiaries cannot be pro-
15 vided; and

16 “(II) a discussion of the meas-
17 ures that could be taken to gather the
18 data required to provide such an esti-
19 mate; and

20 “(iii) a description of—

21 “(I) the Federal employees who
22 administer the program, including the
23 number of full-time equivalents with a
24 pro rata estimate for full-time equiva-

1 lents associated with multiple pro-
2 grams; and

3 “(II) other individuals whose sal-
4 ary is paid in part or full by the Fed-
5 eral Government through a grant,
6 contract, cooperative agreement, or
7 another form of financial award or as-
8 sistance who administer or assist in
9 any way in administering the pro-
10 gram, including the number of full-
11 time equivalents, to the extent prac-
12 ticable;

13 “(G) links to any evaluation, assessment,
14 or program performance reviews by the agency,
15 an Inspector General, or the Government Ac-
16 countability Office (including program perform-
17 ance reports required under section 1116) re-
18 leased during the preceding 5 years; and

19 “(H) to the extent practicable, financial
20 and other information for each program activity
21 required to be reported under the Federal
22 Funding Accountability and Transparency Act
23 of 2006 (31 U.S.C. 6101 note).”; and

24 (5) by adding at the end the following:

1 “(4) INFORMATION FOR SMALLER PROGRAMS.—
2 Information for each program identified in the pro-
3 gram inventory required under paragraph (2) for
4 which there is more than \$1,000,000 and not more
5 than \$10,000,000 in annual budget authority shall,
6 at a minimum, include—

7 “(A) an identification of the program ac-
8 tivities that are aggregated, disaggregated, or
9 consolidated as part of identifying programs;

10 “(B) for each program activity described in
11 subparagraph (A), the amount of funding for
12 the current fiscal year and previous 2 fiscal
13 years;

14 “(C) an identification of the statutes that
15 authorize the program and any major regula-
16 tions specific to the program;

17 “(D) for any program that provides grants
18 or other financial assistance to individuals or
19 entities, a description of the individuals served
20 by the program and beneficiaries who received
21 financial assistance under the program for the
22 most recent fiscal year; and

23 “(E) links to any evaluation, assessment,
24 or program performance reviews by the agency,
25 an Inspector General, or the Government Ac-

1 countability Office (including program perform-
2 ance reports required under section 1116) re-
3 leased during the preceding 5 years.

4 “(5) ARCHIVING.—After the end of each fiscal
5 year, the Director of the Office of Management and
6 Budget shall archive and preserve the information
7 included in the program inventory required under
8 paragraph (2) relating to that fiscal year.”.

9 (b) EXPIRED GRANT FUNDING.—Not later than Feb-
10 ruary 1 of each fiscal year, the Director of the Office of
11 Management and Budget shall publish on a public website
12 the total amount of undisbursed grant funding remaining
13 in grant accounts for which the period of availability to
14 the grantee has expired.

15 **SEC. 1203. GUIDANCE AND IMPLEMENTATION.**

16 (a) GUIDANCE.—Not later than June 30, 2018, the
17 Director of the Office of Management and Budget—

18 (1) shall prescribe guidance to implement this
19 subtitle, and the amendments made by this subtitle;

20 (2) shall issue guidance to agencies to identify
21 how the program activities used for reporting under
22 the Federal Funding Accountability and Trans-
23 parency Act of 2006 (31 U.S.C. 6101 note) are as-
24 sociated with programs identified in the program in-
25 ventory required under section 1122(a)(2)(C)(i) of

1 title 31, United States Code, as amended by section
2 1202;

3 (3) may issue guidance to agencies to ensure
4 that the programs identified in the program inven-
5 tory required under section 1122(a)(2)(C)(i) of title
6 31, United States Code, as amended by section
7 1202, are presented at a similar level of detail across
8 agencies and are not duplicative or overlapping; and

9 (4) may, based on an analysis of the costs of
10 implementation, and after submitting to Congress a
11 notification of the action by the Director—

12 (A) exempt from the requirements under
13 section 1122(a) of title 31, United States Code,
14 an agency that—

15 (i) is not listed in section 901(b) of
16 title 31, United States Code; and

17 (ii) for the fiscal year during which
18 the exemption is made, has budget author-
19 ity (as defined in section 3 of the Congres-
20 sional Budget Act of 1974 (2 U.S.C. 622))
21 of not more than \$10,000,000; and

22 (B) extend the implementation deadline
23 under subsection (b) by not more than 1 year.

1 (b) IMPLEMENTATION.—This subtitle, and the
2 amendments made by this subtitle, shall be implemented
3 not later than June 30, 2019.

4 **Subtitle C—Stopping Improper**
5 **Payments to Deceased People**

6 **SEC. 1301. SHORT TITLE.**

7 This subtitle may be cited as the “Stopping Improper
8 Payments to Deceased People Act”.

9 **SEC. 1302. DISTRIBUTION OF DEATH INFORMATION FUR-**
10 **NISHED TO OR MAINTAINED BY THE SOCIAL**
11 **SECURITY ADMINISTRATION.**

12 (a) IN GENERAL.—

13 (1) IN GENERAL.—Section 205(r) of the Social
14 Security Act (42 U.S.C. 405(r)) is amended—

15 (A) in paragraph (2)—

16 (i) by striking “may” and inserting
17 “shall”; and

18 (ii) by inserting “, and to ensure the
19 completeness, timeliness, and accuracy of,”
20 after “transmitting”;

21 (B) by striking paragraphs (3), (4), and
22 (5) and inserting the following:

23 “(3)(A) The Commissioner of Social Security shall,
24 to the extent feasible, provide for the use of information
25 regarding all deceased individuals furnished to or main-

1 tained by the Commissioner under this subsection in ac-
2 cordance with subparagraph (B), subject to such safe-
3 guards as the Commissioner of Social Security determines
4 are necessary or appropriate to protect the information
5 from unauthorized use or disclosure, by any Federal or
6 State agency providing federally funded benefits or admin-
7 istering a Federal program for such benefits, including the
8 agency operating the Do Not Pay working system for en-
9 suring proper payment of those benefits, through a cooper-
10 ative arrangement with the agency (that includes the
11 agency's Inspector General) or with an agency's Inspector
12 General, if—

13 “(i) under such arrangement the agency (in-
14 cluding, if applicable, the agency's Inspector Gen-
15 eral) provides reimbursement to the Commissioner of
16 Social Security for the reasonable cost of carrying
17 out such arrangement, including the reasonable
18 costs associated with the collection and maintenance
19 of information regarding deceased individuals fur-
20 nished to the Commissioner pursuant to paragraph
21 (1), and

22 “(ii) such arrangement does not conflict with
23 the duties of the Commissioner of Social Security
24 under paragraph (1).

1 “(B) The Commissioner of Social Security shall, to
2 the extent feasible, provide for the use of information re-
3 garding all deceased individuals furnished to or main-
4 tained by the Commissioner under this subsection,
5 through a cooperative arrangement in order for a Federal
6 agency to carry out any of the following purposes, if the
7 requirements of clauses (i) and (ii) of subparagraph (A)
8 are met:

9 “(i) Operating the Do Not Pay working system
10 established by section 5 of the Improper Payments
11 Elimination and Recovery Improvement Act of 2012.
12 Under such arrangement, the agency operating the
13 working system may compare death information dis-
14 closed by the Commissioner with personally identifi-
15 able information reviewed through the working sys-
16 tem, and may redisclose such comparison of infor-
17 mation, as appropriate, to any Federal or State
18 agency authorized to use the working system.

19 “(ii) To ensure proper payments under a Fed-
20 eral program or the proper payment of federally
21 funded benefits, including for purposes of payment
22 certification, payment disbursement, and the preven-
23 tion, identification, or recoupment of improper pay-
24 ments.

1 “(iii) To carry out tax administration or debt
2 collection duties of the agency.

3 “(iv) For use by any policing agency of the
4 Federal Government with the principle function of
5 prevention, detection, or investigation of crime or
6 the apprehension of alleged offenders.

7 “(4) The Commissioner of Social Security may enter
8 into similar arrangements with States to provide informa-
9 tion regarding all deceased individuals furnished to or
10 maintained by the Commissioner under this subsection,
11 for any of the purposes specified in paragraph (3)(B), for
12 use by States in programs wholly funded by the States,
13 or for use in the administration of a benefit pension plan
14 or retirement system for employees of a State or a political
15 subdivision thereof, if the requirements of clauses (i) and
16 (ii) of paragraph (3)(A) are met. For purposes of this
17 paragraph, the terms ‘retirement system’ and ‘political
18 subdivision’ have the meanings given such terms in section
19 218(b).

20 “(5) The Commissioner of Social Security may use
21 or provide for the use of information regarding all de-
22 ceased individuals furnished to or maintained by the Com-
23 missioner under this subsection, subject to such safe-
24 guards as the Commissioner of Social Security determines
25 are necessary or appropriate to protect the information

1 from unauthorized use or disclosure, for statistical pur-
2 poses and research activities by Federal and State agen-
3 cies if the requirements of clauses (i) and (ii) of paragraph
4 (3)(A) are met. For purposes of this paragraph, the term
5 ‘statistical purposes’ has the meaning given that term in
6 section 502 of the Confidential Information Protection
7 and Statistical Efficiency Act of 2002.’; and

8 (C) in paragraph (8)(A)(i), by striking
9 “subparagraphs (A) and (B) of paragraph (3)”
10 and inserting “clauses (i) and (ii) of paragraph
11 (3)(A)”.

12 (2) REPEAL.—Effective on the date that is 5
13 years after the date of enactment of this Act, the
14 amendments made by this subsection to paragraphs
15 (3), (4), (5), and (8) of section 205(r) of the Social
16 Security Act (42 U.S.C. 405(r)) are repealed, and
17 the provisions of section 205(r) of the Social Secu-
18 rity Act (42 U.S.C. 605(r)) so amended are restored
19 and revived as if such amendments had not been en-
20 acted.

21 (b) AMENDMENT TO INTERNAL REVENUE CODE.—
22 Section 6103(d)(4) of the Internal Revenue Code of 1986
23 is amended—

24 (1) in subparagraphs (A) and (B), by striking
25 “Secretary of Health and Human Services” each

1 place it appears and inserting “Commissioner of So-
2 cial Security”; and

3 (2) in subparagraph (B)(ii), by striking “such
4 Secretary” and all that follows through “deceased
5 individuals.” and inserting “such Commissioner pur-
6 suant to such contract, except that such contract
7 may provide that such information is only to be used
8 by the Social Security Administration (or any other
9 Federal agency) for purposes authorized in the So-
10 cial Security Act or this title.”.

11 (c) REPORT TO CONGRESS ON ALTERNATIVE
12 SOURCES OF DEATH DATA.—

13 (1) REQUIREMENTS.—The Director of the Of-
14 fice of Management and Budget shall conduct a re-
15 view of potential alternative sources of death data
16 maintained by the non-Federal sources, including
17 sources maintained by State agencies or associations
18 of State agencies, for use by Federal agencies and
19 programs. The review shall include analyses of—

20 (A) the accuracy and completeness of such
21 data;

22 (B) interoperability of such data;

23 (C) the extent to which there is efficient
24 accessability of such data by Federal agencies;

1 (D) the cost to Federal agencies of access-
2 ing and maintaining such data;

3 (E) the security of such data;

4 (F) the reliability of such data; and

5 (G) a comparison of the potential alternate
6 sources of death data to the death data distrib-
7 uted by the Commissioner of Social Security.

8 (2) REPORT.—Not later than 4 years after the
9 date of enactment of this Act, the Director of the
10 Office of Management and Budget shall submit a re-
11 port to Congress on the results of the review and
12 analyses required under paragraph (1). The report
13 shall include a recommendation by the Director of
14 the Office of Management and Budget regarding
15 whether to extend the agency access to death data
16 distributed by the Commissioner of Social Security
17 provided under the amendments made by subsection
18 (a)(1) beyond the date on which such amendments
19 are to be repealed under subsection (a)(2).

20 **SEC. 1303. IMPROVING THE USE OF DEATH DATA BY GOV-**
21 **ERNMENT AGENCIES TO CURB IMPROPER**
22 **PAYMENTS.**

23 Section 7 of the Improper Payments Elimination and
24 Recovery Improvement Act of 2012 (31 U.S.C. 3321 note)
25 is amended by adding at the end the following:

1 “(c) GUIDANCE TO AGENCIES REGARDING DATA
2 MATCHING WITH DEATH DATABASES.—

3 “(1) GUIDANCE TO AGENCIES.—Not later than
4 6 months after the date of enactment of this sub-
5 section, and in consultation with the Council of In-
6 spectors General on Integrity and Efficiency and the
7 heads of other relevant Federal, State, and local
8 agencies, and Indian tribes and tribal organizations,
9 the Director of the Office of Management and Budget
10 shall issue guidance for each agency or component
11 of an agency that operates or maintains a database
12 of information relating to beneficiaries, annuity re-
13 cipients, or any purpose described in section
14 205(r)(3)(B) of the Social Security Act (42 U.S.C.
15 405(r)(3)(B)) for which improved data matching
16 with databases relating to the death of an individual
17 (in this subsection referred to as ‘death databases’)
18 would be relevant and necessary regarding imple-
19 mentation of this subsection to provide such agencies
20 or components access to the death databases no
21 later than 6 months after such date of enactment.

22 “(2) PLAN TO ASSIST STATES AND LOCAL
23 AGENCIES AND INDIAN TRIBES AND TRIBAL ORGANI-
24 ZATIONS.—Not later than 1 year after the date of
25 enactment of this subsection, the Director of the Of-

1 fice of Management and Budget shall develop a plan
2 to assist States and local agencies, and Indian tribes
3 and tribal organizations, in providing electronically
4 to the Federal Government records relating to the
5 death of individuals, which may include rec-
6 ommendations to Congress for any statutory
7 changes or financial assistance to States and local
8 agencies and Indian tribes and tribal organizations
9 that are necessary to ensure States and local agen-
10 cies and Indian tribes and tribal organizations can
11 provide such records electronically. The plan may in-
12 clude recommendations for the authorization of ap-
13 propriations or other funding to carry out the plan.

14 “(d) REPORTS.—

15 “(1) REPORT TO CONGRESS ON IMPROVING
16 DATA MATCHING REGARDING PAYMENTS TO DE-
17 CEASED INDIVIDUALS.—Not later than 270 days
18 after the date of enactment of this subsection, the
19 Director of the Office of Management and Budget,
20 in consultation with the heads of other relevant Fed-
21 eral agencies, and in consultation with States and
22 local agencies, Indian tribes and tribal organizations,
23 shall submit to Congress a plan to improve how
24 States and local agencies and Indian tribes and trib-
25 al organizations that provide benefits under a feder-

1 ally funded program will improve data matching
2 with the Federal Government with respect to the
3 death of individuals who are recipients of such bene-
4 fits.

5 “(2) ANNUAL REPORT.—Not later than 1 year
6 after the date of enactment of this section, and for
7 each of the 4 succeeding years, the Director of the
8 Office of Management and Budget shall submit to
9 Congress a report regarding the implementation of
10 subsection (c) and paragraph (1). The first report
11 submitted under this paragraph shall include the
12 recommendations of the Director required under
13 subsection (c)(2).

14 “(e) DEFINITIONS.—In this section, the terms ‘In-
15 dian tribe’ and ‘tribal organization’ have the meanings
16 given those terms in section 4 of the Indian Self-Deter-
17 mination and Education Assistance Act (25 U.S.C.
18 450b).”.

19 **SEC. 1304. PLAN FOR ENSURING THE ACCURACY AND COM-**
20 **PLETENESS OF DEATH DATA MAINTAINED**
21 **AND DISTRIBUTED BY THE SOCIAL SECURITY**
22 **ADMINISTRATION.**

23 (a) IN GENERAL.—Not later than 1 year after the
24 date of enactment of this Act, the Commissioner of Social
25 Security shall submit to Congress a plan, which shall in-

1 clude the elements described in subsection (b), to improve
2 the accuracy and completeness of the death data (includ-
3 ing data regarding individuals who are not eligible for or
4 receiving benefits under titles II or XVI of the Social Se-
5 curity Act) maintained and distributed by the Social Secu-
6 rity Administration.

7 (b) CONTENT OF PLAN.—The plan required under
8 subsection (a) shall include the following elements:

9 (1) A procedure for identifying individuals who
10 are still alive and are older than the oldest known
11 living person according to the records of the Social
12 Security Administration.

13 (2) Improved policies and procedures for identi-
14 fying and correcting erroneous records, including
15 policies and procedures for—

16 (A) identifying individuals listed as dead
17 who are actually alive;

18 (B) identifying individuals listed as alive
19 who are actually dead; and

20 (C) allowing individuals or survivors of de-
21 ceased individuals to notify the Social Security
22 Administration of potential errors.

23 (3) Improved policies and procedures to identify
24 and correct errors in the records of the Numerical
25 Identification System, and death data.

1 (4) A process for employing statistical analysis
2 of the death data maintained and distributed by the
3 Social Security Administration to determine an esti-
4 mate of the number of erroneous records.

5 (5) Recommendations for legislation.

6 **SEC. 1305. REPORT ON INFORMATION SECURITY.**

7 Not later than 90 days after the date of the enact-
8 ment of this Act, the Commissioner of Social Security
9 shall submit a report to the Committees on Ways and
10 Means, Oversight and Government Reform, and Home-
11 land Security of the House of Representatives, and the
12 Committees on Finance and Homeland Security and Gov-
13 ernmental Affairs of the Senate that—

14 (1) identifies all information systems of the So-
15 cial Security Administration containing sensitive in-
16 formation; and

17 (2) describes the measures the Commissioner is
18 taking to secure and protect such information sys-
19 tems.

20 **Subtitle D—Fraud Reduction and**
21 **Data Analytics**

22 **SEC. 1401. SHORT TITLE.**

23 This subtitle may be cited as the “Fraud Reduction
24 and Data Analytics Act of 2016”.

1 **SEC. 1402. DEFINITIONS.**

2 In this subtitle—

3 (1) the term “agency” has the meaning given
4 the term in section 551 of title 5, United States
5 Code; and

6 (2) the term “improper payment” has the
7 meaning given the term in section 2(g) of the Im-
8 proper Payments Information Act of 2002 (31
9 U.S.C. 3321 note).

10 **SEC. 1403. ESTABLISHMENT OF FINANCIAL AND ADMINIS-**
11 **TRATIVE CONTROLS RELATING TO FRAUD**
12 **AND IMPROPER PAYMENTS.**

13 (a) GUIDELINES.—

14 (1) IN GENERAL.—Not later than 90 days after
15 the date of enactment of this Act, the Director of
16 the Office of Management and Budget, in consulta-
17 tion with the Comptroller General of the United
18 States, shall establish guidelines for agencies to es-
19 tablish financial and administrative controls to iden-
20 tify and assess fraud risks and design and imple-
21 ment control activities in order to prevent, detect,
22 and respond to fraud, including improper payments.

23 (2) CONTENTS.—The guidelines described in
24 paragraph (1) shall incorporate the leading practices
25 identified in the report published by the Government
26 Accountability Office on July 28, 2015, entitled

1 “Framework for Managing Fraud Risks in Federal
2 Programs”.

3 (3) MODIFICATION.—The Director of the Office
4 of Management and Budget, in consultation with the
5 Comptroller General of the United States, may peri-
6 odically modify the guidelines described in paragraph
7 (1) as the Director and Comptroller General may de-
8 termine necessary.

9 (b) REQUIREMENTS FOR CONTROLS.—The financial
10 and administrative controls required to be established by
11 agencies under subsection (a) shall include—

12 (1) conducting an evaluation of fraud risks and
13 using a risk-based approach to design and imple-
14 ment financial and administrative control activities
15 to mitigate identified fraud risks;

16 (2) collecting and analyzing data from reporting
17 mechanisms on detected fraud to monitor fraud
18 trends and using that data and information to con-
19 tinuously improve fraud prevention controls; and

20 (3) using the results of monitoring, evaluation,
21 audits, and investigations to improve fraud preven-
22 tion, detection, and response.

23 (c) REPORTS.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), for each of the first 3 fiscal years begin-

1 ning after the date of enactment of this Act, each
2 agency shall submit to Congress, as part of the an-
3 nual financial report of the agency, a report on the
4 progress of the agency in—

5 (A) implementing—

6 (i) the financial and administrative
7 controls required to be established under
8 subsection (a);

9 (ii) the fraud risk principle in the
10 Standards for Internal Control in the Fed-
11 eral Government; and

12 (iii) Office of Management and Budg-
13 et Circular A-123 with respect to the lead-
14 ing practices for managing fraud risk;

15 (B) identifying risks and vulnerabilities to
16 fraud, including with respect to payroll, bene-
17 ficiary payments, grants, large contracts, and
18 purchase and travel cards; and

19 (C) establishing strategies, procedures, and
20 other steps to curb fraud.

21 (2) FIRST REPORT.—If the date of enactment
22 of this Act is less than 180 days before the date on
23 which an agency is required to submit the annual fi-
24 nancial report of the agency, the agency may submit

1 the report required under paragraph (1) as part of
2 the following annual financial report of the agency.

3 **SEC. 1404. WORKING GROUP.**

4 (a) ESTABLISHMENT.—Not later than 180 days after
5 the date of enactment of this Act, the Office of Manage-
6 ment and Budget shall establish a working group to im-
7 prove—

8 (1) the sharing of financial and administrative
9 controls established under section 1403(a) and other
10 best practices and techniques for detecting, pre-
11 venting, and responding to fraud, including improper
12 payments; and

13 (2) the sharing and development of data ana-
14 lytics techniques.

15 (b) COMPOSITION.—The working group established
16 under subsection (a) shall be composed of—

17 (1) the Controller of the Office of Management
18 and Budget, who shall serve as Chairperson;

19 (2) the Chief Financial Officer of each agency;
20 and

21 (3) any other party determined to be appro-
22 priate by the Director of the Office of Management
23 and Budget, which may include the Chief Informa-
24 tion Officer, the Chief Procurement Officer, or the
25 Chief Operating Officer of each agency.

1 (c) CONSULTATION.—The working group established
2 under subsection (a) shall consult with Offices of Inspec-
3 tors General and Federal and non-Federal experts on
4 fraud risk assessments, financial controls, and other rel-
5 evant matters.

6 (d) MEETINGS.—The working group established
7 under subsection (a) shall hold not fewer than 4 meetings
8 per year.

9 (e) PLAN.—Not later than 270 days after the date
10 of enactment of this Act, the working group established
11 under subsection (a) shall submit to Congress a plan for
12 the establishment and use of a Federal interagency library
13 of data analytics and data sets, which can incorporate or
14 improve upon existing Federal resources and capacities,
15 for use by agencies and Offices of Inspectors General to
16 facilitate the detection, prevention, and recovery of fraud,
17 including improper payments.

18 **Subtitle E—Duplication Reduction**
19 **and Agency Coordination**

20 **SEC. 1501. SHORT TITLE.**

21 This subtitle may be cited as the “Getting Results
22 through Enhanced Accountability and Transparency Act
23 of 2016”.

1 **SEC. 1502. PURPOSE.**

2 The purpose of this subtitle is to increase the effi-
 3 ciency and effectiveness of the Federal Government in
 4 measuring and managing unnecessary duplication, frag-
 5 mentation, and overlap in Government programs and in
 6 addressing recommendations from the Government Ac-
 7 countability Office.

8 **SEC. 1503. IDENTIFICATION, CONSOLIDATION, AND ELIMI-**
 9 **NATION OF UNNECESSARILY DUPLICATIVE**
 10 **GOVERNMENT PROGRAMS.**

11 Section 21 of the Joint Resolution entitled “Joint
 12 Resolution increasing the statutory limit on the public
 13 debt” (Public Law 111–139; 31 U.S.C. 712 note) is
 14 amended to read as follows:

15 **“SEC. 21. IDENTIFICATION, CONSOLIDATION, AND ELIMI-**
 16 **NATION OF UNNECESSARILY DUPLICATIVE**
 17 **GOVERNMENT PROGRAMS.**

18 “(a) IN GENERAL.—The Comptroller General of the
 19 United States shall—

20 “(1) conduct routine investigations to identify
 21 programs, agencies, offices, and initiatives with un-
 22 necessarily duplicative goals and activities within de-
 23 partments and agencies and Governmentwide; and

24 “(2) submit to Congress an annual report on
 25 the findings of the investigations under paragraph
 26 (1).

1 “(b) CONTENTS OF REPORTS.—Reports submitted
2 under subsection (a)(2) shall, to the extent possible—

3 “(1) include—

4 “(A) information from available reports es-
5 timating the cost of unnecessary duplication
6 identified under subsection (a)(1); and

7 “(B) recommendations for consolidation,
8 coordination, and elimination to reduce unnee-
9 cessary duplication, which shall identify specific
10 rescissions; and

11 “(2) aggregate separately—

12 “(A) estimates of related costs reported by
13 the Comptroller General for instances of actual
14 and potential unnecessary duplication; and

15 “(B) estimates of other potential cost sav-
16 ings and revenue collection reported by the
17 Comptroller General during the period covered
18 by the report.”.

19 **SEC. 1504. IMPROVEMENTS TO ELIMINATION OF UNNECES-**
20 **SARY DUPLICATION.**

21 (a) SYSTEMATIC AGENCY REVIEW OF OPER-
22 ATIONS.—Section 305(c) of title 5, United States Code,
23 is amended—

1 (1) in paragraph (1), by inserting “, and ways
2 in which the agency might improve its performance
3 toward its mission” before the semicolon;

4 (2) by redesignating paragraphs (2) and (3) as
5 paragraphs (4) and (5), respectively;

6 (3) by inserting after paragraph (1) the fol-
7 lowing:

8 “(2) informing the processes of the agency for
9 learning and decisionmaking;

10 “(3) assessing potential opportunities to im-
11 prove coordination within the agency and with other
12 agencies, and to address actual and potential unnec-
13 essary duplication;” and

14 (4) in paragraph (5), as so redesignated, by in-
15 sserting “and performance toward achieving the mis-
16 sion of the agency” before the period.

17 (b) CHIEF OPERATING OFFICERS.—Section 1123(b)
18 of title 31, United States Code, is amended—

19 (1) in paragraph (1)—

20 (A) by inserting “evaluation,” after “meas-
21 urement,”; and

22 (B) by inserting “risk management,” after
23 “progress,”;

24 (2) by redesignating paragraphs (2), (3), and
25 (4) as paragraphs (3), (4), and (5), respectively;

1 (3) by inserting after paragraph (1) the fol-
2 lowing:

3 “(2) address crosscutting program and manage-
4 ment issues, including opportunities to improve co-
5 ordination and address unnecessary duplication,
6 within and external to the agency using an enter-
7 prise risk management approach;”;

8 (4) in paragraph (4), as so redesignated, by in-
9 serting “of mission-oriented components and units
10 and mission support” after “management”; and

11 (5) in paragraph (5), as so redesignated—

12 (A) by striking “such as the Chief” and in-
13 serting the following: “such as—

14 “(A) the heads of mission-related compo-
15 nents and units at the agency and the major
16 components of the agency; and

17 “(B) the Chief”; and

18 (B) by striking “other line of business”
19 and all that follows and inserting “heads of
20 mission support functions at the agency and at
21 the major components of the agency.”.

22 (c) FEDERAL GOVERNMENT AND AGENCY PERFORM-
23 ANCE PLANS.—Section 1115 of title 31, United States
24 Code, is amended—

1 (1) in subsection (a)(6), by inserting “, includ-
2 ing actual or potential unnecessary duplication,”
3 after “crosscutting in nature”;

4 (2) in subsection (b)(9), in the matter pre-
5 ceding subparagraph (A), by inserting “, including
6 actual or potential unnecessary duplication,” after
7 “agency faces”; and

8 (3) in subsection (h)—

9 (A) by redesignating paragraphs (5)
10 through (12) as paragraphs (6) through (13),
11 respectively;

12 (B) by inserting after paragraph (4) the
13 following:

14 “(5) ‘enterprise risk management’ means the
15 processes that are used to address the full spectrum
16 of risks across multiple programs and organizations
17 that are located within a larger entity or initiative,
18 placing the risks into an integrated and interrelated
19 portfolio, and prioritizing their mitigation;”;

20 (C) in paragraph (12), as so redesignated,
21 by striking “and” at the end;

22 (D) in paragraph (13), as so redesignated,
23 by striking the period and inserting a semi-
24 colon; and

25 (E) by adding at the end the following:

1 “(14) ‘risk’ means the possibility of—

2 “(A) an adverse event or phenomenon oc-
3 ccurring; or

4 “(B) a beneficial opportunity remaining
5 unexploited; and

6 “(15) ‘risk management’ means the processes
7 that are used to identify, assess, prioritize, monitor,
8 mitigate, and report on risks to achieving the mis-
9 sions, goals, and objectives of a department, agency,
10 or program, or group thereof, using resources and
11 processes appropriate to the nature of the risks and
12 resources available.”.

13 (d) FEDERAL GOVERNMENT AND AGENCY PRIORITY
14 GOALS.—Section 1120 of title 31, United States Code, is
15 amended—

16 (1) in subsection (a)—

17 (A) in paragraph (1)(B)—

18 (i) in the matter preceding clause (i),
19 by inserting “and mission support” after
20 “management”; and

21 (ii) in clause (v), by striking the semi-
22 colon and inserting a period; and

23 (B) in paragraph (3)—

1 (i) by redesignating subparagraphs
2 (A) through (G) as clauses (i) through (vii)
3 and adjusting the margin accordingly;

4 (ii) by striking “shall consult” and in-
5 serting the following: “shall—

6 “(A) consider recommendations of the Gov-
7 ernment Accountability Office in—

8 “(i) the annual report submitted
9 under section 21 of the Joint Resolution
10 entitled ‘Joint Resolution increasing the
11 statutory limit on the public debt’ (Public
12 Law 111–139; 31 U.S.C. 712 note); or

13 “(ii) the High Risk list; and

14 “(B) consult”; and

15 (iii) in subparagraph (B)(vii), as so
16 redesignated, by striking the semicolon and
17 inserting a period; and

18 (2) in subsection (b)(1)(A), by inserting “bien-
19 nial” before “consultations”.

20 (e) PERFORMANCE IMPROVEMENT OFFICERS AND
21 THE PERFORMANCE IMPROVEMENT COUNCIL.—Section
22 1124 of title 31, United States Code, is amended—

23 (1) in subsection (a)(2)(A)—

1 (A) by inserting “, in collaboration with
2 heads of agency components and mission sup-
3 port functions,” after “Officer”;

4 (B) by inserting “evaluation,” after “meas-
5 urement,”; and

6 (C) by inserting “risk management,” after
7 “progress,”; and

8 (2) in subsection (b)(2)—

9 (A) in subparagraph (D), by inserting “in-
10 cluding issues relating to coordination and un-
11 necessary duplication,” after “issues,”;

12 (B) in subparagraph (E), by inserting
13 “and with non-Federal stakeholders, including
14 States and local governments,” after “exchange
15 among agencies”;

16 (C) in subparagraph (F), by inserting
17 “and mission support” after “management”;

18 (D) in subparagraph (I), by striking “and”
19 at the end;

20 (E) in subparagraph (J), by striking the
21 period at the end and inserting a semicolon;
22 and

23 (F) by adding at the end the following:

24 “(K) establish a public website; and

1 “(L) place annually and archive on the
2 website a detailed annual report describing the
3 Performance Improvement Council’s—

4 “(i) structure (including any commit-
5 tees or task forces);

6 “(ii) budget and relevant sources of
7 funds;

8 “(iii) staffing, on a full-time equiva-
9 lent basis (including an accounting of de-
10 tails from agencies); and

11 “(iv) past, current, and planned ac-
12 tivities.”.

13 (f) ELIMINATION OF UNNECESSARY AGENCY RE-
14 PORTING.—Section 1125(a)(1) of title 31, United States
15 Code, is amended by striking “reports;” and inserting the
16 following: “reports, and place the list on a public website,
17 which shall include, for each plan or report—

18 “(A) a citation to the relevant statutory re-
19 quirement or direction in a congressional re-
20 port; and

21 “(B) an indication of whether and how the
22 agency is complying with the requirement to
23 produce the plan or report, including a citation
24 to the means through which the agency submits
25 the plan or report;”.

1 (g) AGENCY REPORTS.—Section 720(b) of title 31,
2 United States Code, is amended, in the matter preceding
3 paragraph (1), by inserting “, including the annual report
4 on unnecessarily duplicative goals and activities within de-
5 partments and governmentwide required under section 21
6 of the Joint Resolution entitled ‘A joint resolution increas-
7 ing the statutory limit on the public debt’ (Public Law
8 111–139; 31 U.S.C. 712 note) and the High Risk list of
9 the Government Accountability Office,” after “makes a re-
10 port”.

11 **Subtitle F—Administrative Leave**

12 **SEC. 1601. SHORT TITLE.**

13 This subtitle may be cited as the “Administrative
14 Leave Act of 2016”.

15 **SEC. 1602. SENSE OF CONGRESS.**

16 It is the sense of Congress that—

17 (1) agency use of administrative leave, and
18 leave that is referred to incorrectly as administrative
19 leave in agency recording practices, has exceeded
20 reasonable amounts—

21 (A) in contravention of—

22 (i) established precedent of the Comp-
23 troller General of the United States; and

24 (ii) guidance provided by the Office of
25 Personnel Management; and

1 (B) resulting in significant cost to the
2 Federal Government;

3 (2) administrative leave should be used spar-
4 ingly;

5 (3) prior to the use of paid leave to address
6 personnel issues, an agency should consider other ac-
7 tions, including—

8 (A) temporary reassignment;

9 (B) transfer; and

10 (C) telework;

11 (4) an agency should prioritize and expedi-
12 tiously conclude an investigation in which an em-
13 ployee is placed in administrative leave so that, not
14 later than the conclusion of the leave period—

15 (A) the employee is returned to duty sta-
16 tus; or

17 (B) an appropriate personnel action is
18 taken with respect to the employee;

19 (5) data show that there are too many examples
20 of employees placed in administrative leave for 6
21 months or longer, leaving the employees without any
22 available recourse to—

23 (A) return to duty status; or

24 (B) challenge the decision of the agency;

1 (6) an agency should ensure accurate and con-
 2 sistent recording of the use of administrative leave
 3 so that administrative leave can be managed and
 4 overseen effectively; and

5 (7) other forms of excused absence authorized
 6 by law should be recorded separately from adminis-
 7 trative leave, as defined by the amendments made by
 8 this subtitle.

9 **SEC. 1603. ADMINISTRATIVE LEAVE.**

10 (a) IN GENERAL.—Subchapter II of chapter 63 of
 11 title 5, United States Code, is amended by adding at the
 12 end the following:

13 **“§ 6330. Administrative leave**

14 “(a) DEFINITIONS.—In this section—

15 “(1) the term ‘administrative leave’ means
 16 leave—

17 “(A) without loss of or reduction in—

18 “(i) pay;

19 “(ii) leave to which an employee is
 20 otherwise entitled under law; or

21 “(iii) credit for time or service; and

22 “(B) that is not authorized under any
 23 other provision of law;

24 “(2) the term ‘agency’—

1 “(A) means an Executive agency (as de-
2 fined in section 105 of this title); and

3 “(B) does not include the Government Ac-
4 countability Office; and

5 “(3) the term ‘employee’—

6 “(A) has the meaning given the term in
7 section 2105; and

8 “(B) does not include an intermittent em-
9 ployee who does not have an established regular
10 tour of duty during the administrative work-
11 week.

12 “(b) ADMINISTRATIVE LEAVE.—

13 “(1) IN GENERAL.—An agency may place an
14 employee in administrative leave for a period of not
15 more than 5 consecutive days.

16 “(2) RULE OF CONSTRUCTION.—Nothing in
17 paragraph (1) shall be construed to limit the use of
18 leave that is—

19 “(A) specifically authorized under law; and

20 “(B) not administrative leave.

21 “(3) RECORDS.—An agency shall record admin-
22 istrative leave separately from leave authorized
23 under any other provision of law.

24 “(c) REGULATIONS.—

1 “(1) OPM REGULATIONS.—Not later than 1
2 year after the date of enactment of this section, the
3 Director of the Office of Personnel Management
4 shall—

5 “(A) prescribe regulations to carry out this
6 section; and

7 “(B) prescribe regulations that provide
8 guidance to agencies regarding—

9 “(i) acceptable agency uses of admin-
10 istrative leave; and

11 “(ii) the proper recording of—

12 “(I) administrative leave; and

13 “(II) other leave authorized by
14 law.

15 “(2) AGENCY ACTION.—Not later than 1 year
16 after the date on which the Director of the Office of
17 Personnel Management prescribes regulations under
18 paragraph (1), each agency shall revise and imple-
19 ment the internal policies of the agency to meet the
20 requirements of this section.

21 “(d) RELATION TO OTHER LAWS.—Notwithstanding
22 subsection (a) of section 7421 of title 38, this section shall
23 apply to an employee described in subsection (b) of that
24 section.”.

1 (b) OPM STUDY.—Not later than 120 days after the
 2 date of enactment of this Act, the Director of the Office
 3 of Personnel Management, in consultation with Federal
 4 agencies, groups representing Federal employees, and
 5 other relevant stakeholders, shall submit to the Committee
 6 on Homeland Security and Governmental Affairs of the
 7 Senate and the Committee on Oversight and Government
 8 Reform of the House of Representatives a report identi-
 9 fying agency practices, as of the date of enactment of this
 10 Act, of placing an employee in administrative leave for
 11 more than 5 consecutive days when the placement was not
 12 specifically authorized by law.

13 (c) TECHNICAL AND CONFORMING AMENDMENT.—
 14 The table of sections for subchapter II of chapter 63 of
 15 title 5, United States Code, is amended by inserting after
 16 the item relating to section 6329 the following:

“6330. Administrative leave.”.

17 **SEC. 1604. INVESTIGATIVE LEAVE AND NOTICE LEAVE.**

18 (a) IN GENERAL.—Subchapter II of chapter 63 of
 19 title 5, United States Code, as amended by this subtitle,
 20 is further amended by adding at the end the following:

21 **“§ 6330a. Investigative leave and notice leave**

22 “(a) DEFINITIONS.—In this section—

23 “(1) the term ‘agency’—

24 “(A) means an Executive agency (as de-
 25 fined in section 105 of this title); and

1 “(B) does not include the Government Ac-
2 countability Office;

3 “(2) the term ‘Chief Human Capital Officer’
4 means—

5 “(A) the Chief Human Capital Officer of
6 an agency designated or appointed under sec-
7 tion 1401; or

8 “(B) the equivalent;

9 “(3) the term ‘committees of jurisdiction’, with
10 respect to an agency, means each committee in the
11 Senate and House of Representatives with jurisdic-
12 tion over the agency;

13 “(4) the term ‘Director’ means the Director of
14 the Office of Personnel Management;

15 “(5) the term ‘employee’—

16 “(A) has the meaning given the term in
17 section 2105; and

18 “(B) does not include—

19 “(i) an intermittent employee who
20 does not have an established regular tour
21 of duty during the administrative work-
22 week; or

23 “(ii) the Inspector General of an
24 agency;

1 “(6) the term ‘investigative leave’ means
2 leave—

3 “(A) without loss of or reduction in—

4 “(i) pay;

5 “(ii) leave to which an employee is
6 otherwise entitled under law; or

7 “(iii) credit for time or service;

8 “(B) that is not authorized under any
9 other provision of law; and

10 “(C) in which an employee who is the sub-
11 ject of an investigation is placed;

12 “(7) the term ‘notice leave’ means leave—

13 “(A) without loss of or reduction in—

14 “(i) pay;

15 “(ii) leave to which an employee is
16 otherwise entitled under law; or

17 “(iii) credit for time or service;

18 “(B) that is not authorized under any
19 other provision of law; and

20 “(C) in which an employee who is in a no-
21 tice period is placed; and

22 “(8) the term ‘notice period’ means a period be-
23 ginning on the date on which an employee is pro-
24 vided notice required under law of a proposed ad-
25 verse action against the employee and ending on the

1 date on which an agency may take the adverse ac-
2 tion.

3 “(b) LEAVE FOR EMPLOYEES UNDER INVESTIGA-
4 TION OR IN A NOTICE PERIOD.—

5 “(1) AUTHORITY.—An agency may, in accord-
6 ance with paragraph (2), place an employee in—

7 “(A) investigative leave if the employee is
8 the subject of an investigation;

9 “(B) notice leave if the employee is in a
10 notice period; or

11 “(C) notice leave following a placement in
12 investigative leave if, not later than the day
13 after the last day of the period of investigative
14 leave—

15 “(i) the agency proposes or initiates
16 an adverse action against the employee;
17 and

18 “(ii) the agency determines that the
19 employee continues to meet 1 or more of
20 the criteria described in subsection (c)(1).

21 “(2) REQUIREMENTS.—An agency may place
22 an employee in leave under paragraph (1) only if the
23 agency has—

24 “(A) made a determination with respect to
25 the employee under subsection (c)(1);

1 “(B) considered the available options for
2 the employee under subsection (c)(2); and

3 “(C) determined that none of the available
4 options under subsection (c)(2) is appropriate.

5 “(c) EMPLOYEES UNDER INVESTIGATION OR IN A
6 NOTICE PERIOD.—

7 “(1) DETERMINATIONS.—An agency may not
8 place an employee in investigative leave or notice
9 leave under subsection (b) unless the continued pres-
10 ence of the employee in the workplace during an in-
11 vestigation of the employee or while the employee is
12 in a notice period, if applicable, may—

13 “(A) pose a threat to the employee or oth-
14 ers;

15 “(B) result in the destruction of evidence
16 relevant to an investigation;

17 “(C) result in loss of or damage to Govern-
18 ment property; or

19 “(D) otherwise jeopardize legitimate Gov-
20 ernment interests.

21 “(2) AVAILABLE OPTIONS FOR EMPLOYEES
22 UNDER INVESTIGATION OR IN A NOTICE PERIOD.—

23 After making a determination under paragraph (1)
24 with respect to an employee, and before placing an
25 employee in investigative leave or notice leave under

1 subsection (b), an agency shall consider taking 1 or
2 more of the following actions:

3 “(A) Assigning the employee to duties in
4 which the employee is no longer a threat to—

5 “(i) safety;

6 “(ii) the mission of the agency;

7 “(iii) Government property; or

8 “(iv) evidence relevant to an investiga-
9 tion.

10 “(B) Allowing the employee to take leave
11 for which the employee is eligible.

12 “(C) Requiring the employee to telework
13 under section 6502(c).

14 “(D) If the employee is absent from duty
15 without approved leave, carrying the employee
16 in absence without leave status.

17 “(E) For an employee subject to a notice
18 period, curtailing the notice period if there is
19 reasonable cause to believe the employee has
20 committed a crime for which a sentence of im-
21 prisonment may be imposed.

22 “(3) DURATION OF LEAVE.—

23 “(A) INVESTIGATIVE LEAVE.—Subject to
24 extensions of a period of investigative leave for
25 which an employee may be eligible under sub-

1 sections (d) and (e), the initial placement of an
2 employee in investigative leave shall be for a pe-
3 riod not longer than 10 days.

4 “(B) NOTICE LEAVE.—Placement of an
5 employee in notice leave shall be for a period
6 not longer than the duration of the notice pe-
7 riod.

8 “(4) EXPLANATION OF LEAVE.—

9 “(A) IN GENERAL.—If an agency places an
10 employee in leave under subsection (b), the
11 agency shall provide the employee a written ex-
12 planation of the leave placement and the rea-
13 sons for the leave placement.

14 “(B) EXPLANATION.—The written notice
15 under subparagraph (A) shall describe the limi-
16 tations of the leave placement, including—

17 “(i) the applicable limitations under
18 paragraph (3); and

19 “(ii) in the case of a placement in in-
20 vestigative leave, an explanation that, at
21 the conclusion of the period of leave, the
22 agency shall take an action under para-
23 graph (5).

24 “(5) AGENCY ACTION.—Not later than the day
25 after the last day of a period of investigative leave

1 for an employee under subsection (b)(1), an agency
2 shall—

3 “(A) return the employee to regular duty
4 status;

5 “(B) take 1 or more of the actions author-
6 ized under paragraph (2), meaning—

7 “(i) assigning the employee to duties
8 in which the employee is no longer a threat
9 to—

10 “(I) safety;

11 “(II) the mission of the agency;

12 “(III) Government property; or

13 “(IV) evidence relevant to an in-
14 vestigation;

15 “(ii) allowing the employee to take
16 leave for which the employee is eligible;

17 “(iii) requiring the employee to
18 telework under section 6502(c);

19 “(iv) if the employee is absent from
20 duty without approved leave, carrying the
21 employee in absence without leave status;
22 or

23 “(v) for an employee subject to a no-
24 tice period, curtailing the notice period if
25 there is reasonable cause to believe the em-

1 ployee has committed a crime for which a
2 sentence of imprisonment may be imposed;

3 “(C) propose or initiate an adverse action
4 against the employee as provided under law; or

5 “(D) extend the period of investigative
6 leave under subsections (d) and (e).

7 “(6) RULE OF CONSTRUCTION.—Nothing in
8 paragraph (5) shall be construed to prevent the con-
9 tinued investigation of an employee, except that the
10 placement of an employee in investigative leave may
11 not be extended for that purpose except as provided
12 in subsections (d) and (e).

13 “(d) INITIAL EXTENSION OF INVESTIGATIVE
14 LEAVE.—

15 “(1) IN GENERAL.—Subject to paragraph (4),
16 if the Chief Human Capital Officer of an agency, or
17 the designee of the Chief Human Capital Officer,
18 approves such an extension after consulting with the
19 investigator responsible for conducting the investiga-
20 tion to which an employee is subject, the agency may
21 extend the period of investigative leave for the em-
22 ployee under subsection (b) for not more than 30
23 days.

24 “(2) MAXIMUM NUMBER OF EXTENSIONS.—The
25 total period of additional investigative leave for an

1 employee under paragraph (1) may not exceed 110
2 days.

3 “(3) DESIGNATION GUIDANCE.—Not later than
4 1 year after the date of enactment of this section,
5 the Chief Human Capital Officers Council shall
6 issue guidance to ensure that if the Chief Human
7 Capital Officer of an agency delegates the authority
8 to approve an extension under paragraph (1) to a
9 designee, the designee is at a sufficiently high level
10 within the agency to make an impartial and inde-
11 pendent determination regarding the extension.

12 “(4) EXTENSIONS FOR OIG EMPLOYEES.—

13 “(A) APPROVAL.—In the case of an em-
14 ployee of an Office of Inspector General—

15 “(i) the Inspector General or the des-
16 ignee of the Inspector General, rather than
17 the Chief Human Capital Officer or the
18 designee of the Chief Human Capital Offi-
19 cer, shall approve an extension of a period
20 of investigative leave for the employee
21 under paragraph (1); or

22 “(ii) at the request of the Inspector
23 General, the head of the agency within
24 which the Office of Inspector General is lo-
25 cated shall designate an official of the

1 agency to approve an extension of a period
2 of investigative leave for the employee
3 under paragraph (1).

4 “(B) GUIDANCE.—Not later than 1 year
5 after the date of enactment of this section, the
6 Council of the Inspectors General on Integrity
7 and Efficiency shall issue guidance to ensure
8 that if the Inspector General or the head of an
9 agency, at the request of the Inspector General,
10 delegates the authority to approve an extension
11 under subparagraph (A) to a designee, the des-
12 ignee is at a sufficiently high level within the
13 Office of Inspector General or the agency, as
14 applicable, to make an impartial and inde-
15 pendent determination regarding the extension.

16 “(e) FURTHER EXTENSION OF INVESTIGATIVE
17 LEAVE.—

18 “(1) IN GENERAL.—After reaching the limit
19 under subsection (d)(2), an agency may further ex-
20 tend a period of investigative leave for an employee
21 for a period of not more than 60 days if, before the
22 further extension begins, the head of the agency or,
23 in the case of an employee of an Office of Inspector
24 General, the Inspector General submits a notifica-

1 tion that includes the reasons for the further exten-
2 sion to the—

3 “(A) committees of jurisdiction;

4 “(B) Committee on Homeland Security
5 and Governmental Affairs of the Senate; and

6 “(C) Committee on Oversight and Govern-
7 ment Reform of the House of Representatives.

8 “(2) NO LIMIT.—There shall be no limit on the
9 number of further extensions that an agency may
10 grant to an employee under paragraph (1).

11 “(3) OPM REVIEW.—An agency shall request
12 from the Director, and include with the notification
13 required under paragraph (1), the opinion of the Di-
14 rector—

15 “(A) with respect to whether to grant a
16 further extension under this subsection, includ-
17 ing the reasons for that opinion; and

18 “(B) which shall not be binding on the
19 agency.

20 “(4) SUNSET.—The authority provided under
21 this subsection shall expire on the date that is 6
22 years after the date of enactment of this section.

23 “(f) CONSULTATION GUIDANCE.—Not later than 1
24 year after the date of enactment of this section, the Coun-
25 cil of the Inspectors General on Integrity and Efficiency,

1 in consultation with the Attorney General and the Special
2 Counsel, shall issue guidance on best practices for con-
3 sultation between an investigator and an agency on the
4 need to place an employee in investigative leave during an
5 investigation of the employee, including during a criminal
6 investigation, because the continued presence of the em-
7 ployee in the workplace during the investigation may—

8 “(1) pose a threat to the employee or others;

9 “(2) result in the destruction of evidence rel-
10 evant to an investigation;

11 “(3) result in loss of or damage to Government
12 property; or

13 “(4) otherwise jeopardize legitimate Govern-
14 ment interests.

15 “(g) REPORTING AND RECORDS.—

16 “(1) IN GENERAL.—An agency shall keep a
17 record of the placement of an employee in investiga-
18 tive leave or notice leave by the agency, including—

19 “(A) the basis for the determination made
20 under subsection (c)(1);

21 “(B) an explanation of why an action
22 under subsection (c)(2) was not appropriate;

23 “(C) the length of the period of leave;

24 “(D) the amount of salary paid to the em-
25 ployee during the period of leave;

1 “(E) the reasons for authorizing the leave,
2 including, if applicable, the recommendation
3 made by an investigator under subsection
4 (d)(1); and

5 “(F) the action taken by the agency at the
6 end of the period of leave, including, if applica-
7 ble, the granting of any extension of a period
8 of investigative leave under subsection (d) or
9 (e).

10 “(2) AVAILABILITY OF RECORDS.—An agency
11 shall make a record kept under paragraph (1) avail-
12 able—

13 “(A) to any committee of Congress, upon
14 request;

15 “(B) to the Office of Personnel Manage-
16 ment; and

17 “(C) as otherwise required by law, includ-
18 ing for the purposes of the Administrative
19 Leave Act of 2016 and the amendments made
20 by that Act.

21 “(h) REGULATIONS.—

22 “(1) OPM ACTION.—Not later than 1 year
23 after the date of enactment of this section, the Di-
24 rector shall prescribe regulations to carry out this
25 section, including guidance to agencies regarding—

1 “(A) acceptable purposes for the use of—

2 “(i) investigative leave; and

3 “(ii) notice leave;

4 “(B) the proper recording of—

5 “(i) the leave categories described in
6 subparagraph (A); and

7 “(ii) other leave authorized by law;

8 “(C) baseline factors that an agency shall
9 consider when making a determination that the
10 continued presence of an employee in the work-
11 place may—

12 “(i) pose a threat to the employee or
13 others;

14 “(ii) result in the destruction of evi-
15 dence relevant to an investigation;

16 “(iii) result in loss or damage to Gov-
17 ernment property; or

18 “(iv) otherwise jeopardize legitimate
19 Government interests; and

20 “(D) procedures and criteria for the ap-
21 proval of an extension of a period of investiga-
22 tive leave under subsection (d) or (e).

23 “(2) AGENCY ACTION.—Not later than 1 year
24 after the date on which the Director prescribes regu-
25 lations under paragraph (1), each agency shall revise

1 and implement the internal policies of the agency to
2 meet the requirements of this section.

3 “(i) RELATION TO OTHER LAWS.—Notwithstanding
4 subsection (a) of section 7421 of title 38, this section shall
5 apply to an employee described in subsection (b) of that
6 section.”.

7 (b) PERSONNEL ACTION.—Section 2302(a)(2)(A) of
8 title 5, United States Code, is amended—

9 (1) in clause (xi), by striking “and” at the end;

10 (2) by redesignating clause (xii) as clause (xiii);

11 and

12 (3) by inserting after clause (xi) the following:

13 “(xii) a determination made by an agency
14 under section 6330a(c)(1) that the continued
15 presence of an employee in the workplace dur-
16 ing an investigation of the employee or while
17 the employee is in a notice period, if applicable,
18 may—

19 “(I) pose a threat to the employee or
20 others;

21 “(II) result in the destruction of evi-
22 dence relevant to an investigation;

23 “(III) result in loss of or damage to
24 Government property; or

1 “(IV) otherwise jeopardize legitimate
2 Government interests; and”.

3 (c) GAO REPORT.—Not later than 5 years after the
4 date of enactment of this Act, the Comptroller General
5 of the United States shall report to the Committee on
6 Homeland Security and Governmental Affairs of the Sen-
7 ate and the Committee on Oversight and Government Re-
8 form of the House of Representatives on the results of
9 an evaluation of the implementation of the authority pro-
10 vided under sections 6330 and 6330a of title 5, United
11 States Code, as added by section 1603(a) and subsection
12 (a) of this section, respectively, including—

13 (1) an assessment of agency use of the author-
14 ity provided under subsection (e) of such section
15 6330a, including data regarding—

16 (A) the number and length of extensions
17 granted under that subsection; and

18 (B) the number of times that the Director
19 of the Office of Personnel Management, under
20 paragraph (3) of that subsection—

21 (i) concurred with the decision of an
22 agency to grant an extension; and

23 (ii) did not concur with the decision of
24 an agency to grant an extension, including

1 the bases for those opinions of the Direc-
2 tor;

3 (2) recommendations to Congress, as appro-
4 priate, on the need for extensions beyond the exten-
5 sions authorized under subsection (d) of such section
6 6330a; and

7 (3) a review of the practice of agency placement
8 of an employee in investigative or notice leave under
9 subsection (b) of such section 6330a because of a
10 determination under subsection (c)(1)(D) of that
11 section that the employee jeopardized legitimate
12 Government interests, including the extent to which
13 such determinations were supported by evidence.

14 (d) TELEWORK.—Section 6502 of title 5, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

17 “(c) REQUIRED TELEWORK.—If an agency deter-
18 mines under section 6330a(c)(1) that the continued pres-
19 ence of an employee in the workplace during an investiga-
20 tion of the employee or while the employee is in a notice
21 period, if applicable, may pose 1 or more of the threats
22 described in that section and the employee is eligible to
23 telework under subsections (a) and (b) of this section, the
24 agency may require the employee to telework for the dura-

1 tion of the investigation or the notice period, if applica-
2 ble.”.

3 (e) **TECHNICAL AND CONFORMING AMENDMENT.**—

4 The table of sections for subchapter II of chapter 63 of
5 title 5, United States Code, is amended by inserting after
6 the item relating to section 6330, as added by this subtitle,
7 the following:

“6330a. Investigative leave and notice leave.”.

8 **SEC. 1605. LEAVE FOR WEATHER AND SAFETY ISSUES.**

9 (a) **IN GENERAL.**—Subchapter II of chapter 63 of
10 title 5, United States Code, as amended by this subtitle,
11 is further amended by adding at the end the following:

12 **“§ 6330b. Weather and safety leave**

13 “(a) **DEFINITIONS.**—In this section—

14 “(1) the term ‘agency’—

15 “(A) means an Executive agency (as de-
16 fined in section 105 of this title); and

17 “(B) does not include the Government Ac-
18 countability Office; and

19 “(2) the term ‘employee’—

20 “(A) has the meaning given the term in
21 section 2105; and

22 “(B) does not include an intermittent em-
23 ployee who does not have an established regular
24 tour of duty during the administrative work-
25 week.

1 “(b) LEAVE FOR WEATHER AND SAFETY ISSUES.—
2 An agency may approve the provision of leave under this
3 section to an employee or a group of employees without
4 loss of or reduction in the pay of the employee or employ-
5 ees, leave to which the employee or employees are other-
6 wise entitled, or credit to the employee or employees for
7 time or service only if the employee or group of employees
8 is prevented from safely traveling to or performing work
9 at an approved location due to—

10 “(1) an act of God;

11 “(2) a terrorist attack; or

12 “(3) another condition that prevents the em-
13 ployee or group of employees from safely traveling to
14 or performing work at an approved location.

15 “(c) RECORDS.—An agency shall record leave pro-
16 vided under this section separately from leave authorized
17 under any other provision of law.

18 “(d) REGULATIONS.—Not later than 1 year after the
19 date of enactment of this section, the Director of the Of-
20 fice of Personnel Management shall prescribe regulations
21 to carry out this section, including—

22 “(1) guidance to agencies regarding the appro-
23 priate purposes for providing leave under this sec-
24 tion; and

1 “(2) the proper recording of leave provided
2 under this section.

3 “(e) RELATION TO OTHER LAWS.—Notwithstanding
4 subsection (a) of section 7421 of title 38, this section shall
5 apply to an employee described in subsection (b) of that
6 section.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENT.—
8 The table of sections for subchapter II of chapter 63 of
9 title 5, United States Code, is amended by inserting after
10 the item relating to section 6330a, as added by this sub-
11 title, the following:

“6330b. Weather and safety leave.”.

12 **SEC. 1606. ADDITIONAL OVERSIGHT.**

13 (a) IN GENERAL.—Not later than 3 years after the
14 date of enactment of this Act, the Director of the Office
15 of Personnel Management shall complete a review of agen-
16 cy policies to determine whether agencies have complied
17 with the requirements of this subtitle and the amendments
18 made by this subtitle.

19 (b) REPORT TO CONGRESS.—Not later than 90 days
20 after completing the review under subsection (a), the Di-
21 rector shall submit to Congress a report evaluating the
22 results of the review.

1 **Subtitle G—Enhancements for**
 2 **Inspectors General**

3 **PART I—INSPECTOR GENERAL EMPOWERMENT**

4 **SEC. 1701. SHORT TITLE.**

5 This part may be cited as the “Inspector General
 6 Empowerment Act of 2016”.

7 **SEC. 1702. NONDUTY STATUS OF INSPECTORS GENERAL;**
 8 **NOMINAL SUPERVISION.**

9 The Inspector General Act of 1978 (5 U.S.C. App.)
 10 is amended—

11 (1) in section 3—

12 (A) in the section header—

13 (i) by inserting “**nominal**” before
 14 “**supervision;**”; and

15 (ii) by inserting “**paid or unpaid,**
 16 **nonduty status;**” after “**removal;**”;

17 (B) in subsection (a)—

18 (i) by striking “be under the general
 19 supervision” and inserting “be under the
 20 nominal supervision”; and

21 (ii) by striking “be subject to super-
 22 vision by” and inserting “be subject to
 23 nominal supervision by”;

24 (C) in subsection (b)—

- 1 (i) by striking “An Inspector General”
2 and inserting “(1) An Inspector General”;
3 (ii) in paragraph (1), as so des-
4 ignated, by striking the last sentence; and
5 (iii) by adding at the end the fol-
6 lowing:

7 “(2)(A) Subject to subparagraphs (B) and (C), the
8 President may place an Inspector General in an involun-
9 tary paid or unpaid, nonduty status if the President deter-
10 mines that the continued presence in the workplace of the
11 Inspector General may—

12 “(i) pose a threat to the employee or others;

13 “(ii) result in loss of or damage to property of
14 the Federal Government; or

15 “(iii) otherwise jeopardize legitimate interests
16 of the Federal Government.

17 “(B) Not later than 48 hours after the President
18 issues the directive to place an Inspector General in an
19 involuntary paid or unpaid, nonduty status under sub-
20 paragraph (A), the President shall communicate in writing
21 to both Houses of Congress the reasons for such action,
22 which shall be limited to evidence showing that the contin-
23 ued presence in the workplace of the Inspector General
24 may result in a condition described in clause (i), (ii), or
25 (iii) of subparagraph (A).

1 “(C) The President may not place an Inspector Gen-
2 eral in an involuntary paid or unpaid, nonduty status
3 under subparagraph (A) for more than 10 days, unless
4 the Integrity Committee of the Council of the Inspectors
5 General for Integrity and Efficiency submits to the Presi-
6 dent a written recommendation for additional time, which
7 is acted upon by the President, and the decision is commu-
8 nicated immediately to both Houses of Congress.

9 “(3) Except as provided in paragraph (2), nothing
10 in this subsection shall prohibit a personnel action other-
11 wise authorized by law.”; and

12 (2) in section 8G—

13 (A) in subsection (d)(1)—

14 (i) by striking “be under the general
15 supervision” and inserting “be under the
16 nominal supervision”; and

17 (ii) by striking “be subject to super-
18 vision by” and inserting “be subject to
19 nominal supervision by”; and

20 (B) in subsection (e)—

21 (i) in paragraph (2), by striking the
22 last sentence; and

23 (ii) by adding at the end the fol-
24 lowing:

1 “(3)(A) Subject to subparagraphs (B) and (C), the
2 head of a designated Federal entity may place an Inspec-
3 tor General in an involuntary paid or unpaid, nonduty sta-
4 tus if the head of the designated Federal entity determines
5 that the continued presence in the workplace of the In-
6 spector General may—

7 “(i) pose a threat to the employee or others;

8 “(ii) result in loss of or damage to property of
9 the Federal Government; or

10 “(iii) otherwise jeopardize legitimate interests
11 of the Federal Government.

12 “(B) Not later than 48 hours after the head of a des-
13 ignated Federal entity issues the directive to place an In-
14 spector General in an involuntary paid or unpaid, nonduty
15 status under subparagraph (A), the head of the designated
16 Federal entity shall communicate in writing to both
17 Houses of Congress the reasons for such action, which
18 shall be limited to evidence showing that the continued
19 presence in the workplace of the Inspector General may
20 result in a condition described in clause (i), (ii), or (iii)
21 of subparagraph (A).

22 “(C) The head of a designated Federal entity may
23 not place an Inspector General in an involuntary paid or
24 unpaid, nonduty status under subparagraph (A) for more
25 than 10 days, unless the Integrity Committee of the Coun-

1 cil of the Inspectors General for Integrity and Efficiency
2 submits to the head of the designated Federal entity a
3 written recommendation for additional time, which is
4 acted upon by the head of the designated Federal entity,
5 and the decision is communicated immediately to both
6 Houses of Congress.

7 “(4) Except as provided in paragraph (3), nothing
8 in this subsection shall prohibit a personnel action other-
9 wise authorized by law.”.

10 **SEC. 1703. ADDITIONAL AUTHORITY PROVISIONS FOR IN-**
11 **SPECTORS GENERAL.**

12 (a) SUBPOENA AUTHORITY FOR INSPECTORS GEN-
13 ERAL TO REQUIRE TESTIMONY OF CERTAIN PERSONS.—

14 (1) IN GENERAL.—The Inspector General Act
15 of 1978 (5 U.S.C. App.) is amended—

16 (A) in section 5(a), as amended by section
17 1705(c) of this Act—

18 (i) in paragraph (19), by striking
19 “and” at the end;

20 (ii) in paragraph (20), by striking the
21 period at the end and inserting a semi-
22 colon; and

23 (iii) by adding at the end the fol-
24 lowing:

1 “(21) a description of the use of subpoenas for
2 the attendance and testimony of certain witnesses
3 under section 6A.”;

4 (B) by inserting after section 6 the fol-
5 lowing:

6 **“SEC. 6A. ADDITIONAL AUTHORITY.**

7 “(a) TESTIMONIAL SUBPOENA AUTHORITY.—

8 “(1) IN GENERAL.—In addition to the authority
9 otherwise provided by this Act and in accordance
10 with the requirements of this section, the Inspector
11 General of each establishment (and each Special In-
12 spector General of an establishment not established
13 under this Act), in carrying out the provisions of
14 this Act (or, in the case of a Special Inspector Gen-
15 eral, the provisions of the authorizing statute) and
16 as necessary in the performance of the functions as-
17 signed by this Act, is authorized to require by sub-
18 poena the attendance and testimony of—

19 “(A) a current or former contractor with
20 the establishment;

21 “(B) a current or former subcontractor (at
22 any tier) of a contractor with the establishment;

23 “(C) a current or former grantee of the es-
24 tablishment;

1 “(D) a current or former subgrantee of a
2 grantee of the establishment;

3 “(E) a current or former employee of a
4 contractor, subcontractor, grantee, or sub-
5 grantee described in subparagraphs (A) through
6 (D), respectively; and

7 “(F) any former Federal employee of the
8 establishment (but not including any Federal
9 employee who is otherwise obligated to provide
10 testimony and cooperate with the Inspector
11 General).

12 “(2) LIMITATIONS.—A subpoena described in
13 paragraph (1)—

14 “(A) may only require the attendance and
15 testimony of an individual for issues reasonably
16 relevant to the current or former position of the
17 individual under subparagraph (A), (B), (C),
18 (D), (E), or (F) of paragraph (1), as applicable;

19 “(B) may only be issued by the Inspector
20 General with oversight responsibilities for the
21 establishment for which the individual under
22 subparagraph (A), (B), (C), (D), (E), or (F) of
23 paragraph (1), as applicable, worked; and

24 “(C) may not be used—

1 “(i) to investigate an individual with
2 respect to an action that is protected under
3 paragraph (8) or (9) of section 2302(b) of
4 title 5, United States Code; or

5 “(ii) to obstruct or otherwise under-
6 mine investigative activity for fact finding
7 or corrective action under such paragraph
8 (8) or (9).

9 “(3) ENFORCEMENT.—A subpoena described in
10 paragraph (1), in the case of contumacy or refusal
11 to obey, shall be enforceable by order of any appro-
12 priate United States district court.

13 “(b) PANEL REVIEW BEFORE ISSUANCE.—

14 “(1) APPROVAL REQUIRED.—Before the
15 issuance of a subpoena described in subsection (a),
16 an Inspector General shall submit a request for ap-
17 proval to issue a subpoena by a majority of a panel
18 (in this section referred to as the ‘Subpoena Panel’),
19 which shall be comprised of—

20 “(A) 3 members, of whom—

21 “(i) 2 members shall be from the
22 Council of the Inspectors General on Integ-
23 rity and Efficiency, as designated by the
24 Chairperson of the Council of the Inspec-

1 tors General on Integrity and Efficiency;
2 and

3 “(ii) 1 member shall be the Special
4 Counsel of the Office of Special Counsel;
5 or

6 “(B) in the case of a request by an Inspec-
7 tor General from the Intelligence Community
8 pursuant to the authority provided in sub-
9 section (a), 3 Inspectors General within the In-
10 telligence Community.

11 “(2) TIME TO RESPOND.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), not later than 10 days after
14 the date on which a request for approval to
15 issue a subpoena is submitted under paragraph
16 (1), the Subpoena Panel shall approve or deny
17 the request.

18 “(B) ADDITIONAL INFORMATION FOR
19 PANEL.—If the Subpoena Panel determines
20 that additional information is necessary to ap-
21 prove or deny a request for approval to issue a
22 subpoena under subparagraph (A), the Sub-
23 poena Panel shall, not later than 20 days after
24 the date on which the request is submitted—

1 “(i) request the additional informa-
2 tion; and

3 “(ii) approve or deny the request.

4 “(3) NOTIFICATION AND CONSULTATION WITH
5 ATTORNEY GENERAL.—Before an Inspector General
6 submits a request for approval to issue a subpoena
7 under paragraph (1), the Inspector General shall—

8 “(A) notify the Attorney General that the
9 Inspector General intends to submit the re-
10 quest; and

11 “(B) provide not less than 10 days for con-
12 sultation with the Attorney General.

13 “(4) DENIAL BY PANEL.—If a majority of the
14 members of the Subpoena Panel votes to deny a re-
15 quest for approval to issue a subpoena under sub-
16 paragraph (B)(ii) or finds that the Inspector Gen-
17 eral did not comply with the requirement under sub-
18 section (a)(2), the subpoena may not be issued.

19 “(c) NOTICE TO ATTORNEY GENERAL.—

20 “(1) IN GENERAL.—If the Subpoena Panel ap-
21 proves a request for approval to issue a subpoena
22 under subsection (b)(2), the Inspector General shall
23 notify the Attorney General that the Inspector Gen-
24 eral intends to issue the subpoena.

1 “(2) DECISION OF ATTORNEY GENERAL.—Not
2 later than 10 days after the date on which the At-
3 torney General is notified under paragraph (1), the
4 Attorney General may—

5 “(A) object to the issuance of the subpoena
6 if the subpoena will interfere with an ongoing
7 matter; or

8 “(B) approve the issuance of the subpoena.

9 “(3) ISSUANCE OF SUBPOENA APPROVED.—If
10 the Attorney General approves the issuance of the
11 subpoena or does not object to the issuance of the
12 subpoena during the 10-day period described in
13 paragraph (2), the Inspector General may issue the
14 subpoena.

15 “(4) SUSPENSION OF SUBPOENA.—After the ex-
16 piration of the 10-day period described in paragraph
17 (2), the Attorney General may request that the In-
18 spector General suspend the subpoena if the Attor-
19 ney General determines that new circumstances
20 would result in the subpoena interfering with an on-
21 going matter. The Inspector General shall consult
22 with and consider the request of the Attorney Gen-
23 eral.

24 “(d) INCLUSION IN ANNUAL REPORT.—Not later
25 than 1 year after the effective date of this section, and

1 every year thereafter, each Inspector General shall submit
2 to the Chairperson of the Council of the Inspectors Gen-
3 eral on Integrity and Efficiency the number of times the
4 Inspector General issued a subpoena under this section,
5 which shall be included by the Chairperson in the annual
6 report required under section 11(b)(3)(B)(viii).

7 “(e) USE OF AUTHORITY.—The Chairperson of the
8 Council of the Inspectors General on Integrity and Effi-
9 ciency, in consultation with the Attorney General, shall
10 prescribe policies and procedures to carry out the purposes
11 of this section, which shall, at a minimum, include—

12 “(1) allowing not less than 14 calendar days be-
13 tween the date on which a subpoena is served on the
14 recipient or the counsel for the recipient and the
15 interview date;

16 “(2) notifying the recipient of a subpoena not
17 less than 14 calendar days in advance of the inter-
18 view date of the right of the recipient to have coun-
19 sel present and the nature of the audit, evaluation,
20 or investigation in furtherance of which the sub-
21 poena is being issued; and

22 “(3) requiring the Inspector General who issued
23 the subpoena to pay travel and lodging expenses as-
24 sociated with the subpoena if the interview occurs

1 more than 25 miles from the residence of the recipi-
2 ent of the subpoena.

3 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed to affect the exercise by an Inspec-
5 tor General of any testimonial subpoena authority estab-
6 lished under any other provision of law.”; and

7 (C) in section 8G(g)(1), by inserting “6A,”
8 before “and 7”.

9 (2) EFFECTIVE DATE.—The amendments made
10 by paragraph (1) shall—

11 (A) take effect on the date that is 1 year
12 after the date of enactment of this Act; and

13 (B) only apply to audits, evaluations, or in-
14 vestigations initiated on or after the date of en-
15 actment of this Act.

16 (b) MATCHING PROGRAM AND PAPERWORK REDUC-
17 TION ACT EXCEPTION FOR INSPECTORS GENERAL.—Sec-
18 tion 6 of the Inspector General Act of 1978 (5 U.S.C.
19 App.) is amended—

20 (1) by redesignating subsections (b) through (f)
21 as subsections (c) through (g), respectively; and

22 (2) by adding at the end the following:

23 “(h)(1) In this subsection, the terms ‘agency’,
24 ‘matching program’, ‘record’, and ‘system of records’ have

1 the meanings given those terms in section 552a(a) of title
2 5, United States Code.

3 “(2) For purposes of section 552a of title 5, United
4 States Code, or any other provision of law, a computerized
5 comparison of 2 or more automated Federal systems of
6 records, or a computerized comparison of a Federal sys-
7 tem of records with other records or non-Federal records,
8 performed by an Inspector General or by an agency in co-
9 ordination with an Inspector General in conducting an
10 audit, investigation, inspection, evaluation, or other review
11 authorized under this Act shall not be considered a match-
12 ing program.

13 “(3) Nothing in this subsection shall be construed to
14 impede the exercise by an Inspector General of any match-
15 ing program authority established under any other provi-
16 sion of law.

17 “(i) Subchapter I of chapter 35 of title 44, United
18 States Code, shall not apply to the collection of informa-
19 tion during the conduct of an audit, investigation, inspec-
20 tion, evaluation, or other review conducted by the Council
21 of the Inspectors General on Integrity and Efficiency or
22 any Office of Inspector General, including any Office of
23 Special Inspector General.”.

1 **SEC. 1704. ADDITIONAL RESPONSIBILITIES AND RE-**
2 **SOURCES OF THE COUNCIL OF THE INSPEC-**
3 **TORS GENERAL ON INTEGRITY AND EFFI-**
4 **CIENCY.**

5 Section 11 of the Inspector General Act of 1978 (5
6 U.S.C. App.) is amended—

7 (1) in subsection (b)—

8 (A) in paragraph (1)(B), by striking “Di-
9 rector of National Intelligence” and inserting
10 “Intelligence Community”; and

11 (B) by amending paragraph (3)(B)(viii) to
12 read as follows:

13 “(viii) prepare and transmit an an-
14 nual report on behalf of the Council on the
15 activities of the Council to—

16 “(I) the President;

17 “(II) the appropriate committees
18 of jurisdiction of the Senate and the
19 House of Representatives;

20 “(III) the Committee on Home-
21 land Security and Governmental Af-
22 fairs of the Senate; and

23 “(IV) the Committee on Over-
24 sight and Government Reform of the
25 House of Representatives.”;

26 (2) in subsection (c)(1)—

1 (A) in subparagraph (G), by striking
2 “and” at the end;

3 (B) by redesignating subparagraph (H) as
4 subparagraph (I); and

5 (C) by inserting after subparagraph (G)
6 the following:

7 “(H) except for matters coordinated
8 among Inspectors General under section 3033
9 of title 50, United States Code, receive, review,
10 and mediate any disputes submitted in writing
11 to the Council by an Office of Inspector General
12 regarding an audit, investigation, inspection,
13 evaluation, or project that involves the jurisdic-
14 tion of more than 1 Office of Inspector General;
15 and”;

16 (3) in subsection (d)—

17 (A) in paragraph (2)—

18 (i) by striking subparagraph (C);

19 (ii) by redesignating subparagraphs
20 (A), (B), and (D) as clauses (i), (ii), and
21 (iii), respectively, and adjusting the mar-
22 gins accordingly;

23 (iii) in the matter preceding clause (i),
24 as so redesignated, by striking “The Integ-
25 rity” and inserting the following:

1 “(A) IN GENERAL.—The Integrity”;

2 (iv) in clause (i), as so redesignated,
3 by striking “, who” and all that follows
4 through “Committee”;

5 (v) in clause (iii), as so redesignated,
6 by inserting “or the designee of the Direc-
7 tor” before the period at the end; and

8 (vi) by adding at the end the fol-
9 lowing:

10 “(B) CHAIRPERSON.—

11 “(i) IN GENERAL.—The Integrity
12 Committee shall elect 1 of the Inspectors
13 General referred to in subparagraph (A)(ii)
14 to act as Chairperson of the Integrity
15 Committee.

16 “(ii) TERM.—The term of office of the
17 Chairperson of the Integrity Committee
18 shall be 2 years.”;

19 (B) by amending paragraph (5) to read as
20 follows:

21 “(5) REVIEW OF ALLEGATIONS.—

22 “(A) IN GENERAL.—Not later than 7 cal-
23 endar days after the date on which the Integ-
24 rity Committee receives an allegation of wrong-
25 doing against an Inspector General or against

1 a staff member of an Office of Inspector Gen-
2 eral described under paragraph (4)(C), the alle-
3 gation of wrongdoing shall be reviewed and re-
4 ferred to the Department of Justice or the Of-
5 fice of Special Counsel for investigation, or to
6 the Integrity Committee for review, as appro-
7 priate, by—

8 “(i) a representative of the Depart-
9 ment of Justice, as designated by the At-
10 torney General;

11 “(ii) a representative of the Office of
12 Special Counsel, as designated by the Spe-
13 cial Counsel; and

14 “(iii) a representative of the Integrity
15 Committee, as designated by the Chair-
16 person of the Integrity Committee.

17 “(B) REFERRAL TO THE CHAIRPERSON.—

18 “(i) IN GENERAL.—Except as pro-
19 vided in clause (ii), not later than 30 cal-
20 endar days after the date on which an alle-
21 gation of wrongdoing is referred to the In-
22 tegrity Committee under subparagraph
23 (A), the Integrity Committee shall deter-
24 mine whether to refer the allegation of
25 wrongdoing to the Chairperson of the In-

1 integrity Committee to initiate an investiga-
2 tion.

3 “(ii) EXTENSION.—The 30-day period
4 described in clause (i) may be extended for
5 an additional period of 15 days if the In-
6 tegrity Committee provides written notice
7 to the congressional committees described
8 in paragraph (8)(A)(iii) that includes a de-
9 tailed, case-specific description of why the
10 additional time is needed to evaluate the
11 allegation of wrongdoing.”;

12 (C) in paragraph (6)—

13 (i) in subparagraph (A), by striking
14 “paragraph (5)(C)” and inserting “para-
15 graph (5)(B)”; and

16 (ii) in subparagraph (B)(i), by strik-
17 ing “may” and inserting “shall”;

18 (D) in paragraph (7)—

19 (i) in subparagraph (B)—

20 (I) in clause (i)—

21 (aa) in subclause (III), by
22 striking “and” at the end;

23 (bb) in subclause (IV), by
24 striking the period at the end
25 and inserting a semicolon; and

1 (cc) by adding at the end
2 the following:

3 “(V) except as provided in clause
4 (ii), ensuring, to the extent possible,
5 that investigations are conducted by
6 Offices of Inspector General of similar
7 size;

8 “(VI) creating a process for rota-
9 tion of Inspectors General assigned to
10 investigate allegations through the In-
11 tegrity Committee; and

12 “(VII) creating procedures to
13 avoid conflicts of interest for Integrity
14 Committee investigations.”;

15 (II) by redesignating clause (ii)
16 as clause (iii); and

17 (III) by inserting after clause (i)
18 the following:

19 “(ii) EXCEPTION.—The requirement
20 under clause (i)(V) shall not apply to any
21 Office of Inspector General with less than
22 50 employees who are authorized to con-
23 duct audits or investigations.”;

24 (ii) by striking subparagraph (C); and

1 (iii) by inserting after subparagraph
2 (B) the following:

3 “(C) COMPLETION OF INVESTIGATION.—If
4 an allegation of wrongdoing is referred to the
5 Chairperson of the Integrity Committee under
6 paragraph (5)(B), the Chairperson of the Integ-
7 rity Committee—

8 “(i) shall complete the investigation
9 not later than 150 calendar days after the
10 date on which the Integrity Committee
11 made the referral;

12 “(ii) if the investigation cannot be
13 completed within the 150-day period de-
14 scribed in clause (i), shall—

15 “(I) promptly notify the congress-
16 sional committees described in para-
17 graph (8)(A)(iii); and

18 “(II) brief the congressional com-
19 mittees described in paragraph
20 (8)(A)(iii) every 30 days regarding the
21 status of the investigation and the
22 general reasons for delay until the in-
23 vestigation is complete.

24 “(D) CONCURRENT INVESTIGATION.—If an
25 allegation of wrongdoing against an Inspector

1 General or a staff member of an Office of In-
2 spector General described under paragraph
3 (4)(C) is referred to the Department of Justice
4 or the Office of Special Counsel under para-
5 graph (5)(A), the Chairperson of the Integrity
6 Committee may conduct any related investiga-
7 tion referred to the Chairperson under para-
8 graph (5)(B) concurrently with the Department
9 of Justice or the Office of Special Counsel, as
10 applicable.

11 “(E) REPORTS.—

12 “(i) INTEGRITY COMMITTEE INVES-
13 TIGATIONS.—For each investigation of an
14 allegation of wrongdoing referred to the
15 Chairperson of the Integrity Committee
16 under paragraph (5)(B), the Chairperson
17 of the Integrity Committee shall submit to
18 members of the Integrity Committee and
19 to the Chairperson of the Council a report
20 containing the results of the investigation.

21 “(ii) OTHER INVESTIGATIONS.—For
22 each allegation of wrongdoing referred to
23 the Department of Justice or the Office of
24 Special Counsel under paragraph (5)(A),
25 the Attorney General or the Special Coun-

1 sel, as applicable, shall submit to the In-
2 tegrity Committee a report containing the
3 results of the investigation.

4 “(iii) AVAILABILITY TO CONGRESS.—

5 “(I) IN GENERAL.—The congres-
6 sional committees described in para-
7 graph (8)(A)(iii) shall have access to
8 any report authored by the Integrity
9 Committee.

10 “(II) MEMBERS OF CONGRESS.—

11 Subject to any other provision of law
12 that would otherwise prohibit disclo-
13 sure of such information, the Integrity
14 Committee may provide any report
15 authored by the Integrity Committee
16 to any Member of Congress.”;

17 (E) by striking paragraph (8)(A)(iii) and
18 inserting the following:

19 “(iii) submit the report, with the rec-
20 ommendations of the Integrity Committee,
21 to the Committee on Homeland Security
22 and Governmental Affairs of the Senate,
23 the Committee on Oversight and Govern-
24 ment Reform of the House of Representa-

1 tives, and other congressional committees
2 of jurisdiction; and

3 “(iv) following the submission of the
4 report under clause (iii) and upon request
5 by any Member of Congress, submit the re-
6 port, with the recommendations of the In-
7 tegrity Committee, to that Member.”;

8 (F) in paragraph (9)(B), by striking
9 “other agencies” and inserting “the Depart-
10 ment of Justice or the Office of Special Coun-
11 sel”;

12 (G) in paragraph (10), by striking “any of
13 the following” and all that follows through the
14 period at the end and inserting “any Member of
15 Congress.”; and

16 (H) by adding at the end the following:

17 “(12) ALLEGATIONS OF WRONGDOING AGAINST
18 SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.—

19 “(A) SPECIAL COUNSEL DEFINED.—In this
20 paragraph, the term ‘Special Counsel’ means
21 the Special Counsel appointed under section
22 1211(b) of title 5, United States Code.

23 “(B) AUTHORITY OF INTEGRITY COM-
24 MITTEE.—

1 “(i) IN GENERAL.—An allegation of
2 wrongdoing against the Special Counsel or
3 the Deputy Special Counsel may be re-
4 ceived, reviewed, and referred for investiga-
5 tion to the same extent and in the same
6 manner as in the case of an allegation
7 against an Inspector General or against a
8 staff member of an Office of Inspector
9 General described under paragraph (4)(C),
10 subject to the requirement that the rep-
11 resentative designated by the Special
12 Counsel under paragraph (5)(A)(ii) shall
13 recuse himself or herself from the consider-
14 ation of any allegation brought under this
15 paragraph.

16 “(ii) COORDINATION WITH EXISTING
17 PROVISIONS OF LAW.—This paragraph
18 shall not eliminate access to the Merit Sys-
19 tems Protection Board for review under
20 section 7701 of title 5, United States
21 Code. To the extent that an allegation
22 brought under this paragraph involves sec-
23 tion 2302(b)(8) of such title, a failure to
24 obtain corrective action within 120 days
25 after the date on which the allegation is re-

1 ceived by the Integrity Committee shall,
2 for purposes of section 1221 of such title,
3 be considered to satisfy section
4 1214(a)(3)(B) of such title.

5 “(C) REGULATIONS.—The Integrity Com-
6 mittee may prescribe any rules or regulations
7 necessary to carry out this paragraph, subject
8 to such consultation or other requirements as
9 may otherwise apply.

10 “(13) COMMITTEE RECORDS.—The Chairperson
11 of the Council shall maintain the records of the In-
12 tegrity Committee.”; and

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

14 “(e) AUTHORIZATION OF APPROPRIATIONS FOR
15 COUNCIL.—For the purposes of carrying out this section,
16 there are authorized to be appropriated into the revolving
17 fund described in subsection (c)(3)(B), out of any money
18 in the Treasury not otherwise appropriated, the following
19 sums:

20 “(1) \$7,800,000 for fiscal year 2017.

21 “(2) \$8,100,000 for fiscal year 2018.

22 “(3) \$8,500,000 for fiscal year 2019.

23 “(4) \$8,900,000 for fiscal year 2020.

24 “(5) \$9,300,000 for fiscal year 2021.”.

1 **SEC. 1705. REPORTS AND ADDITIONAL INFORMATION.**

2 (a) REPORT ON VACANCIES IN THE OFFICES OF IN-
3 SPECTOR GENERAL.—The Comptroller General of the
4 United States shall—

5 (1) conduct a study of prolonged vacancies in
6 the Offices of Inspector General during which a tem-
7 porary appointee has served as the head of the office
8 that includes—

9 (A) the number and duration of Inspector
10 General vacancies;

11 (B) an examination of the extent to which
12 the number and duration of such vacancies has
13 changed over time;

14 (C) an evaluation of the impact such va-
15 cancies have had on the ability of the relevant
16 Office of Inspector General to effectively carry
17 out statutory requirements; and

18 (D) recommendations to minimize the du-
19 ration of such vacancies;

20 (2) not later than 9 months after the date of
21 enactment of this Act, present a briefing on the
22 findings of the study conducted under paragraph (1)
23 to—

24 (A) the Committee on Homeland Security
25 and Governmental Affairs of the Senate; and

1 (B) the Committee on Oversight and Gov-
2 ernment Reform of the House of Representa-
3 tives; and

4 (3) not later than 15 months after the date of
5 enactment of this Act, submit a report on the find-
6 ings of the study conducted under paragraph (1) to
7 the committees described in paragraph (2).

8 (b) REPORT ON ISSUES INVOLVING MULTIPLE OF-
9 FICES OF INSPECTOR GENERAL.—The Council of the In-
10 spectors General on Integrity and Efficiency shall—

11 (1) conduct an analysis of critical issues that
12 involve the jurisdiction of more than 1 individual
13 Federal agency or entity to identify—

14 (A) each such issue that could be better
15 addressed through greater coordination among,
16 and cooperation between, individual Offices of
17 Inspector General;

18 (B) the best practices that can be em-
19 ployed by the Offices of Inspector General to in-
20 crease coordination and cooperation on each
21 issue identified; and

22 (C) any recommended statutory changes
23 that would facilitate coordination and coopera-
24 tion among the Offices of Inspector General on
25 critical issues; and

1 (2) not later than 1 year after the date of en-
2 actment of this Act, submit a report on the findings
3 of the analysis described in paragraph (1) to—

4 (A) the Committee on Homeland Security
5 and Governmental Affairs of the Senate; and

6 (B) the Committee on Oversight and Gov-
7 ernment Reform of the House of Representa-
8 tives.

9 (c) ADDITIONAL INFORMATION.—Section 5 of the In-
10 specter General Act of 1978 (5 U.S.C. App) is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (10)—

13 (i) by striking “period for which” and
14 inserting “period—

15 “(A) for which”; and

16 (ii) by adding at the end the fol-
17 lowing:

18 “(B) for which no establishment comment
19 was returned within 60 days of providing the
20 report to the establishment; and

21 “(C) for which there are any outstanding
22 unimplemented recommendations, including the
23 aggregate potential cost savings of those rec-
24 ommendations.”;

1 (B) in paragraph (15), by striking “and”
2 at the end;

3 (C) in paragraph (16), by striking the pe-
4 riod at the end and inserting a semicolon; and

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

6 “(17) a report on each investigation conducted
7 by the Office involving general or flag officers or em-
8 ployees of the establishment serving in a position
9 classified at or above GS-15 of the General Schedule
10 or an equivalent position where allegations of mis-
11 conduct were substantiated, including a detailed de-
12 scription of—

13 “(A) the facts and circumstances of the in-
14 vestigation; and

15 “(B) the status and disposition of the mat-
16 ter, including—

17 “(i) if the matter was referred to the
18 Department of Justice, the date of the re-
19 ferral; and

20 “(ii) if the Department of Justice de-
21 clined the referral, the date of the declina-
22 tion;

23 “(18) a detailed description of any instance of
24 whistleblower retaliation, including information
25 about the official found to have engaged in retalia-

1 tion and what, if any, consequences the establish-
2 ment imposed to hold that official accountable;

3 “(19) a detailed description of any attempt by
4 the establishment to interfere with the independence
5 of the Office, including—

6 “(A) with communication between the Of-
7 fice and Congress;

8 “(B) with budget constraints designed to
9 limit the capabilities of the Office; and

10 “(C) incidents where the establishment has
11 resisted or objected to oversight activities of the
12 Office or restricted or significantly delayed ac-
13 cess to information, including the justification
14 of the establishment for such action; and

15 “(20) detailed descriptions of the particular cir-
16 cumstances of each—

17 “(A) inspection, evaluation, and audit con-
18 ducted by the Office that is closed and was not
19 disclosed to the public; and

20 “(B) investigation conducted by the Office
21 involving general or flag officers or employees
22 of the establishment serving in a position classi-
23 fied at or above GS-15 of the General Schedule
24 or an equivalent position that is closed and was
25 not disclosed to the public.”; and

1 (2) in subsection (e), by adding at the end the
2 following:

3 “(4) Subject to any other provision of law that would
4 otherwise prohibit disclosure of such information, the in-
5 formation described in paragraph (1) may be provided to
6 any Member of Congress upon request.

7 “(5) An Office may not provide to Congress or the
8 public any information that reveals the personally identifi-
9 able information of a whistleblower under this section un-
10 less the Office first obtains the consent of the whistle-
11 blower.”.

12 (d) DUTY TO SUBMIT AND MAKE AVAILABLE TO THE
13 PUBLIC CERTAIN WORK PRODUCTS.—Section 4 of the In-
14 spector General Act of 1978 (5 U.S.C. App.) is amended
15 by adding at the end the following:

16 “(e)(1) Whenever an Inspector General, in carrying
17 out the duties and responsibilities established under this
18 Act, issues a work product that makes a recommendation
19 or otherwise suggests corrective action, the Inspector Gen-
20 eral—

21 “(A) shall submit the work product to—

22 “(i) the head of the establishment;

23 “(ii) the congressional committees of juris-
24 diction; and

1 “(iii) if the work product was initiated
2 upon request by an individual or entity other
3 than the Inspector General, that individual or
4 entity;

5 “(B) may submit the work product to any
6 Member of Congress upon request; and

7 “(C) not later than 3 days after the work prod-
8 uct is submitted in final form to the head of the es-
9 tablishment, post the work product on the website of
10 the Office of Inspector General.

11 “(2) Nothing in this subsection shall be construed to
12 authorize the public disclosure of information that is spe-
13 cifically prohibited from disclosure by any other provision
14 of law.”.

15 (e) POSTING OF REPORTS ON WEBSITES OF OFFICES
16 OF INSPECTORS GENERAL.—Section 8M(b) of the Inspec-
17 tor General Act of 1978 (5 U.S.C. App.) is amended—

18 (1) in paragraph (1)(A), by striking “is made
19 publicly available” and inserting “is submitted in
20 final form to the head of the Federal agency or the
21 head of the designated Federal entity, as applica-
22 ble”; and

23 (2) by adding at the end the following:

24 “(3) RULE OF CONSTRUCTION.—Nothing in
25 this subsection shall be construed to authorize the

1 public disclosure of information that is prohibited
2 from disclosure by any other provision of law.”.

3 **SEC. 1706. FULL AND PROMPT ACCESS TO ALL DOCU-**
4 **MENTS.**

5 Section 6 of the Inspector General Act of 1978 (5
6 U.S.C. App.), as amended by section 1703(b) of this Act,
7 is further amended—

8 (1) in subsection (a), by striking paragraph (1)
9 and inserting the following:

10 “(1)(A) to have timely access to all records, re-
11 ports, audits, reviews, documents, papers, rec-
12 ommendations, or other materials available to the
13 applicable establishment which relate to the pro-
14 grams and operations with respect to which that In-
15 spector General has responsibilities under this Act;
16 and

17 “(B) to have access under subparagraph (A)
18 notwithstanding any other provision of law, except
19 pursuant to any provision of law enacted by Con-
20 gress that expressly—

21 “(i) refers to the Inspector General; and

22 “(ii) limits the right of access of the In-
23 spector General;”; and

24 (2) by inserting after subsection (a) the fol-
25 lowing:

1 “(b) Each Inspector General shall ensure compliance
2 with statutory limitations on disclosure relevant to any in-
3 formation provided by the applicable establishment under
4 subsection (a).”.

5 **SEC. 1707. ACCESS TO INFORMATION FOR CERTAIN INSPEC-**
6 **TORS GENERAL.**

7 The Inspector General Act of 1978 (5 U.S.C. App.),
8 as amended by this part, is amended—

9 (1) in section 8(b)(2)—

10 (A) by inserting “from accessing informa-
11 tion described in paragraph (1),” after “com-
12 pleting any audit or investigation,”; and

13 (B) by inserting “, access such informa-
14 tion,” after “complete such audit or investiga-
15 tion”;

16 (2) in section 8D(a)(2)—

17 (A) by inserting “from accessing informa-
18 tion described in paragraph (1),” after “com-
19 pleting any audit or investigation,”; and

20 (B) by inserting “, access such informa-
21 tion,” after “complete such audit or investiga-
22 tion”;

23 (3) in section 8E(a)(2)—

1 (A) by inserting “from accessing informa-
 2 tion described in paragraph (1),” after “com-
 3 pleting any audit or investigation,”; and

4 (B) by inserting “, access such informa-
 5 tion,” after “complete such audit or investiga-
 6 tion”;

7 (4) in section 8G(d)(2)(A), by inserting “, or
 8 from accessing information available to an element
 9 of the intelligence community specified in subpara-
 10 graph (D),” after “investigation”;

11 (5) in section 8I(a)(2)—

12 (A) by inserting “from accessing informa-
 13 tion described in paragraph (1),” after “com-
 14 pleting any audit or investigation,”; and

15 (B) by inserting “, access such informa-
 16 tion,” after “complete such audit or investiga-
 17 tion”;

18 (6) in section 8J, by striking “or 8H” and in-
 19 serting “8H, or 8N”; and

20 (7) by inserting after section 8M the following:

21 **“SEC. 8N. ADDITIONAL PROVISIONS WITH RESPECT TO THE**

22 **DEPARTMENT OF ENERGY.**

23 “(a) The Secretary of Energy may prohibit the In-
 24 spector General of the Department of Energy from access-
 25 ing Restricted Data and nuclear safeguards information

1 protected from disclosure under chapter 12 of the Atomic
2 Energy Act of 1954 (42 U.S.C. 2161 et seq.) and intel-
3 ligence or counterintelligence, as defined in section 3 of
4 the National Security Act of 1947 (50 U.S.C. 3003), if
5 the Secretary of Energy determines that the prohibition
6 is necessary to protect the national security or prevent the
7 significant impairment to the national security interests
8 of the United States.

9 “(b) Not later than 7 days after the date on which
10 the Secretary of Energy exercises any power authorized
11 under subsection (a), the Secretary shall notify the Inspec-
12 tor General of the Department of Energy in writing the
13 reasons for such exercise. Within 30 days after receipt of
14 any such notice, the Inspector General of the Department
15 of Energy shall submit to the appropriate committees of
16 Congress a statement concerning such exercise.”.

17 **SEC. 1708. TECHNICAL AND CONFORMING AMENDMENTS.**

18 (a) REPEALS.—

19 (1) INSPECTOR GENERAL ACT OF 2008.—Sec-
20 tion 7(b) of the Inspector General Reform Act of
21 2008 (Public Law 110–409; 122 Stat. 4312; 5
22 U.S.C. 1211 note) is repealed.

23 (2) FINANCIAL SERVICES AND GENERAL GOV-
24 ERNMENT APPROPRIATIONS ACT, 2009.—Section 744
25 of the Financial Services and General Government

1 Appropriations Act, 2009 (division D of Public Law
2 111–8; 123 Stat. 693) is repealed.

3 (b) AGENCY APPLICABILITY.—

4 (1) AMENDMENTS.—The Inspector General Act
5 of 1978 (5 U.S.C. App.), as amended by this part,
6 is further amended—

7 (A) in section 8M—

8 (i) in subsection (a)(1)—

9 (I) by striking “Each agency”
10 and inserting “Each Federal agency
11 and designated Federal entity”; and

12 (II) by striking “that agency”
13 each place that term appears and in-
14 serting “that Federal agency or des-
15 ignated Federal entity”;

16 (ii) in subsection (b)—

17 (I) in paragraph (1), by striking
18 “agency” and inserting “Federal
19 agency and designated Federal enti-
20 ty”; and

21 (II) in paragraph (2), by striking
22 “agency” each place that term ap-
23 pears and inserting “Federal agency
24 and designated Federal entity”; and

1 (iii) by adding at the end the fol-
2 lowing:

3 “(c) DEFINITIONS.—In this section, the terms ‘des-
4 ignated Federal entity’ and ‘head of the designated Fed-
5 eral entity’ have the meanings given those terms in section
6 8G(a).”; and

7 (B) in section 11(c)(3)(A)(ii), by striking
8 “department, agency, or entity of the executive
9 branch” and inserting “Federal agency or des-
10 ignated Federal entity (as defined in section
11 8G(a))”.

12 (2) EFFECTIVE DATE.—The amendments made
13 by paragraph (1) shall take effect on the date that
14 is 180 days after the date of enactment of this Act.

15 (c) REQUIREMENTS FOR INSPECTORS GENERAL
16 WEBSITES.—Section 8M(b)(1) of the Inspector General
17 Act of 1978 (5 U.S.C. App.), as amended by this part,
18 is further amended—

19 (1) in subparagraph (A), by striking “report or
20 audit (or portion of any report or audit)” and insert-
21 ing “audit report, inspection report, or evaluation
22 report (or portion of any such report)”; and

23 (2) by striking “report or audit (or portion of
24 that report or audit)” each place that term appears
25 and inserting “report (or portion of that report)”.

1 (d) CORRECTIONS.—

2 (1) EXECUTIVE ORDER NUMBER.—Section
3 7(c)(2) of the Inspector General Reform Act of 2008
4 (Public Law 110–409; 122 Stat. 4313; 31 U.S.C.
5 501 note) is amended by striking “12933” and in-
6 serting “12993”.

7 (2) PUNCTUATION AND CROSS-REFERENCES.—
8 The Inspector General Act of 1978 (5 U.S.C. App.),
9 as amended by this part, is further amended—

10 (A) in section 4(b)(2)—

11 (i) by striking “8F(a)(2)” each place
12 that term appears and inserting
13 “8G(a)(2)”; and

14 (ii) by striking “8F(a)(1)” and insert-
15 ing “8G(a)(1)”;

16 (B) in section 5(a)(5), by striking “section
17 6(b)(2)” and inserting “section 6(e)(2)”;

18 (C) in section 5(a)(13), by striking
19 “05(b)” and inserting “804(b)”;

20 (D) in section 6(a)(4), by striking “infor-
21 mation, as well as any tangible thing)” and in-
22 serting “information), as well as any tangible
23 thing”;

24 (E) in section 8A(d), by striking “section
25 6(e)” and inserting “section 6(d)”;

1 (F) in section 8G(g)(3), by striking “8C”
2 and inserting “8D”.

3 (3) SPELLING.—The Inspector General Act of
4 1978 (5 U.S.C. App.), as amended by this part, is
5 further amended—

6 (A) in section 3(a), by striking “subpena”
7 and inserting “subpoena”;

8 (B) in section 6(a)(4), by striking “sub-
9 penas” and inserting “subpoenas”;

10 (C) in section 8D(a)—

11 (i) in paragraph (1), by striking “sub-
12 penas” and inserting “subpoenas”; and

13 (ii) in paragraph (2), by striking
14 “subpena” each place that term appears
15 and inserting “subpoena”;

16 (D) in section 8E(a)—

17 (i) in paragraph (1), by striking “sub-
18 penas” and inserting “subpoenas”; and

19 (ii) in paragraph (2), by striking
20 “subpena” each place that term appears
21 and inserting “subpoena”; and

22 (E) in section 8G(d)(1), by striking “sub-
23 pena” and inserting “subpoena”.

1 **PART II—INSPECTOR GENERAL MANDATES**

2 **REPORTING**

3 **SEC. 1751. SHORT TITLE.**

4 This part may be cited as the “Inspector General
5 Mandates Reporting Act of 2016”.

6 **SEC. 1752. REPORTING REQUIREMENTS OF INSPECTORS**

7 **GENERAL.**

8 (a) DEFINITION.—In this section, the term “report-
9 ing requirement” means a report that an Office of Inspec-
10 tor General is required to complete under the Inspector
11 General Act of 1978 (5 U.S.C. App.) or any other provi-
12 sion of law.

13 (b) REPORT BY INSPECTORS GENERAL TO CIGIE.—
14 Not later than 60 days after the date of enactment of this
15 Act, each Office of Inspector General shall submit to the
16 Council of Inspectors General on Integrity and Efficiency
17 a report, which—

18 (1) shall include a list of each reporting re-
19 quirement for the Office of Inspector General; and

20 (2) may include a list of each reporting require-
21 ment that the Office of Inspector General rec-
22 ommends should be modified or repealed.

23 (c) REPORT BY CIGIE TO CONGRESS.—Not later
24 than 60 days after the date on which the Council of In-
25 spectors General on Integrity and Efficiency receives the

1 reports required to be submitted under subsection (b), the
2 Council shall submit to Congress a report, which—

3 (1) shall include—

4 (A) a list of each reporting requirement
5 that is common to more than 1 Office of In-
6 spector General; and

7 (B) a list, by Office of Inspector General,
8 of each reporting requirement that is unique to
9 that Office of Inspector General; and

10 (2) may include recommendations for reporting
11 requirements that should be modified or repealed.

12 (d) FORM.—Each report submitted under this section
13 shall be in unclassified form, but may include a classified
14 annex.

15 **Subtitle H—Enhancements for**
16 **Government Accountability Office**
17 **PART I—GOVERNMENT ACCOUNTABILITY OFFICE**
18 **MANDATES REVISIONS**

19 **SEC. 1801. SHORT TITLE.**

20 This part may be cited as the “GAO Mandates Revi-
21 sion Act of 2016”.

22 **SEC. 1802. REPORTS ELIMINATED.**

23 (a) SINGLE AUDIT ACT MONITORING RESPONSIBIL-
24 ITIES.—

1 (1) IN GENERAL.—Chapter 75 of title 31,
2 United States Code, is amended—

3 (A) by striking section 7506; and

4 (B) by redesignating section 7507 as sec-
5 tion 7506.

6 (2) TECHNICAL AND CONFORMING AMEND-
7 MENT.—The table of sections for chapter 75 of title
8 31, United States Code, is amended by striking the
9 items relating to sections 7506 and 7507 and insert-
10 ing the following:

“7506. Effective date.”.

11 (b) REVIEW OF MEDIGAP PREMIUM LEVELS.—Sec-
12 tion 111(c) of the Medicare, Medicaid, and SCHIP Bene-
13 fits Improvement and Protection Act of 2000 (Appendix
14 F; 114 Stat. 2763A–473), as enacted into law by section
15 1(a)(6) of Public Law 106–554, is repealed.

16 (c) REPORT ON DISPUTE RESOLUTION PILOT PRO-
17 GRAM.—Section 1105 of the Sandy Recovery Improvement
18 Act of 2013 (42 U.S.C. 5189a note) is amended by strik-
19 ing subsection (d).

20 (d) BIENNIAL SURVEY REGARDING TRANSPOR-
21 TATION INTELLIGENCE REPORTS.—Section 114(u) of title
22 49, United States Code, is amended—

23 (1) in paragraph (1)(A), by striking “subsection
24 (t)” and inserting “subsection (s)(4)(E)”;

25 (2) by striking paragraph (7); and

1 (3) by redesignating paragraphs (8) and (9) as
2 paragraphs (7) and (8), respectively.

3 (e) REVIEW AND EVALUATION OF GUIDANCE RELAT-
4 ING TO POST HARVEST PROCESSING OF RAW OYSTERS.—
5 Section 114 of the FDA Food Safety Modernization Act
6 (21 U.S.C. 342 note)) is amended—

7 (1) by striking subsection (c); and

8 (2) by redesignating subsections (d) and (e) as
9 subsections (c) and (d), respectively.

10 **SEC. 1803. REPORTS MODIFIED.**

11 (a) OVERSIGHT AND AUDITS UNDER THE EMER-
12 GENCY ECONOMIC STABILIZATION ACT OF 2008.—Section
13 116(a)(3) of the Emergency Economic Stabilization Act
14 of 2008 (12 U.S.C. 5226(a)(3)) is amended by striking
15 “, regularly and no less frequently than once every 60
16 days,” and inserting “annually”.

17 (b) GAO STUDY OF FINANCIAL REGULATIONS.—
18 Section 1016B(a) of the Consumer Financial Protection
19 Act of 2010 (12 U.S.C. 5496b(a)) is amended—

20 (1) in the matter preceding paragraph (1), in
21 the first sentence—

22 (A) by striking “Not later than the end of
23 the 180-day period beginning on the date of the
24 enactment of this Act, and annually thereafter,
25 the” and inserting “The”; and

1 (B) by inserting “periodically, as the
2 Comptroller General determines is appro-
3 priate,” after “shall”;

4 (2) in paragraph (1), by striking “, including
5 whether relevant Federal agencies are applying
6 sound cost-benefit analysis in promulgating rules;”
7 and inserting “; and”;

8 (3) by striking paragraph (2); and

9 (4) by redesignating paragraph (3) as para-
10 graph (2).

11 (c) REPORTS ON CONFLICT MINERALS.—Section
12 1502(d) of the Dodd-Frank Wall Street Reform and Con-
13 sumer Protection Act (15 U.S.C. 78m note) is amended—

14 (1) in paragraph (1), by striking “until the ter-
15 mination of the disclosure requirements under sec-
16 tion 13(p) of the Securities Exchange Act of 1934”
17 and inserting “through 2020, in 2022, and in
18 2024”; and

19 (2) in paragraph (2), in the matter preceding
20 subparagraph (A), by inserting “through 2020, in
21 2022, and in 2024” after “annually thereafter”.

22 (d) UPDATE ON ACTIONS TAKEN BY SECRETARY OF
23 HHS TO IMPLEMENT GAO RECOMMENDATION.—Section
24 632(d) of the American Taxpayer Relief Act of 2012
25 (Public Law 112–240; 126 Stat. 2354) is amended in the

1 first sentence by striking “December 31, 2015” and in-
 2 serting “December 31, 2023”.

3 (e) REVIEW PANEL.—Section 399V–4(d)(2) of the
 4 Public Health Service Act (42 U.S.C. 280g–15) is amend-
 5 ed—

6 (1) in subparagraph (C), by striking “, or an
 7 individual within the Government Accountability Of-
 8 fice designated by the Comptroller General, shall”
 9 and inserting “shall designate a member of the re-
 10 view panel to”; and

11 (2) in subparagraph (D), by striking “Comp-
 12 troller General” and inserting “Secretary”.

13 **PART II—GOVERNMENT ACCOUNTABILITY**

14 **OFFICE ACCESS AND OVERSIGHT**

15 **SEC. 1851. SHORT TITLE.**

16 This part may be cited as the “GAO Access and Over-
 17 sight Act of 2016”.

18 **SEC. 1852. ACCESS TO CERTAIN INFORMATION.**

19 (a) ACCESS TO CERTAIN INFORMATION.—Subchapter
 20 II of chapter 7 of title 31, United States Code, is amended
 21 by adding at the end the following:

22 **“§ 721. Access to certain information**

23 “(a) No provision of the Social Security Act, includ-
 24 ing section 453(l) of that Act (42 U.S.C. 653(l)), shall
 25 be construed to limit, amend, or supersede the authority

1 of the Comptroller General to obtain any information or
2 to inspect any record under section 716 of this title.

3 “(b) The specific reference to a statute in subsection
4 (a) shall not be construed to affect access by the Govern-
5 ment Accountability Office to information under statutes
6 that are not so referenced.”.

7 (b) AGENCY REPORTS.—Section 720(b) of title 31,
8 United States Code, is amended—

9 (1) in the matter preceding paragraph (1), by
10 inserting “or planned” after “action taken”; and

11 (2) by striking paragraph (1) and inserting the
12 following:

13 “(1) the Committee on Homeland Security and
14 Governmental Affairs of the Senate, the Committee
15 on Oversight and Government Reform of the House
16 of Representatives, the congressional committees
17 with jurisdiction over the agency program or activity
18 that is the subject of the recommendation, and the
19 Government Accountability Office before the 61st
20 day after the date of the report; and”.

21 (c) AUTHORITY TO OBTAIN RECORDS.—Section 716
22 of title 31, United States Code, is amended in subsection
23 (a)—

24 (1) by striking “(a)” and inserting “(2)”; and

1 (2) by inserting after the section heading the
2 following:

3 “(a)(1) The Comptroller General is authorized to ob-
4 tain such agency records as the Comptroller General re-
5 quires to discharge the duties of the Comptroller General
6 (including audit, evaluation, and investigative duties), in-
7 cluding through the bringing of civil actions under this
8 section. In reviewing a civil action under this section, the
9 court shall recognize the continuing force and effect of the
10 authorization in the preceding sentence until such time as
11 the authorization is repealed pursuant to law.”.

12 (d) TECHNICAL AND CONFORMING AMENDMENT.—
13 The table of sections for chapter 7 of title 31, United
14 States Code, is amended by inserting after the item relat-
15 ing to section 720 the following:

“721. Access to certain information.”.

16 **Subtitle I—Stopping Wasteful**
17 **Federal Bonuses**

18 **SEC. 1901. SHORT TITLE.**

19 This subtitle may be cited as the “Stop Wasteful
20 Federal Bonuses Act of 2016”.

21 **SEC. 1902. BONUSSES.**

22 (a) ADVERSE FINDINGS AND EMPLOYEES UNDER IN-
23 VESTIGATION.—Chapter 45 of title 5, United States Code,
24 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, 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 that term under 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 “(b) PROHIBITION.—The head of an agency shall not
11 award a bonus to an employee of the agency until 5 years
12 after the end of the fiscal year during which the head of
13 an agency makes an adverse finding relating to the em-
14 ployee.

15 “(c) AFTER BONUS AWARDED.—

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

24 “(2) HEARINGS.—A hearing under this para-
25 graph shall be conducted in accordance with regula-

1 tions relating to hearings promulgated by the head
2 of the agency under chapter 75.

3 “(d) **CONDITION OF RECEIPT.**—As a condition of re-
4 ceiving a bonus awarded after the date of enactment of
5 this section, an employee of an agency shall sign a certifi-
6 cation stating that the employee shall repay the bonus in
7 accordance with a final order issued in accordance with
8 subsection (e).

9 “(e) **APPEAL.**—An employee determined to be ineli-
10 gible for a bonus under subsection (b) or against whom
11 an order is issued under subsection (c) may appeal to the
12 Merit Systems Protection Board under section 7701.”.

13 (b) **RULEMAKING.**—The head of each agency (as de-
14 fined under title 551 of title 5, United States Code) may
15 promulgate rules to carry out section 4531 of title 5,
16 United States Code, as added by subsection (a).

17 (c) **TECHNICAL AND CONFORMING AMENDMENT.**—
18 The table of sections for chapter 45 of title 5, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

“SUBCHAPTER IV—LIMITATIONS ON BONUS AUTHORITY

“4531. Certain forms of misconduct.”.

1 **Subtitle J—Eliminating**
 2 **Government-funded Oil-paintings**

3 **SEC. 1921. SHORT TITLE.**

4 This subtitle may be cited as the “Eliminating Gov-
 5 ernment-funded Oil-painting Act” or the “EGO Act”.

6 **SEC. 1922. PROHIBITION ON USE OF FUNDS FOR POR-**
 7 **TRAITS.**

8 (a) PROHIBITION.—No funds appropriated or other-
 9 wise made available to the Federal Government may be
 10 used to pay for the painting of a portrait of an officer
 11 or employee of the Federal Government, including the
 12 President, the Vice President, a Member of Congress, the
 13 head of an executive agency, or the head of an office of
 14 the legislative branch.

15 (b) DEFINITIONS.—In this section—

16 (1) the term “executive agency” has the mean-
 17 ing given the term in section 133 of title 41, United
 18 States Code; and

19 (2) the term “Member of Congress” includes a
 20 Delegate or Resident Commissioner to Congress.

21 **Subtitle K—Presidential Allowance**
 22 **Modernization**

23 **SEC. 1941. SHORT TITLE.**

24 This subtitle may be cited as the “Presidential Allow-
 25 ance Modernization Act of 2016”.

1 **SEC. 1942. AMENDMENTS.**

2 (a) FORMER PRESIDENTS.—The first section of the
3 Act entitled “An Act to provide retirement, clerical assist-
4 ants, and free mailing privileges to former Presidents of
5 the United States, and for other purposes”, approved Au-
6 gust 25, 1958 (commonly known as the “Former Presi-
7 dents Act of 1958”) (3 U.S.C. 102 note), is amended by
8 striking the matter preceding subsection (e) and inserting
9 the following:

10 “(a) IN GENERAL.—Each former President shall be
11 entitled for the remainder of his or her life to receive from
12 the United States—

13 “(1) an annuity at the rate of \$200,000 per
14 year, subject to subsection (c); and

15 “(2) a monetary allowance at the rate of
16 \$200,000 per year, subject to subsections (c) and
17 (d).

18 “(b) DURATION; FREQUENCY.—

19 “(1) IN GENERAL.—The annuity and allowance
20 under subsection (a) shall each—

21 “(A) commence on the day after the date
22 on which an individual becomes a former Presi-
23 dent;

24 “(B) terminate on the date on which the
25 former President dies; and

1 “(C) be payable by the Secretary of the
2 Treasury on a monthly basis.

3 “(2) APPOINTIVE OR ELECTIVE POSITIONS.—

4 The annuity and allowance under subsection (a)
5 shall not be payable for any period during which a
6 former President holds an appointive or elective po-
7 sition in or under the Federal Government to which
8 is attached a rate of pay other than a nominal rate.

9 “(c) COST-OF-LIVING INCREASES.—Effective Decem-
10 ber 1 of each year, each annuity and allowance under sub-
11 section (a) that commenced before that date shall be in-
12 creased by the same percentage by which benefit amounts
13 under title II of the Social Security Act (42 U.S.C. 401
14 et seq.) are increased, effective as of that date, as a result
15 of a determination under section 215(i) of that Act (42
16 U.S.C. 415(i)).

17 “(d) LIMITATION ON MONETARY ALLOWANCE.—

18 “(1) IN GENERAL.—Notwithstanding any other
19 provision of this section, the monetary allowance
20 payable under subsection (a)(2) to a former Presi-
21 dent for any 12-month period—

22 “(A) except as provided in subparagraph
23 (B), may not exceed the amount by which—

24 “(i) the monetary allowance that (but
25 for this subsection) would otherwise be so

1 payable for such 12-month period, exceeds
2 (if at all)

3 “(ii) the applicable reduction amount
4 for such 12-month period; and

5 “(B) shall not be less than the amount de-
6 termined under paragraph (4).

7 “(2) DEFINITION.—

8 “(A) IN GENERAL.—For purposes of para-
9 graph (1), the term ‘applicable reduction
10 amount’ means, with respect to any former
11 President and in connection with any 12-month
12 period, the amount by which—

13 “(i) the sum of—

14 “(I) the adjusted gross income
15 (as defined in section 62 of the Inter-
16 nal Revenue Code of 1986) of the
17 former President for the most recent
18 taxable year for which a tax return is
19 available; and

20 “(II) any interest excluded from
21 the gross income of the former Presi-
22 dent under section 103 of such Code
23 for such taxable year, exceeds (if at
24 all)

1 “(ii) \$400,000, subject to subpara-
2 graph (C).

3 “(B) JOINT RETURNS.—In the case of a
4 joint return, subclauses (I) and (II) of subpara-
5 graph (A)(i) shall be applied by taking into ac-
6 count both the amounts properly allocable to
7 the former President and the amounts properly
8 allocable to the spouse of the former President.

9 “(C) COST-OF-LIVING INCREASES.—The
10 dollar amount specified in subparagraph (A)(ii)
11 shall be adjusted at the same time that, and by
12 the same percentage by which, the monetary al-
13 lowance of the former President is increased
14 under subsection (c) (disregarding this sub-
15 section).

16 “(3) DISCLOSURE REQUIREMENT.—

17 “(A) DEFINITIONS.—In this paragraph—

18 “(i) the terms ‘return’ and ‘return in-
19 formation’ have the meanings given those
20 terms in section 6103(b) of the Internal
21 Revenue Code of 1986; and

22 “(ii) the term ‘Secretary’ means the
23 Secretary of the Treasury or the Secretary
24 of the Treasury’s delegate.

1 “(B) REQUIREMENT.—A former President
2 may not receive a monetary allowance under
3 subsection (a)(2) unless the former President
4 discloses to the Secretary, upon the request of
5 the Secretary, any return or return information
6 of the former President or spouse of the former
7 President that the Secretary determines is nec-
8 essary for purposes of calculating the applicable
9 reduction amount under paragraph (2) of this
10 subsection.

11 “(C) CONFIDENTIALITY.—Except as pro-
12 vided in section 6103 of the Internal Revenue
13 Code of 1986 and notwithstanding any other
14 provision of law, the Secretary may not, with
15 respect to a return or return information dis-
16 closed to the Secretary under subparagraph
17 (B)—

18 “(i) disclose the return or return in-
19 formation to any entity or person; or

20 “(ii) use the return or return informa-
21 tion for any purpose other than to cal-
22 culate the applicable reduction amount
23 under paragraph (2).

24 “(4) INCREASED COSTS DUE TO SECURITY
25 NEEDS.—With respect to the monetary allowance

1 that would be payable to a former President under
2 subsection (a)(2) for any 12-month period but for
3 the limitation under paragraph (1), the Adminis-
4 trator of General Services, in coordination with the
5 Director of the United States Secret Service, shall
6 determine the amount of the allowance that is need-
7 ed to pay the increased cost of doing business that
8 is attributable to the security needs of the former
9 President.”.

10 (b) SURVIVING SPOUSES OF FORMER PRESI-
11 DENTS.—

12 (1) INCREASE IN AMOUNT OF MONETARY AL-
13 LOWANCE.—Subsection (e) of the first section of the
14 Former Presidents Act of 1958 is amended—

15 (A) in the first sentence, by striking
16 “\$20,000 per annum,” and inserting “\$100,000
17 per year (subject to paragraph (4)),”; and

18 (B) in the second sentence—

19 (i) in paragraph (2), by striking
20 “and” at the end;

21 (ii) in paragraph (3)—

22 (I) by striking “or the govern-
23 ment of the District of Columbia”;
24 and

1 (II) by striking the period and
2 inserting “; and”; and

3 (iii) by inserting after paragraph (3)
4 the following:

5 “(4) shall, after its commencement date, be in-
6 creased at the same time that, and by the same per-
7 centage by which, annuities of former Presidents are
8 increased under subsection (c).”.

9 (2) COVERAGE OF WIDOWER OF A FORMER
10 PRESIDENT.—Subsection (e) of the first section of
11 the Former Presidents Act of 1958, as amended by
12 paragraph (1), is amended—

13 (A) by striking “widow” each place it ap-
14 pears and inserting “widow or widower”; and

15 (B) by striking “she” and inserting “she
16 or he”.

17 (c) SUBSECTION HEADINGS.—The first section of the
18 Former Presidents Act of 1958 is amended—

19 (1) in subsection (e), by inserting after the sub-
20 section enumerator the following: “WIDOWS AND
21 WIDOWERS.—”;

22 (2) in subsection (f), by inserting after the sub-
23 section enumerator the following: “DEFINITION.—”;
24 and

1 (3) in subsection (g), by inserting after the sub-
2 section enumerator the following: “AUTHORIZATION
3 OF APPROPRIATIONS.—”.

4 **SEC. 1943. RULE OF CONSTRUCTION.**

5 Nothing in this subtitle or an amendment made by
6 this subtitle shall be construed to affect—

7 (1) any provision of law relating to the security
8 or protection of a former President or a member of
9 the family of a former President; or

10 (2) funding, under the Former Presidents Act
11 of 1958 or any other law, to carry out any provision
12 of law described in paragraph (1).

13 **SEC. 1944. TRANSITION RULES.**

14 (a) **FORMER PRESIDENTS.**—In the case of any indi-
15 vidual who is a former President on the date of enactment
16 of this Act, the amendment made by section 1942(a) shall
17 be applied as if the commencement date referred in sub-
18 section (b)(1)(A) of the first section of the Former Presi-
19 dents Act of 1958, as amended by section 1942(a), coin-
20 cided with such date of enactment.

21 (b) **WIDOWS.**—In the case of any individual who is
22 the widow of a former President on the date of enactment
23 of this Act, the amendments made by section 1942(b)(1)
24 shall be applied as if the commencement date referred to
25 in subsection (e)(1) of the first section of the Former

1 Presidents Act of 1958, as amended by section
2 1942(b)(1), coincided with such date of enactment.

3 **SEC. 1945. APPLICABILITY.**

4 For a former President receiving a monetary allow-
5 ance under the Former Presidents Act of 1958 on the day
6 before the date of enactment of this Act, the limitation
7 under subsection (d)(1) of the first section of that Act,
8 as amended by section 1942(a), shall apply to the mone-
9 tary allowance of the former President, except to the ex-
10 tent that the application of the limitation would prevent
11 the former President from being able to pay the cost of
12 a lease or other contract that is in effect on the day before
13 the date of enactment of this Act and under which the
14 former President makes payments using the monetary al-
15 lowance, as determined by the Administrator of General
16 Services.

17 **Subtitle L—Making Electronic**
18 **Government Accountable**

19 **SEC. 1961. SHORT TITLE.**

20 This subtitle may be cited as the “Making Electronic
21 Government Accountable By Yielding Tangible Effi-
22 ciencies Act of 2016” or the “MEGABYTE Act of 2016”.

23 **SEC. 1962. OMB DIRECTIVE ON MANAGEMENT OF SOFT-**
24 **WARE LICENSES.**

25 (a) DEFINITIONS.—In this section—

1 (1) the term “Director” means the Director of
2 the Office of Management and Budget; and

3 (2) the term “Executive agency” has the mean-
4 ing given that term in section 105 of title 5, United
5 States Code.

6 (b) OMB DIRECTIVE.—The Director shall issue a di-
7 rective to require the Chief Information Officer of each
8 Executive agency to develop a comprehensive software li-
9 censing policy, which shall—

10 (1) identify clear roles, responsibilities, and cen-
11 tral oversight authority within the Executive agency
12 for managing enterprise software license agreements
13 and commercial software licenses; and

14 (2) require the Chief Information Officer of
15 each Executive agency to—

16 (A) establish a comprehensive inventory,
17 including 80 percent of software license spend-
18 ing and enterprise licenses in the Executive
19 agency, by identifying and collecting informa-
20 tion about software license agreements using
21 automated discovery and inventory tools;

22 (B) regularly track and maintain software
23 licenses to assist the Executive agency in imple-
24 menting decisions throughout the software li-
25 cense management life cycle;

1 (C) analyze software usage and other data
2 to make cost-effective decisions;

3 (D) provide training relevant to software
4 license management;

5 (E) establish goals and objectives of the
6 software license management program of the
7 Executive agency; and

8 (F) consider the software license manage-
9 ment life cycle phases, including the requisition,
10 reception, deployment and maintenance, retire-
11 ment, and disposal phases, to implement effec-
12 tive decision-making and incorporate existing
13 standards, processes, and metrics.

14 (c) REPORT ON SOFTWARE LICENSE MANAGE-
15 MENT.—

16 (1) IN GENERAL.—Beginning in the first fiscal
17 year beginning after the date of enactment of this
18 Act, and in each of the following 5 fiscal years, the
19 Chief Information Officer of each Executive agency
20 shall submit to the Director a report on the financial
21 savings or avoidance of spending that resulted from
22 improved software license management.

23 (2) AVAILABILITY.—The Director shall make
24 each report submitted under paragraph (1) pub-
25 lically available.

1 **Subtitle M—Construction Con-**
2 **sensus Procurement Improve-**
3 **ment**

4 **SEC. 1981. SHORT TITLE.**

5 This subtitle may be cited as the “Construction Con-
6 sensus Procurement Improvement Act of 2016”.

7 **SEC. 1982. CONGRESSIONAL FINDINGS.**

8 Congress makes the following findings:

9 (1) The acquisition procedures that are often
10 used effectively to procure products and other forms
11 of services are not always appropriate for procure-
12 ment of design and construction services.

13 (2) Federal procurement officials often adopt
14 contracting techniques from the private sector and
15 have used those techniques effectively to procure
16 products and services.

17 (3) Design-build is a procurement technique
18 Federal officials have adopted from the private sec-
19 tor that has worked well for procurement of design
20 and construction services.

21 (4) The current statutory framework for de-
22 sign-build could benefit from legislative refinement.

23 (5) Reverse auctions are another procurement
24 technique Federal officials have adopted from the
25 private sector and used successfully to award con-

1 tracts for the purchase of products that are commer-
2 cially equivalent to commodities.

3 (6) Despite their success in other contexts, re-
4 verse auctions are generally inappropriate for pro-
5 curement of design and construction services, given
6 the unique nature of each such project.

7 **SEC. 1983. DESIGN-BUILD CONSTRUCTION PROCESS IM-**
8 **PROVEMENT.**

9 (a) CIVILIAN CONTRACTS.—

10 (1) IN GENERAL.—Section 3309(b) of title 41,
11 United States Code, is amended to read as follows:

12 “(b) CRITERIA FOR USE.—

13 “(1) CONTRACTS WITH A VALUE OF AT LEAST
14 \$750,000.—Two-phase selection procedures shall be
15 used for entering into a contract for the design and
16 construction of a public building, facility, or work
17 when a contracting officer determines that the
18 project has a value of \$750,000 or greater, as ad-
19 justed for inflation in accordance with section 1908
20 of this title.

21 “(2) CONTRACTS WITH A VALUE LESS THAN
22 \$750,000.—For projects that a contracting officer de-
23 termines have a value of less than \$750,000, the
24 contracting officer shall make a determination
25 whether two-phase selection procedures are appro-

1 piate for use for entering into a contract for the de-
2 sign and construction of a public building, facility,
3 or work when—

4 “(A) the contracting officer anticipates
5 that 3 or more offers will be received for the
6 contract;

7 “(B) design work must be performed be-
8 fore an offeror can develop a price or cost pro-
9 posal for the contract;

10 “(C) the offeror will incur a substantial
11 amount of expense in preparing the offer; and

12 “(D) the contracting officer has considered
13 information such as—

14 “(i) the extent to which the project re-
15 quirements have been adequately defined;

16 “(ii) the time constraints for delivery
17 of the project;

18 “(iii) the capability and experience of
19 potential contractors;

20 “(iv) the suitability of the project for
21 use of the two-phase selection procedures;

22 “(v) the capability of the agency to
23 manage the two-phase selection process;

24 and

1 “(vi) other criteria established by the
2 agency.”.

3 (2) ANNUAL REPORTS.—

4 (A) IN GENERAL.—Not later than Novem-
5 ber 30 of 2017, 2018, 2019, 2020, and 2021,
6 the head of each agency shall compile an annual
7 report of each instance in which the agency
8 awarded a design-build contract pursuant to
9 section 3309 of title 41, United States Code,
10 during the fiscal year ending in such calendar
11 year, in which—

12 (i) more than 5 finalists were selected
13 for phase-two requests for proposals; or

14 (ii) the contract or order was awarded
15 without using two-phase selection proce-
16 dures.

17 (B) PUBLIC AVAILABILITY.—The Director
18 of the Office of Management and Budget shall
19 facilitate public access to the reports, including
20 by posting them on a publicly available Internet
21 website. A notice of the availability of each re-
22 port shall be published in the Federal Register.

23 (b) GAO REPORTS.—Not later than 270 days after
24 the deadline for the final reports required under sub-
25 section (f) of section 3309 of title 41, United States Code,

1 as added by subsection (a)(1), the Comptroller General of
2 the United States shall issue a report analyzing the com-
3 pliance of the various Federal agencies with the require-
4 ments of such section.

5 **SEC. 1984. PROHIBITION ON THE USE OF A REVERSE AUC-**
6 **TION FOR THE AWARD OF A CONTRACT FOR**
7 **DESIGN AND CONSTRUCTION SERVICES.**

8 (a) FINDING.—Congress finds that, in contrast to a
9 traditional auction in which the buyers bid up the price,
10 sellers bid down the price in a reverse auction.

11 (b) PROHIBITION.—Not later than 180 days after the
12 date of the enactment of this Act, the Federal Acquisition
13 Regulatory Council, in consultation with the Adminis-
14 trator for Federal Procurement Policy, shall amend the
15 Federal Acquisition Regulation to prohibit the use of re-
16 verse auctions as part of the two-phase selection procedure
17 for awarding contracts for construction and design serv-
18 ices.

19 (c) DEFINITIONS.—For purposes of this section—

20 (1) the term “design and construction services”
21 means—

22 (A) site planning and landscape design;

23 (B) architectural and engineering services
24 (including surveying and mapping defined in
25 section 1101 of title 40, United States Code);

1 (C) interior design;

2 (D) performance of substantial construc-
3 tion work for facility, infrastructure, and envi-
4 ronmental restoration projects;

5 (E) delivery and supply of construction
6 materials to construction sites; or

7 (F) construction or substantial alteration
8 of public buildings or public works; and

9 (2) the term “reverse auction” means, with re-
10 spect to procurement by an agency—

11 (A) a real-time auction conducted through
12 an electronic medium among 2 or more offerors
13 who compete by submitting bids for a supply or
14 service contract with the ability to submit re-
15 vised lower bids at any time before the closing
16 of the auction; and

17 (B) the award of the contract, delivery
18 order, task order, or purchase order to the of-
19 feror, in whole or in part, based on the price
20 obtained through the auction process.

1 **TITLE II—ACCOUNTABILITY**
2 **ENHANCEMENTS**
3 **Subtitle A—Expanded Whistle-**
4 **blower Protections for Employ-**
5 **ees**

6 **SEC. 2101. SHORT TITLE.**

7 This subtitle may be cited as the “Dr. Chris Kirk-
8 patrick Whistleblower Protection Act of 2016”.

9 **PART I—EMPLOYEES GENERALLY**

10 **SEC. 2121. DEFINITIONS.**

11 In this part—

12 (1) the terms “agency” and “personnel action”
13 have the meanings given such terms under section
14 2302 of title 5, United States Code; and

15 (2) the term “employee” means an employee
16 (as defined in section 2105 of title 5, United States
17 Code) of an agency.

18 **SEC. 2122. STAYS; PROBATIONARY EMPLOYEES.**

19 (a) **REQUEST BY SPECIAL COUNSEL.**—Section
20 1214(b)(1) of title 5, United States Code, is amended by
21 adding at the end the following:

22 “(E) If the Merit Systems Protections Board grants
23 a stay under this subsection, the head of the agency em-
24 ploying the employee shall give priority to a request for
25 a transfer submitted by the employee.”.

1 (b) INDIVIDUAL RIGHT OF ACTION FOR PROBA-
 2 TIONARY EMPLOYEES.—Section 1221 of title 5, United
 3 States Code, is amended by adding at the end the fol-
 4 lowing:

5 “(k) If the Merit Systems Protection Board grants
 6 a stay to an employee in probationary status under sub-
 7 section (c), the head of the agency employing the employee
 8 shall give priority to a request for a transfer submitted
 9 by the employee.”.

10 (c) STUDY REGARDING RETALIATION AGAINST PRO-
 11 BATIONARY EMPLOYEES.—The Comptroller General of
 12 the United States shall submit to the Committee on
 13 Homeland Security and Governmental Affairs of the Sen-
 14 ate and the Committee on Oversight and Government Re-
 15 form of the House of Representatives a report discussing
 16 retaliation against employees in probationary status.

17 **SEC. 2123. ADEQUATE ACCESS OF SPECIAL COUNSEL TO IN-**
 18 **FORMATION.**

19 Section 1212(b) of title 5, United States Code, is
 20 amended by adding at the end the following:

21 “(5) The Special Counsel, in carrying out this sub-
 22 chapter, is authorized to—

23 “(A) have access to all records, reports, audits,
 24 reviews, documents, papers, recommendations, or
 25 other material available to the applicable agency

1 which relate to a matter within the jurisdiction or
2 authority of the Special Counsel; and

3 “(B) request from any agency such information
4 or assistance as may be necessary for carrying out
5 the duties and responsibilities of the Special Counsel
6 under this subchapter.”.

7 **SEC. 2124. PROHIBITED PERSONNEL PRACTICES.**

8 Section 2302(b) of title 5, United States Code, is
9 amended—

10 (1) in paragraph (12), by striking “or” at the
11 end;

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

14 (3) by inserting after paragraph (13) the fol-
15 lowing:

16 “(14) access the medical record of another em-
17 ployee for the purpose of retaliation for a disclosure
18 or activity protected under paragraph (8) or (9).”.

19 **SEC. 2125. DISCIPLINE OF SUPERVISORS BASED ON RETAL-**
20 **IATION AGAINST WHISTLEBLOWERS.**

21 (a) IN GENERAL.—Subchapter II of chapter 75 of
22 title 5, United States Code, is amended by adding at the
23 end the following:

1 **“§ 7515. Discipline of supervisors based on retaliation**
2 **against whistleblowers**

3 “(a) DEFINITIONS.—In this section—

4 “(1) the term ‘agency’ has the meaning given
5 that term under section 2302;

6 “(2) the term ‘prohibited personnel action’
7 means taking or failing to take an action in violation
8 of paragraph (8), (9), or (14) of section 2302(b)
9 against an employee of an agency; and

10 “(3) the term ‘supervisor’ means a supervisor,
11 as defined under section 7103(a), who is employed
12 by an agency, as defined under paragraph (1) of this
13 subsection.

14 “(b) PROPOSED ADVERSE ACTIONS.—

15 “(1) IN GENERAL.—In accordance with para-
16 graph (2), the head of an agency shall propose
17 against a supervisor whom the head of that agency,
18 an administrative law judge, the Merit Systems Pro-
19 tection Board, the Office of Special Counsel, an ad-
20 judicating body provided under a union contract, a
21 Federal judge, or the Inspector General of the agen-
22 cy determines committed a prohibited personnel ac-
23 tion the following adverse actions:

24 “(A) With respect to the first prohibited
25 personnel action, an adverse action that is not
26 less than a 12-day suspension.

1 “(B) With respect to the second prohibited
2 personnel action, removal.

3 “(2) PROCEDURES.—

4 “(A) NOTICE.—A supervisor against whom
5 an adverse action under paragraph (1) is pro-
6 posed is entitled to written notice.

7 “(B) ANSWER AND EVIDENCE.—

8 “(i) IN GENERAL.—A supervisor who
9 is notified under subparagraph (A) that
10 the supervisor is the subject of a proposed
11 adverse action under paragraph (1) is enti-
12 tled to 14 days following such notification
13 to answer and furnish evidence in support
14 of the answer.

15 “(ii) NO EVIDENCE.—After the end of
16 the 14-day period described in clause (i), if
17 a supervisor does not furnish evidence as
18 described in clause (i) or if the head of the
19 agency determines that such evidence is
20 not sufficient to reverse the proposed ad-
21 verse action, the head of the agency shall
22 carry out the adverse action.

23 “(C) SCOPE OF PROCEDURES.—Para-
24 graphs (1) and (2) of subsection (b) of section
25 7513, subsection (c) of such section, para-

1 graphs (1) and (2) of subsection (b) of section
2 7543, and subsection (c) of such section shall
3 not apply with respect to an adverse action car-
4 ried out under this subsection.

5 “(c) NO LIMITATION ON OTHER ADVERSE AC-
6 TIONS.—With respect to a prohibited personnel action, if
7 the head of the agency carries out an adverse action
8 against a supervisor under another provision of law, the
9 head of the agency may carry out an additional adverse
10 action under this section based on the same prohibited
11 personnel action.”.

12 (b) TECHNICAL AND CONFORMING AMENDMENT.—
13 The table of sections for subchapter II of chapter 75 of
14 title 5, United States Code, is amended by adding at the
15 end the following:

 “7515. Discipline of supervisors based on retaliation against whistleblowers.”.

16 **SEC. 2126. SUICIDE BY EMPLOYEES.**

17 (a) REFERRAL.—The head of an agency shall refer
18 to the Office of Special Counsel, along with any informa-
19 tion known to the agency regarding the circumstances de-
20 scribed in paragraphs (2) and (3), any instance in which
21 the head of the agency has information indicating—

22 (1) an employee of the agency committed sui-
23 cide;

1 (2) prior to the death of the employee, the em-
2 ployee made any disclosure of information which rea-
3 sonably evidences—

4 (A) any violation of any law, rule, or regu-
5 lation; or

6 (B) gross mismanagement, a gross waste
7 of funds, an abuse of authority, or a substantial
8 and specific danger to public health or safety;
9 and

10 (3) after a disclosure described in paragraph
11 (2), a personnel action was taken against the em-
12 ployee.

13 (b) OFFICE OF SPECIAL COUNSEL REVIEW.—For
14 any referral to the Office of Special Counsel under sub-
15 section (a), the Office of Special Counsel shall—

16 (1) examine whether any personnel action was
17 taken because of any disclosure of information de-
18 scribed in subsection (a)(2); and

19 (2) take any action the Office of Special Coun-
20 sel determines appropriate under subchapter II of
21 chapter 12 of title 5, United States Code.

22 **SEC. 2127. TRAINING FOR SUPERVISORS.**

23 In consultation with the Office of Special Counsel and
24 the Inspector General of the agency (or senior ethics offi-
25 cial of the agency for an agency without an Inspector Gen-

1 eral), the head of each agency shall provide training re-
 2 garding how to respond to complaints alleging a violation
 3 of whistleblower protections (as defined in section 2307
 4 of title 5, United States Code, as added by section 2128)
 5 available to employees of the agency—

6 (1) to employees appointed to supervisory posi-
 7 tions in the agency who have not previously served
 8 as a supervisor; and

9 (2) on an annual basis, to all employees of the
 10 agency serving in a supervisory position.

11 **SEC. 2128. INFORMATION ON WHISTLEBLOWER PROTEC-**
 12 **TIONS.**

13 (a) EXISTING PROVISION.—

14 (1) IN GENERAL.—Section 2302 of title 5,
 15 United States Code, is amended—

16 (A) by striking subsection (c); and

17 (B) by redesignating subsections (d), (e),
 18 and (f) as subsections (c), (d), and (e), respec-
 19 tively.

20 (2) TECHNICAL AND CONFORMING AMEND-
 21 MENTS.—

22 (A) Section 4505a(b)(2) of title 5, United
 23 States Code, is amended by striking “section
 24 2302(d)” and inserting “section 2302(c)”.

1 (B) Section 5755(b)(2) of title 5, United
2 States Code, is amended by striking “section
3 2302(d)” and inserting “section 2302(c)”.

4 (C) Section 110(b)(2) of the Whistleblower
5 Protection Enhancement Act of 2012 (5 U.S.C.
6 2302 note) is amended by striking “section
7 2303(f)(1) or (2)” and inserting “section
8 2303(e)(1) or (2)”.

9 (D) Section 704 of the Homeland Security
10 Act of 2002 (6 U.S.C. 344) is amended by
11 striking “2302(c)” each place it appears and
12 inserting “2307”.

13 (E) Section 1217(d)(3) of the Panama
14 Canal Act of 1979 (22 U.S.C. 3657(d)(3)) is
15 amended by striking “section 2302(d)” and in-
16 serting “section 2302(c)”.

17 (F) Section 1233(b) of the Panama Canal
18 Act of 1979 (22 U.S.C. 3673(b)) is amended by
19 striking “section 2302(d)” and inserting “sec-
20 tion 2302(e)”.

21 (b) PROVISION OF INFORMATION.—Chapter 23 of
22 title 5, United States Code, is amended by adding at the
23 end the following:

24 **“§ 2307. Information on whistleblower protections**

25 “(a) DEFINITIONS.—In this section—

1 “(1) the term ‘agency’ has the meaning given
2 that term in section 2302;

3 “(2) the term ‘new employee’ means an indi-
4 vidual—

5 “(A) appointed to a position as an em-
6 ployee of an agency on or after the date of en-
7 actment of the Dr. Chris Kirkpatrick Whistle-
8 blower Protection Act of 2016; and

9 “(B) who has not previously served as an
10 employee; and

11 “(3) the term ‘whistleblower protections’ means
12 the protections against and remedies for a prohibited
13 personnel practice described in paragraph (8), sub-
14 paragraph (A)(i), (B), (C), or (D) of paragraph (9),
15 or paragraph (14) of section 2302(b).

16 “(b) RESPONSIBILITIES OF HEAD OF AGENCY.—The
17 head of each agency shall be responsible for the prevention
18 of prohibited personnel practices, for the compliance with
19 and enforcement of applicable civil service laws, rules, and
20 regulations, and other aspects of personnel management,
21 and for ensuring (in consultation with the Special Counsel
22 and the Inspector General of the agency) that employees
23 of the agency are informed of the rights and remedies
24 available to them under this chapter and chapter 12, in-
25 cluding—

1 “(1) information regarding whistleblower pro-
2 tections available to new employees during the pro-
3 bationary period;

4 “(2) the role of the Office of Special Counsel
5 and the Merit Systems Protection Board with regard
6 to whistleblower protections; and

7 “(3) how to make a lawful disclosure of infor-
8 mation that is specifically required by law or Execu-
9 tive order to be kept classified in the interest of na-
10 tional defense or the conduct of foreign affairs to the
11 Special Counsel, the Inspector General of an agency,
12 Congress, or other agency employee designated to
13 receive such disclosures.

14 “(c) TIMING.—The head of each agency shall ensure
15 that the information required to be provided under sub-
16 section (b) is provided to each new employee of the agency
17 not later than 6 months after the date the new employee
18 is appointed.

19 “(d) INFORMATION ONLINE.—The head of each
20 agency shall make available information regarding whistle-
21 blower protections applicable to employees of the agency
22 on the public website of the agency, and on any online
23 portal that is made available only to employees of the
24 agency if one exists.

1 “(e) DELEGEEES.—Any employee to whom the head
2 of an agency delegates authority for personnel manage-
3 ment, or for any aspect thereof, shall, within the limits
4 of the scope of the delegation, be responsible for the activi-
5 ties described in subsection (b).”.

6 (c) TECHNICAL AND CONFORMING AMENDMENT.—
7 The table of sections for chapter 23 of title 5, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

“2307. Information on whistleblower protections.”.

10 **PART II—DEPARTMENT OF VETERANS AFFAIRS**

11 **EMPLOYEES**

12 **SEC. 2141. PREVENTION OF UNAUTHORIZED ACCESS TO**
13 **MEDICAL RECORDS OF EMPLOYEES OF THE**
14 **DEPARTMENT OF VETERANS AFFAIRS.**

15 (a) DEVELOPMENT OF PLAN.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of the enactment of this Act, the Sec-
18 retary of Veterans Affairs shall—

19 (A) develop a plan to prevent access to the
20 medical records of employees of the Department
21 of Veterans Affairs by employees of the Depart-
22 ment who are not authorized to access such
23 records;

1 (B) submit to the appropriate committees
2 of Congress the plan developed under subpara-
3 graph (A); and

4 (C) upon request, provide a briefing to the
5 appropriate committees of Congress with re-
6 spect to the plan developed under subparagraph
7 (A).

8 (2) ELEMENTS.—The plan required under
9 paragraph (1) shall include the following:

10 (A) A detailed assessment of strategic
11 goals of the Department for the prevention of
12 unauthorized access to the medical records of
13 employees of the Department.

14 (B) A list of circumstances in which an
15 employee of the Department who is not a health
16 care provider or an assistant to a health care
17 provider would be authorized to access the med-
18 ical records of another employee of the Depart-
19 ment.

20 (C) Steps that the Secretary will take to
21 acquire new or implement existing technology to
22 prevent an employee of the Department from
23 accessing the medical records of another em-
24 ployee of the Department without a specific
25 need to access such records.

1 (D) Steps the Secretary will take, includ-
2 ing plans to issue new regulations, as necessary,
3 to ensure that an employee of the Department
4 may not access the medical records of another
5 employee of the Department for the purpose of
6 retrieving demographic information if that de-
7 mographic information is available to the em-
8 ployee in another location or through another
9 format.

10 (E) A proposed timetable for the imple-
11 mentation of such plan.

12 (F) An estimate of the costs associated
13 with implementing such plan.

14 (b) APPROPRIATE COMMITTEES OF CONGRESS DE-
15 FINED.—In this section, the term “appropriate commit-
16 tees of Congress” means—

17 (1) the Committee on Homeland Security and
18 Governmental Affairs and the Committee on Vet-
19 erans’ Affairs of the Senate; and

20 (2) the Committee on Oversight and Govern-
21 ment Reform and the Committee on Veterans’ Af-
22 fairs of the House of Representatives.

1 **SEC. 2142. OUTREACH ON AVAILABILITY OF MENTAL**
2 **HEALTH SERVICES AVAILABLE TO EMPLOY-**
3 **EES OF THE DEPARTMENT OF VETERANS AF-**
4 **FAIRS.**

5 The Secretary of Veterans Affairs shall conduct a
6 program of outreach to employees of the Department of
7 Veterans Affairs to inform those employees of any mental
8 health services, including telemedicine options, that are
9 available to them.

10 **SEC. 2143. PROTOCOLS TO ADDRESS THREATS AGAINST**
11 **EMPLOYEES OF THE DEPARTMENT OF VET-**
12 **ERANS AFFAIRS.**

13 The Secretary of Veterans Affairs shall ensure proto-
14 cols are in effect to address threats from individuals re-
15 ceiving health care from the Department of Veterans Af-
16 fairs directed towards employees of the Department who
17 are providing such health care.

18 **SEC. 2144. COMPTROLLER GENERAL OF THE UNITED**
19 **STATES STUDY ON ACCOUNTABILITY OF**
20 **CHIEFS OF POLICE OF DEPARTMENT OF VET-**
21 **ERANS AFFAIRS MEDICAL CENTERS.**

22 The Comptroller General of the United States shall
23 conduct a study to assess the reporting, staffing, account-
24 ability, and chain of command structure of the Depart-
25 ment of Veterans Affairs police officers at medical centers
26 of the Department.

1 **Subtitle B—Enhanced Whistle-**
2 **blower Protection for Con-**
3 **tractor and Grantee Employees**

4 **SEC. 2201. ENHANCEMENT OF WHISTLEBLOWER PROTEC-**
5 **TION FOR CONTRACTOR AND GRANTEE EM-**
6 **PLOYEES.**

7 (a) PROTECTION FOR EMPLOYEES OF GRANTEES
8 AND SUBGRANTEES.—

9 (1) DEFENSE GRANTS.—Section 2409(a)(1) of
10 title 10, United States Code, is amended by insert-
11 ing “or personal services contractor” after “sub-
12 grantee”.

13 (2) CIVILIAN GRANTS.—Section 4712(a)(1) of
14 title 41, United States Code, is amended by striking
15 “or grantee” and inserting “grantee, or subgrantee
16 or personal services contractor”.

17 (b) PROHIBITION ON REIMBURSEMENT FOR LEGAL
18 FEES ACCRUED IN DEFENSE AGAINST REPRISAL
19 CLAIMS.—

20 (1) DEFENSE CONTRACTS.—Section 2324(k) of
21 title 10, United States Code, is amended—

22 (A) by inserting “or subcontractor, or per-
23 sonal services contractor” after “contractor”
24 each place it appears;

1 (B) by inserting “or subcontract” after
2 “contract” each place it appears; and

3 (C) in paragraph (1), by inserting “or to
4 any other activity described in subparagraphs
5 (A) through (C) of section 2409(a)(1) of this
6 title” after “statute or regulation”.

7 (2) CIVILIAN CONTRACTS.—

8 (A) IN GENERAL.—Section 4310 of title
9 41, United States Code, is amended—

10 (i) by inserting “or subcontractor, or
11 personal services contractor” after “con-
12 tractor” each place it appears;

13 (ii) by inserting “or subcontract”
14 after “contract” each place it appears; and

15 (iii) in subsection (b)(1), by inserting
16 “or to any other activity described in sec-
17 tion 4712(a)(1) of this title” after “statute
18 or regulation”.

19 (B) CONFORMING AMENDMENT.—Section
20 4304(a)(15) of title 41, United States Code, is
21 amended by inserting “or subcontractor, or per-
22 sonal service contractor” after “contractor”.

23 (c) INCLUSION OF CONTRACT CLAUSE IN CONTRACTS
24 AWARDED BEFORE EFFECTIVE DATE.—At the time of
25 any major modification to a contract that was awarded

1 before the date of the enactment of this Act, the head of
2 the contracting agency shall include in the contract a con-
3 tract clause providing for the applicability of the amend-
4 ments made by this section and section 827 of the Na-
5 tional Defense Authorization Act for Fiscal Year 2013
6 (Public Law 112–239; 126 Stat. 1833).

7 **Subtitle C—Office of Special** 8 **Counsel Reauthorization**

9 **SEC. 2301. SHORT TITLE.**

10 This subtitle may be cited as the “Office of Special
11 Counsel Reauthorization Act of 2016”.

12 **SEC. 2302. ADEQUATE ACCESS OF SPECIAL COUNSEL TO IN-** 13 **FORMATION.**

14 Section 1212(b) of title 5, United States Code, is
15 amended by adding at the end the following:

16 “(5)(A) The Special Counsel, in carrying out this
17 subchapter—

18 “(i) shall have timely access to all records, data,
19 reports, audits, reviews, documents, papers, rec-
20 ommendations, or other material available to the ap-
21 plicable agency which relate to a matter within the
22 jurisdiction or authority of the Special Counsel;

23 “(ii) may request from any agency the informa-
24 tion or assistance that may be necessary for the Spe-
25 cial Counsel to carry out the duties and responsibil-

1 ities of the Special Counsel under this subchapter;
2 and

3 “(iii) may require, during an investigation, re-
4 view, or inquiry of an agency, any employee of the
5 agency to provide to the Special Counsel any record
6 or other information that relates to a matter within
7 the jurisdiction or authority of the Special Counsel.

8 “(B)(i) A claim of common law privilege by an agen-
9 cy, or an officer or employee of an agency, shall not pre-
10 vent the Special Counsel from obtaining any material de-
11 scribed in subparagraph (A)(i) with respect to the agency.

12 “(ii) The submission of material described in sub-
13 paragraph (A)(i) by an agency to the Special Counsel may
14 not be deemed to waive any assertion of privilege by the
15 agency against a non-Federal entity or against an indi-
16 vidual in any other proceeding.

17 “(iii) With respect to any record or other information
18 made available to the Special Counsel by an agency under
19 subparagraph (A), the Special Counsel may only disclose
20 the record or information for a purpose that is in further-
21 ance of any authority provided to the Special Counsel in
22 this subchapter.

23 “(6) The Special Counsel shall submit to the Com-
24 mittee on Homeland Security and Governmental Affairs
25 of the Senate, the Committee on Oversight and Govern-

1 ment Reform of the House of Representatives, and each
2 committee of Congress with jurisdiction over the applica-
3 ble agency a report regarding any case of contumacy or
4 failure to comply with a request submitted by the Special
5 Counsel under paragraph (5)(A).”.

6 **SEC. 2303. PROHIBITED PERSONNEL PRACTICES; INFORMA-**
7 **TION ON WHISTLEBLOWER PROTECTIONS.**

8 Section 2302 of title 5, United States Code, is
9 amended—

10 (1) in subsection (a)(2)(A)—

11 (A) in clause (xi), by striking “and” at the
12 end;

13 (B) by redesignating clause (xii) as clause
14 (xiii); and

15 (C) by inserting after clause (xi) the fol-
16 lowing:

17 “(xii) for the purposes of paragraph (8) or
18 (9) of subsection (b), the accessing of a medical
19 record of the employee or applicant for employ-
20 ment; and”;

21 (2) in subsection (b)(9)(D), by inserting “, rule,
22 or regulation” after “order”; and

23 (3) by striking subsection (c) and inserting the
24 following:

25 “(c)(1) In this subsection—

1 “(A) the term ‘new employee’ means an indi-
2 vidual—

3 “(i) appointed to a position as an employee
4 on or after the date of enactment of the Office
5 of Special Counsel Reauthorization Act of 2016;
6 and

7 “(ii) who has not previously served as an
8 employee; and

9 “(B) the term ‘whistleblower protections’ means
10 the protections against and remedies for a prohibited
11 personnel practice described in paragraph (8) or
12 subparagraph (A)(i), (B), (C), or (D) of paragraph
13 (9) of subsection (b).

14 “(2) The head of each agency shall be responsible
15 for—

16 “(A) preventing prohibited personnel practices;

17 “(B) complying with and enforcing applicable
18 civil service laws, rules, and regulations, and other
19 aspects of personnel management; and

20 “(C) ensuring, in consultation with the Special
21 Counsel and the Inspector General of the agency,
22 that employees of the agency are informed of the
23 rights and remedies available to the employees under
24 this chapter and chapter 12, including—

1 “(i) information with respect to whistle-
2 blower protections available to new employees
3 during a probationary period;

4 “(ii) the role of the Office of Special Coun-
5 sel and the Merit Systems Protection Board
6 with respect to whistleblower protections; and

7 “(iii) the means by which, with respect to
8 information that is otherwise required by law or
9 Executive order to be kept classified in the in-
10 terest of national defense or the conduct of for-
11 eign affairs, an employee may make a lawful
12 disclosure of the information to—

13 “(I) the Special Counsel;

14 “(II) the Inspector General of an
15 agency;

16 “(III) Congress; or

17 “(IV) another employee of the agency
18 who is designated to receive such a diselo-
19 sure.

20 “(3) The head of each agency shall ensure that the
21 information described in paragraph (2) is provided to each
22 new employee of the agency not later than 180 days after
23 the date on which the new employee is appointed.

24 “(4) The head of each agency shall make available
25 information regarding whistleblower protections applicable

1 to employees of the agency on the public website of the
2 agency and on any online portal that is made available
3 only to employees of the agency, if such portal exists.

4 “(5) Any employee to whom the head of an agency
5 delegates authority for any aspect of personnel manage-
6 ment shall, within the limits of the scope of the delegation,
7 be responsible for the activities described in paragraph
8 (2).”.

9 **SEC. 2304. ADDITIONAL WHISTLEBLOWER PROVISIONS.**

10 (a) EXPLANATIONS FOR FAILURE TO TAKE AC-
11 TION.—Section 1213 of title 5, United States Code, is
12 amended—

13 (1) in subsection (b), by striking “15 days” and
14 inserting “45 days”;

15 (2) in subsection (e)—

16 (A) in paragraph (1), by striking “Any
17 such report” and inserting “Any report re-
18 quired under subsection (c) or paragraph (5) of
19 this subsection”;

20 (B) by striking paragraph (2) and insert-
21 ing the following:

22 “(2) Upon receipt of any report that the
23 head of an agency is required to submit under
24 subsection (c), the Special Counsel shall review
25 the report and determine whether—

1 “(A) the findings of the head of the
2 agency appear reasonable; and

3 “(B) if the Special Counsel requires
4 the head of the agency to submit a supple-
5 mental report under paragraph (5), the re-
6 ports submitted by the head of the agency
7 collectively contain the information re-
8 quired under subsection (d).”;

9 (C) in paragraph (3), by striking “agency
10 report received pursuant to subsection (c) of
11 this section” and inserting “report submitted to
12 the Special Counsel by the head of an agency
13 under subsection (c) or paragraph (5) of this
14 subsection”; and

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

16 “(5) If, after conducting a review of a report under
17 paragraph (2), the Special Counsel concludes that the
18 Special Counsel requires additional information or docu-
19 mentation to determine whether the report submitted by
20 the head of an agency is reasonable and sufficient, the
21 Special Counsel may request that the head of the agency
22 submit a supplemental report—

23 “(A) containing the additional information or
24 documentation identified by the Special Counsel; and

1 “(B) which the head of the agency shall submit
2 to the Special Counsel within a period of time speci-
3 fied by the Special Counsel.”; and

4 (3) by striking subsection (h) and inserting the
5 following:

6 “(h) The Special Counsel may not respond to any in-
7 quiry or disclose any information about any person who
8 makes a disclosure under this section except in accordance
9 with section 552a or as required by any other provision
10 of Federal law.”.

11 (b) RETALIATORY INVESTIGATIONS.—Section 1214
12 of title 5, United States Code, is amended by adding at
13 the end the following:

14 “(i) The Special Counsel may petition the Board to
15 order corrective action, including fees, costs, or damages
16 reasonably incurred by an employee due to an investiga-
17 tion of the employee by an agency, if the investigation by
18 an agency was commenced, expanded, or extended in retal-
19 iation for a disclosure or protected activity described
20 under section 2302(b)(8) or section 2302(b)(9)(A)(i), (B),
21 (C), or (D), even if no personnel action, as defined under
22 section 2302(a), is taken or not taken.”.

23 (c) SENSITIVE POSITIONS.—Section 7701 of title 5,
24 United States Code, is amended—

1 (1) by redesignating subsection (k) as sub-
2 section (l); and

3 (2) by inserting after subsection (j) the fol-
4 lowing:

5 “(k)(1) The Board has authority to review on the
6 merits an appeal by an employee or applicant for employ-
7 ment of an action arising from a determination that the
8 employee or applicant for employment is ineligible for a
9 sensitive position if—

10 “(A) the sensitive position does not require a
11 security clearance or access to classified information;
12 and

13 “(B) such action is otherwise appealable.

14 “(2) In this subsection, the term ‘sensitive position’
15 means a position designated as a sensitive position under
16 Executive Order 10450 (5 U.S.C. 7311 note), or any suc-
17 cessor thereto.”.

18 (d) PROTECTION OF WHISTLEBLOWERS AS CRITERIA
19 IN PERFORMANCE APPRAISALS.—

20 (1) ESTABLISHMENT OF SYSTEMS.—Section
21 4302 of title 5, United States Code, is amended—

22 (A) by redesignating subsections (b) and
23 (c) as subsections (e) and (d), respectively; and

24 (B) by inserting after subsection (a) the
25 following:

1 “(b)(1) The head of each agency, in consultation with
2 the Director of the Office of Personnel Management and
3 the Special Counsel, shall develop criteria that—

4 “(A) the head of the agency shall use as a crit-
5 ical element for establishing the job requirements of
6 a supervisory employee; and

7 “(B) promote the protection of whistleblowers.

8 “(2) The criteria required under paragraph (1) shall
9 include principles for the protection of whistleblowers,
10 such as the degree to which supervisory employees—

11 “(A) respond constructively when employees of
12 the agency make disclosures described in subpara-
13 graph (A) or (B) of section 2302(b)(8);

14 “(B) take responsible actions to resolve such
15 disclosures; and

16 “(C) foster an environment in which employees
17 of the agency feel comfortable making such disclo-
18 sures to supervisory employees or other appropriate
19 authorities.

20 “(3) In this subsection—

21 “(A) the term ‘agency’ means any entity the
22 employees of which are covered by paragraphs (8)
23 and (9) of section 2302(b), without regard to wheth-
24 er any other provision of this section is applicable to
25 the entity;

1 “(B) the term ‘supervisory employee’ means an
2 employee who would be a supervisor, as defined in
3 section 7103(a), if the agency employing the em-
4 ployee was an agency for purposes of chapter 71;
5 and

6 “(C) the term ‘whistleblower’ means an em-
7 ployee who makes a disclosure described in section
8 2302(b)(8).”.

9 (2) CRITERIA FOR PERFORMANCE APPRAIS-
10 ALS.—Section 4313 of title 5, United States Code is
11 amended—

12 (A) in paragraph (4), by striking “and” at
13 the end;

14 (B) in paragraph (5), by striking the pe-
15 riod at the end and inserting “; and”; and

16 (C) by adding at the end the following:

17 “(6) protecting whistleblowers, as described in
18 section 4302(b)(2).”.

19 (e) ANNUAL REPORT TO CONGRESS ON UNACCEPT-
20 ABLE PERFORMANCE IN WHISTLEBLOWER PROTEC-
21 TION.—

22 (1) DEFINITIONS.—In this subsection, the
23 terms “agency” and “whistleblower” have the mean-
24 ings given the terms in section 4302(b)(3) of title 5,
25 United States Code, as amended by subsection (d).

1 (2) REPORT.—Each agency shall annually sub-
2 mit to the Committee on Homeland Security and
3 Governmental Affairs of the Senate, the Committee
4 on Oversight and Government Reform of the House
5 of Representatives, and each committee of Congress
6 with jurisdiction over the agency a report that de-
7 tails—

8 (A) the number of performance appraisals,
9 for the year covered by the report, that deter-
10 mined that an employee of the agency failed to
11 meet the standards for protecting whistle-
12 blowers that were established under section
13 4302(b) of title 5, United States Code, as
14 amended by subsection (d);

15 (B) the reasons for the determinations de-
16 scribed in subparagraph (A); and

17 (C) each disciplinary or corrective action
18 taken by the agency in response to a determina-
19 tion under subparagraph (A).

20 (f) TECHNICAL AND CONFORMING AMENDMENT.—
21 Section 4301 of title 5, United States Code, is amended,
22 in the matter preceding paragraph (1), by striking “For
23 the purpose of” and inserting “Except as otherwise ex-
24 pressly provided, for the purpose of”.

1 **SEC. 2305. TERMINATION OF CERTAIN INVESTIGATIONS BY**
2 **THE OFFICE OF SPECIAL COUNSEL.**

3 Section 1214(a) of title 5, United States Code, is
4 amended—

5 (1) in paragraph (1)(D), in the first sentence,
6 by inserting “other than a termination of an inves-
7 tigation described in paragraph (6)(A)” after “inves-
8 tigation of a prohibited personnel practice”; and

9 (2) by adding at the end the following:

10 “(6)(A) Not later than 30 days after receiving an al-
11 legation of a prohibited personnel practice under para-
12 graph (1), the Special Counsel may terminate an inves-
13 tigation of the allegation without further inquiry or an op-
14 portunity for the individual who submitted the allegation
15 to respond if the Special Counsel determines that—

16 “(i) the same allegation, based on the same set
17 of facts and circumstances had previously been—

18 “(I)(aa) made by the individual; and

19 “(bb) investigated by the Special Counsel;

20 or

21 “(II) filed by the individual with the Merit
22 Systems Protection Board;

23 “(ii) the Special Counsel does not have jurisdic-
24 tion to investigate the allegation; or

25 “(iii) the individual knew or should have known
26 of the alleged prohibited personnel practice on or be-

1 fore the date that is 3 years before the date on
2 which the Special Counsel received the allegation.

3 “(B) Not later than 30 days after the date on which
4 the Special Counsel terminates an investigation under sub-
5 paragraph (A), the Special Counsel shall provide a written
6 notification to the individual who submitted the allegation
7 of a prohibited personnel practice that states the basis of
8 the Special Counsel for terminating the investigation.”.

9 **SEC. 2306. ALLEGATIONS OF WRONGDOING WITHIN THE OF-**
10 **FICE OF SPECIAL COUNSEL.**

11 Section 1212 of title 5, United States Code, is
12 amended by adding at the end the following:

13 “(i) The Special Counsel shall enter into at least 1
14 agreement with the Inspector General of an agency under
15 which—

16 “(1) the Inspector General shall—

17 “(A) receive, review, and investigate allega-
18 tions of prohibited personnel practices or
19 wrongdoing filed by employees of the Office of
20 Special Counsel; and

21 “(B) develop a method for an employee of
22 the Office of Special Counsel to directly com-
23 municate with the Inspector General; and

24 “(2) the Special Counsel—

1 “(A) may not require an employee of the
2 Office of Special Counsel to seek authorization
3 or approval before directly contacting the In-
4 specter General in accordance with the agree-
5 ment; and

6 “(B) may reimburse the Inspector General
7 for services provided under the agreement.”.

8 **SEC. 2307. REPORTING REQUIREMENTS.**

9 (a) ANNUAL REPORT.—Section 1218 of title 5,
10 United States Code, is amended to read as follows:

11 **“§ 1218. Annual report**

12 “The Special Counsel shall submit to Congress, on
13 an annual basis, a report on the activities of the Special
14 Counsel, which shall include, for the year preceding the
15 submission of the report—

16 “(1) the number, types, and disposition of alle-
17 gations of prohibited personnel practices filed with
18 the Special Counsel and the costs of resolving such
19 allegations;

20 “(2) the number of investigations conducted by
21 the Special Counsel;

22 “(3) the number of stays or disciplinary actions
23 negotiated with agencies by the Special Counsel;

24 “(4) the number of subpoenas issued by the
25 Special Counsel;

1 “(5) the number of instances in which the Spe-
2 cial Counsel reopened an investigation after the Spe-
3 cial Counsel had made an initial determination with
4 respect to the investigation;

5 “(6) the actions that resulted from reopening
6 investigations as described in paragraph (5);

7 “(7) the number of instances in which the Spe-
8 cial Counsel did not make a determination before
9 the end of the 240-day period described in section
10 1214(b)(2)(A)(i) regarding whether there were rea-
11 sonable grounds to believe that a prohibited per-
12 sonnel practice had occurred, existed, or was to be
13 taken;

14 “(8) a description of the recommendations and
15 reports made by the Special Counsel to other agen-
16 cies under this subchapter and the actions taken by
17 the agencies as a result of the recommendations or
18 reports;

19 “(9) the number of—

20 “(A) actions initiated before the Merit Sys-
21 tems Protection Board, including the number of
22 corrective action petitions and disciplinary ac-
23 tion complaints initiated;

1 “(B) stays and extensions of stays ob-
2 tained from the Merit Systems Protection
3 Board; and

4 “(C) requests for enforcement of sub-
5 poenas or requests for enforcement by the Merit
6 Systems Protection Board described in section
7 1212(b)(6);

8 “(10) the number of prohibited personnel prac-
9 tice complaints that resulted in—

10 “(A) a favorable action for the complain-
11 ant, organized by actions in—

12 “(i) complaints dealing with reprisals
13 against whistleblowers; and

14 “(ii) all other complaints; and

15 “(B) a favorable outcome for the complain-
16 ant, organized by outcomes in—

17 “(i) complaints dealing with reprisals
18 against whistleblowers; and

19 “(ii) all other complaints;

20 “(11) the number of corrective actions that the
21 Special Counsel required an agency to take after a
22 finding by the Special Counsel of a prohibited per-
23 sonnel practice, as defined in section 2302(b); and

24 “(12) the results for the Office of Special Coun-
25 sel of any employee viewpoint survey conducted by

1 the Office of Personnel Management or any other
2 agency.”.

3 (b) PUBLIC INFORMATION.—Section 1219(a)(1) of
4 title 5, United States Code, is amended to read as follows:

5 “(1) a list of any noncriminal matters referred
6 to the head of an agency under section 1213(c), to-
7 gether with—

8 “(A) a copy of the information transmitted
9 to the head of the agency under section
10 1213(c)(1);

11 “(B) any report from the agency under
12 section 1213(c)(1)(B) relating to the matter;

13 “(C) if appropriate, not otherwise prohib-
14 ited by law, and consented to by the complain-
15 ant, any comments from the complainant under
16 section 1213(e)(1) relating to the matter; and

17 “(D) the comments or recommendations of
18 the Special Counsel under paragraph (3) or (4)
19 of section 1213(e);”.

20 **SEC. 2308. ESTABLISHMENT OF SURVEY PILOT PROGRAM.**

21 (a) IN GENERAL.—The Office of Special Counsel
22 shall design and establish a pilot program under which
23 the Office shall conduct, during the period beginning on
24 October 1, 2017 and ending on September 30, 2018, a

1 survey of individuals who have filed a complaint or dislo-
2 sure with the Office.

3 (b) PURPOSE.—The survey under subsection (a) shall
4 be designed for the purpose of collecting information and
5 improving service at various stages of a review or inves-
6 tigation by the Office of Special Counsel.

7 (c) RESULTS.—The results of the survey under sub-
8 section (a) shall be published in the annual report of the
9 Office of Special Counsel.

10 (d) SUSPENSION OF OTHER SURVEYS.—During the
11 period beginning on October 1, 2017 and ending on Sep-
12 tember 30, 2018, section 13 of the Act entitled “An Act
13 to reauthorize the Office of Special Counsel, and for other
14 purposes”, approved October 29, 1994 (5 U.S.C. 1212
15 note), shall have no force or effect.

16 **SEC. 2309. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) IN GENERAL.—Section 8(a)(2) of the Whistle-
18 blower Protection Act of 1989 (5 U.S.C. 5509 note) is
19 amended by striking “2003, 2004, 2005, 2006, and 2007”
20 and inserting “2016 through 2021”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall take effect as though enacted on Sep-
23 tember 30, 2015.

Calendar No. 505

114TH CONGRESS
2^D SESSION

S. 3011

A BILL

To improve the accountability, efficiency, transparency, and overall effectiveness of the Federal Government.

JUNE 6, 2016

Read the second time and placed on the calendar