

118TH CONGRESS
2D SESSION

S. _____

To require the head of each Executive agency to relocate 30 percent of the employees assigned to the headquarters of the Executive agency to duty stations outside the Washington metropolitan area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. ERNST introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require the head of each Executive agency to relocate 30 percent of the employees assigned to the headquarters of the Executive agency to duty stations outside the Washington metropolitan area, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Decentralizing and Re-
5 organizing Agency Infrastructure Nation-wide To Harness
6 Efficient Services, Workforce Administration, and Man-
7 agement Practices Act” or the “DRAIN THE SWAMP
8 Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) BUDGET JUSTIFICATION MATERIALS.—The
4 term “budget justification materials” has the mean-
5 ing given that term in section 3(b)(2)(A) of the Fed-
6 eral Funding Accountability and Transparency Act
7 of 2006 (31 U.S.C. 6101 note).

8 (2) EMPLOYEE.—The term “employee”—

9 (A) has the meaning given that term in
10 section 2105 of title 5, United States Code; and

11 (B) does not include an individual who—

12 (i) in the event of a lapse in appro-
13 priations, would be an excepted employee
14 and exempt from the limitation on vol-
15 untary services under section 1342 of title
16 31, United States Code, because the duties
17 of the position in which the individual is
18 serving are performing mission-essential
19 functions of the Executive agency employ-
20 ing the individual that are necessary for
21 purposes of defending the United States
22 against imminent threats; and

23 (ii) is serving in a position within—

24 (I) the Executive Office of the
25 President; or

3

1 (II) a component, the mission of
2 which is related to national security,
3 of—

4 (aa) the Department of De-
5 fense, including—

6 (AA) the Defense Intel-
7 ligence Agency;

8 (BB) the National Se-
9 curity Agency; and

10 (CC) the National
11 Geospatial-Intelligence
12 Agency;

13 (bb) the Department of En-
14 ergy

15 (cc) the Department of
16 Homeland Security

17 (dd) the Office of the Direc-
18 tor of National Intelligence; or

19 (ee) the Central Intelligence
20 Agency.

21 (3) EXECUTIVE AGENCY.—The term “Executive
22 agency” means an agency, as defined in section 551
23 of title 5, United States Code, that is in the execu-
24 tive branch of the Government.

1 (4) HEADQUARTERS EMPLOYEE OF AN EXECU-
2 TIVE AGENCY.—The term “headquarters employee of
3 an Executive agency” means—

4 (A) an employee of an Executive agency
5 whose permanent duty station is at the head-
6 quarters of the Executive agency; or

7 (B) an employee of an Executive agency—

8 (i) who teleworks on a full-time basis;

9 and

10 (ii) whose rate of pay is calculated
11 based on the Washington metropolitan
12 area rate of pay.

13 (5) HEADQUARTERS OF THE EXECUTIVE AGEN-
14 CY.—The term “headquarters of the Executive agen-
15 cy”, with respect to an Executive agency, means the
16 building serving as the principal managerial and ad-
17 ministrative center of the Executive agency.

18 (6) PAY LOCALITY.—The term “pay locality”
19 has the meaning given that term in section 5302 of
20 title 5, United States Code.

21 (7) RURAL.—The term “rural” means any area
22 that is not designated as an urban area, based on
23 the most recent data available from the Bureau of
24 the Census.

1 (8) TELEWORK.—The term “telework” has the
2 meaning given that term in section 6501 of title 5,
3 United States Code.

4 (9) TELEWORK ON A FULL-TIME BASIS.—The
5 term “telework on a full-time basis” means that an
6 employee is authorized to telework for 100 percent
7 of the work days of the employee per pay period.

8 (10) WASHINGTON METROPOLITAN AREA.—The
9 term “Washington metropolitan area” means the ge-
10 ographic area to which the Washington metropolitan
11 area rate of pay applies.

12 (11) WASHINGTON METROPOLITAN AREA RATE
13 OF PAY.—The term “Washington metropolitan area
14 rate of pay” means the rate of pay in effect for the
15 pay locality designated as “Washington-Baltimore-
16 Arlington, DC-MD-VA-WV-PA”.

17 **SEC. 3. RELOCATION OF EMPLOYEES.**

18 (a) IN GENERAL.—Notwithstanding any other provi-
19 sions of law, and not later than 1 year after the date of
20 enactment of this Act, the head of each Executive agency
21 shall—

22 (1) change the permanent duty station of not
23 less than 30 percent of the headquarters employees
24 of the Executive agency, as of the date of enactment
25 of this Act, to be at an office of the Executive agen-

1 cy at a location outside the Washington metropolitan
2 area, which shall be at locations throughout the re-
3 gions of the Executive agency; and

4 (2) for each employee of the Executive agency
5 whose permanent duty station is changed under
6 paragraph (1), ensure that—

7 (A) the rate of pay of the employee is cal-
8 culated based on the pay locality for the perma-
9 nent duty station of the employee; and

10 (B) the employee is not authorized to
11 telework on a full-time basis.

12 (b) DETERMINATION OF NEW DUTY STATIONS.—
13 The head of each Executive agency shall, in determining
14 the permanent duty stations of headquarters employees of
15 the Executive agency under subsection (a)—

16 (1) promote geographic diversity, including con-
17 sideration of rural markets; and

18 (2) ensure adequate staffing throughout the re-
19 gions of the Executive agency, to promote in-person
20 customer service.

21 (c) DETERMINATION OF EMPLOYEES ELIGIBLE FOR
22 A CHANGE IN DUTY STATION.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the head of each Executive agency shall
25 include each headquarters employee of the Executive

1 agency as eligible for a change in permanent duty
2 station under subsection (a).

3 (2) EXCEPTION.—A headquarters employee of
4 an Executive agency who is a qualified individual
5 who receives an accommodation to telework on a
6 full-time basis as a reasonable accommodation under
7 title I of the Americans with Disability Act of 1990
8 (42 U.S.C. 12111 et seq.)—

9 (A) shall not be determined to be eligible
10 for a change in permanent duty station under
11 subsection (a); and

12 (B) shall be counted as a headquarters em-
13 ployee of the Executive agency for purposes of
14 complying with subsection (a)(1).

15 (3) NOTICE OF DETERMINATION OF ELIGI-
16 BILITY.—Not later than the day before the date on
17 which the head of an Executive agency submits the
18 report required under subsection (d), the head of the
19 Executive agency shall notify each headquarters em-
20 ployee of the Executive agency who the head of the
21 Executive agency determines is eligible for a change
22 in permanent duty station under subsection (a) of
23 that determination.

24 (d) REPORT.—Not later than 180 days after the date
25 of enactment of this Act, the head of each Executive agen-

1 cy shall submit to each committee of the Senate or the
2 House of Representatives with jurisdiction of 1 or more
3 programs, projects, or activities of the Executive agency
4 a report that provides—

5 (1) the number of headquarters employees of
6 the Executive agency, as of the date of enactment of
7 this Act;

8 (2) the number of headquarters employees of
9 the Executive agency identified as eligible for a
10 change in permanent duty station, in accordance
11 with subsection (c);

12 (3) the number of headquarters employees of
13 the Executive agency whose permanent duty station
14 will be changed to be at an office of the Executive
15 agency at a location outside the Washington metro-
16 politan area under subsection (a);

17 (4) the number of headquarters employees of
18 the Executive agency subject to an exception under
19 subsection (c)(2); and

20 (5) the plan of the head of the Executive agen-
21 cy to implement subsection (a).

22 (e) IMPLEMENTATION.—

23 (1) IN GENERAL.—Not earlier than 60 days,
24 and not later than 90 days, after the date on which
25 the head of an Executive agency submits the report

1 required under subsection (d), the head of the Exec-
2 utive agency shall notify each headquarters employee
3 of the Executive agency whose permanent duty sta-
4 tion will be changed to be at an office of the Execu-
5 tive agency located outside the Washington metro-
6 politan area under subsection (a)—

7 (A) that, effective 90 days after the date
8 of the notification—

9 (i) the permanent duty station of the
10 employee shall be changed;

11 (ii) the rate of pay of the employee
12 shall be calculated based on the pay local-
13 ity for such permanent duty station; and

14 (iii) the employee shall not be author-
15 ized to telework on a full-time basis; and

16 (B) of the location of such permanent duty
17 station.

18 (2) FULL-TIME TELEWORKERS REMAINING IN
19 THE WASHINGTON METROPOLITAN AREA.—

20 (A) IN GENERAL.—For any employee de-
21 scribed in subparagraph (B), effective on the
22 date that is 180 days after the date on which
23 the head of the Executive agency employing the
24 employee submits the report required under

1 subsection (d), the employee shall not be au-
2 thorized to telework on a full-time basis.

3 (B) EMPLOYEES COVERED.—An employee
4 described in this subparagraph is a head-
5 quarters employee of an Executive agency—

6 (i) who teleworks on a full-time basis,
7 as of the date of enactment of this Act;

8 (ii) who is not subject to an exception
9 under subsection (c)(2); and

10 (iii) whose permanent duty station is
11 not changed to be an office of the Execu-
12 tive agency at a location outside the Wash-
13 ington metropolitan area under subsection
14 (a).

15 **SEC. 4. REDUCTION IN HEADQUARTERS OFFICE SPACE.**

16 (a) IN GENERAL.—Not later than 60 days after the
17 date of enactment of this Act, the Director of the Office
18 of Management and Budget shall—

19 (1) issue a memorandum directing that the
20 amount of real property serving as the headquarters
21 of an Executive agency that is owned or leased by
22 the Federal Government be reduced by not less than
23 30 percent; and

1 (A) a field office of the Executive agency;

2 (B) a district office of the Executive agen-

3 cy; or

4 (C) a regional office of the Executive agen-

5 cy;

6 (3) the number of employees of the Executive

7 agency who telework on a full-time basis; and

8 (4) the number of employees of the Executive

9 agency who are a qualified individual who receives

10 an accommodation to telework on a full-time basis

11 as a reasonable accommodation under title I of the

12 Americans with Disability Act of 1990 (42 U.S.C.

13 12111 et seq.).

14 **SEC. 6. NO RELOCATION INCENTIVES.**

15 If, pursuant to this Act, the official worksite (as de-

16 fined in section 531.605 of title 5, Code of Federal Regu-

17 lations) of an employee changes from the residence of the

18 employee to the headquarters of the Executive agency of

19 the employee, notwithstanding any other provision of law,

20 no such employee shall be paid any relocation incentive.

21 **SEC. 7. SEVERABILITY.**

22 If any provision of this Act or the application of such

23 provision to any person or circumstance is held to be un-

24 constitutional, the remainder of this Act and the applica-

1 tion of the provision to any other person or circumstance
2 shall not be affected thereby.

3 **SEC. 8. SUPERSESSION.**

4 This Act shall supersede any other provision of law
5 and any provision of a collective bargaining agreement.

6 **SEC. 9. NO PRIVATE CAUSE OF ACTION.**

7 Nothing in this Act shall be construed to establish
8 a private cause of action, equitable or otherwise, to chal-
9 lenge any selection, change, or decision made, or action
10 taken, under this Act.