

119TH CONGRESS  
1ST 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.

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IN THE SENATE OF THE UNITED STATES

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

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**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

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 Disabilities 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           (2) in identifying property to be sold or for  
2           which a lease is to be terminated or not renewed,  
3           prioritize—

4                   (A) the disposal of buildings; and

5                   (B) co-locating the headquarters of Execu-  
6           tive agencies in as few locations as practicable.

7           (b) IMPLEMENTATION.—If the head of an Executive  
8           agency is directed to reduce office space under the memo-  
9           randum issued under subsection (a), the head of the Exec-  
10          utive agency shall—

11                   (1) begin reducing office space in accordance  
12          with the memorandum not later than 180 days after  
13          the date of enactment of this Act; and

14                   (2) complete the reduction of office space in ac-  
15          cordance with the memorandum not later than 2  
16          years after the date of enactment of this Act.

17       **SEC. 5. INFORMATION INCLUDED IN BUDGET JUSTIFICA-**  
18                               **TION MATERIALS PROVIDED TO CONGRESS.**

19          The head of each Executive agency shall include in  
20          the first budget justification materials of the Executive  
21          agency submitted after the date of enactment of this Act,  
22          and the budget justification materials of the Executive  
23          agency for each fiscal year thereafter—

24                   (1) the number of headquarters employees of  
25          the Executive agency;

1           (2) the number of employees of the Executive  
2 agency assigned to a permanent duty station in—

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

4                   (B) a district office of the Executive agen-  
5 cy; or

6                   (C) a regional office of the Executive agen-  
7 cy;

8           (3) the number of employees of the Executive  
9 agency who telework on a full-time basis; and

10           (4) the number of employees of the Executive  
11 agency who are a qualified individual who receives  
12 an accommodation to telework on a full-time basis  
13 as a reasonable accommodation under title I of the  
14 Americans with Disabilities Act of 1990 (42 U.S.C.  
15 12111 et seq.).

16 **SEC. 6. NO RELOCATION INCENTIVES.**

17           If, pursuant to this Act, the official worksite (as de-  
18 fined in section 531.605 of title 5, Code of Federal Regu-  
19 lations) of an employee changes from the residence of the  
20 employee to the headquarters of the Executive agency of  
21 the employee, notwithstanding any other provision of law,  
22 no such employee shall be paid any relocation incentive.

23 **SEC. 7. SEVERABILITY.**

24           If any provision of this Act or the application of such  
25 provision to any person or circumstance is held to be un-

1 constitutional, the remainder of this Act and the applica-  
2 tion of the provision to any other person or circumstance  
3 shall not be affected thereby.

4 **SEC. 8. SUPERSESSION.**

5 This Act shall supersede any other provision of law  
6 and any provision of a collective bargaining agreement or  
7 master labor agreement.

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

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