

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.**

**S. 2450**

To amend title 5, United States Code, to address administrative leave for Federal employees, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. TESTER (for himself, Mr. JOHN-  
SON, and Mr. CARPER)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Administrative Leave

5 Act of 2016”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) agency use of administrative leave, and

9 leave that is referred to incorrectly as administrative

10 leave in agency recording practices, has exceeded

11 reasonable amounts—

1 (A) in contravention of—

2 (i) established precedent of the Comp-  
3 troller General of the United States; and

4 (ii) guidance provided by the Office of  
5 Personnel Management; and

6 (B) resulting in significant cost to the  
7 Federal Government;

8 (2) administrative leave should be used spar-  
9 ingly;

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

13 (A) temporary reassignment;

14 (B) transfer; and

15 (C) telework;

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

20 (A) the employee is returned to duty sta-  
21 tus; or

22 (B) an appropriate personnel action is  
23 taken with respect to the employee;

24 (5) data show that there are too many examples  
25 of employees placed in administrative leave for 6

1 months or longer, leaving the employees without any  
2 available recourse to—

3 (A) return to duty status; or

4 (B) challenge the decision of the agency;

5 (6) an agency should ensure accurate and con-  
6 sistent recording of the use of administrative leave  
7 so that administrative leave can be managed and  
8 overseen effectively; and

9 (7) other forms of excused absence authorized  
10 by law should be recorded separately from adminis-  
11 trative leave, as defined by this Act.

12 **SEC. 3. ADMINISTRATIVE LEAVE.**

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

16 **“§ 6330. Administrative leave**

17 “(a) DEFINITIONS.—In this section—

18 “(1) the term ‘administrative leave’ means  
19 leave—

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

21 “(i) pay;

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

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

1           “(B) that is not authorized under any  
2 other provision of law;

3           “(2) the term ‘agency’—

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

6           “(B) does not include the Government Ac-  
7 countability Office; and

8           “(3) the term ‘employee’—

9           “(A) has the meaning given the term in  
10 section 2105; and

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

15           “(b) ADMINISTRATIVE LEAVE.—

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

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

22           “(A) specifically authorized under law; and

23           “(B) not administrative leave.

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

4           “(c) REGULATIONS.—

5           “(1) OPM REGULATIONS.—Not later than 1  
6           year after the date of enactment of this section, the  
7           Director of the Office of Personnel Management  
8           shall—

9                   “(A) prescribe regulations to carry out this  
10                  section; and

11                  “(B) prescribe regulations that provide  
12                  guidance to agencies regarding—

13                           “(i) acceptable agency uses of admin-  
14                           istrative leave; and

15                           “(ii) the proper recording of—

16                                   “(I) administrative leave; and

17                                   “(II) other leave authorized by  
18                           law.

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

1           “(d) RELATION TO OTHER LAWS.—Notwithstanding  
2 subsection (a) of section 7421 of title 38, this section shall  
3 apply to an employee described in subsection (b) of that  
4 section.”.

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

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

“6330. Administrative leave.”.

21 **SEC. 4. INVESTIGATIVE LEAVE AND NOTICE LEAVE.**

22           (a) IN GENERAL.—Subchapter II of chapter 63 of  
23 title 5, United States Code, as amended by this Act, is  
24 further amended by adding at the end the following:

1 **“§ 6330a. Investigative leave and notice leave**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘agency’—

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

6 “(B) does not include the Government Ac-  
7 countability Office;

8 “(2) the term ‘Chief Human Capital Officer’  
9 means—

10 “(A) the Chief Human Capital Officer of  
11 an agency designated or appointed under sec-  
12 tion 1401; or

13 “(B) the equivalent;

14 “(3) the term ‘committees of jurisdiction’, with  
15 respect to an agency, means each committee in the  
16 Senate and House of Representatives with jurisdic-  
17 tion over the agency;

18 “(4) the term ‘Director’ means the Director of  
19 the Office of Personnel Management;

20 “(5) the term ‘employee’—

21 “(A) has the meaning given the term in  
22 section 2105; and

23 “(B) does not include—

24 “(i) an intermittent employee who  
25 does not have an established regular tour

1 of duty during the administrative work-  
2 week; or

3 “(ii) the Inspector General of an  
4 agency;

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

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

8 “(i) pay;

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

11 “(iii) credit for time or service;

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

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

16 “(7) the term ‘notice leave’ means 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;

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

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



1           “(8) the term ‘notice period’ means a period be-  
2           ginning on the date on which an employee is pro-  
3           vided notice required under law of a proposed ad-  
4           verse action against the employee and ending on the  
5           date on which an agency may take the adverse ac-  
6           tion.

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

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

11           “(A) investigative leave if the employee is  
12          the subject of an investigation;

13           “(B) notice leave if the employee is in a  
14          notice period; or

15           “(C) notice leave following a placement in  
16          investigative leave if, not later than the day  
17          after the last day of the period of investigative  
18          leave—

19           “(i) the agency proposes or initiates  
20          an adverse action against the employee;  
21          and

22           “(ii) the agency determines that the  
23          employee continues to meet 1 or more of  
24          the criteria described in subsection (c)(1).

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

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

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

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

10          “(c) EMPLOYEES UNDER INVESTIGATION OR IN A  
11 NOTICE PERIOD.—

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

18                   “(A) pose a threat to the employee or oth-  
19                   ers;

20                   “(B) result in the destruction of evidence  
21                   relevant to an investigation;

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

24                   “(D) otherwise jeopardize legitimate Gov-  
25                   ernment interests.

1           “(2) AVAILABLE OPTIONS FOR EMPLOYEES  
2 UNDER INVESTIGATION OR IN A NOTICE PERIOD.—  
3 After making a determination under paragraph (1)  
4 with respect to an employee, and before placing an  
5 employee in investigative leave or notice leave under  
6 subsection (b), an agency shall consider taking 1 or  
7 more of the following actions:

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

10                   “(i) safety;

11                   “(ii) the mission of the agency;

12                   “(iii) Government property; or

13                   “(iv) evidence relevant to an investiga-  
14 tion.

15           “(B) Allowing the employee to take leave  
16 for which the employee is eligible.

17           “(C) Requiring the employee to telework  
18 under section 6502(c).

19           “(D) If the employee is absent from duty  
20 without approved leave, carrying the employee  
21 in absence without leave status.

22           “(E) For an employee subject to a notice  
23 period, curtailing the notice period if there is  
24 reasonable cause to believe the employee has

1 committed a crime for which a sentence of im-  
2 prisonment may be imposed.

3 “(3) DURATION OF LEAVE.—

4 “(A) INVESTIGATIVE LEAVE.—Subject to  
5 extensions of a period of investigative leave for  
6 which an employee may be eligible under sub-  
7 sections (d) and (e), the initial placement of an  
8 employee in investigative leave shall be for a pe-  
9 riod not longer than 10 days.

10 “(B) NOTICE LEAVE.—Placement of an  
11 employee in notice leave shall be for a period  
12 not longer than the duration of the notice pe-  
13 riod.

14 “(4) EXPLANATION OF LEAVE.—

15 “(A) IN GENERAL.—If an agency places an  
16 employee in leave under subsection (b), the  
17 agency shall provide the employee a written ex-  
18 planation of the leave placement and the rea-  
19 sons for the leave placement.

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

23 “(i) the applicable limitations under  
24 paragraph (3); and

1                   “(ii) in the case of a placement in in-  
2                   vestigative leave, an explanation that, at  
3                   the conclusion of the period of leave, the  
4                   agency shall take an action under para-  
5                   graph (5).

6                   “(5) AGENCY ACTION.—Not later than the day  
7                   after the last day of a period of investigative leave  
8                   for an employee under subsection (b)(1), an agency  
9                   shall—

10                   “(A) return the employee to regular duty  
11                   status;

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

14                   “(i) assigning the employee to duties  
15                   in which the employee is no longer a threat  
16                   to—

17                   “(I) safety;

18                   “(II) the mission of the agency;

19                   “(III) Government property; or

20                   “(IV) evidence relevant to an in-  
21                   vestigation;

22                   “(ii) allowing the employee to take  
23                   leave for which the employee is eligible;

24                   “(iii) requiring the employee to  
25                   telework under section 6502(c);

1                   “(iv) if the employee is absent from  
2                   duty without approved leave, carrying the  
3                   employee in absence without leave status;  
4                   or

5                   “(v) for an employee subject to a no-  
6                   tice period, curtailing the notice period if  
7                   there is reasonable cause to believe the em-  
8                   ployee has committed a crime for which a  
9                   sentence of imprisonment may be imposed;

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

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

14                  “(6) RULE OF CONSTRUCTION.—Nothing in  
15                  paragraph (5) shall be construed to prevent the con-  
16                  tinued investigation of an employee, except that the  
17                  placement of an employee in investigative leave may  
18                  not be extended for that purpose except as provided  
19                  in subsections (d) and (e).

20                  “(d) INITIAL EXTENSION OF INVESTIGATIVE  
21 LEAVE.—

22                  “(1) IN GENERAL.—Subject to paragraph (4),  
23                  if the Chief Human Capital Officer of an agency, or  
24                  the designee of the Chief Human Capital Officer,  
25                  approves such an extension after consulting with the

1 investigator responsible for conducting the investiga-  
2 tion to which an employee is subject, the agency may  
3 extend the period of investigative leave for the em-  
4 ployee under subsection (b) for not more than 30  
5 days.

6 “(2) MAXIMUM NUMBER OF EXTENSIONS.—The  
7 total period of additional investigative leave for an  
8 employee under paragraph (1) may not exceed 110  
9 days.

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

19 “(4) EXTENSIONS FOR OIG EMPLOYEES.—

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

22 “(i) the Inspector General or the des-  
23 ignee of the Inspector General, rather than  
24 the Chief Human Capital Officer or the  
25 designee of the Chief Human Capital Offi-

1 cer, shall approve an extension of a period  
2 of investigative leave for the employee  
3 under paragraph (1); or

4 “(ii) at the request of the Inspector  
5 General, the head of the agency within  
6 which the Office of Inspector General is lo-  
7 cated shall designate an official of the  
8 agency to approve an extension of a period  
9 of investigative leave for the employee  
10 under paragraph (1).

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

23 “(e) FURTHER EXTENSION OF INVESTIGATIVE  
24 LEAVE.—



1           “(1) IN GENERAL.—After reaching the limit  
2           under subsection (d)(2), an agency may further ex-  
3           tend a period of investigative leave for an employee  
4           for a period of not more than 60 days if, before the  
5           further extension begins, the head of the agency or,  
6           in the case of an employee of an Office of Inspector  
7           General, the Inspector General submits a notifica-  
8           tion that includes the reasons for the further exten-  
9           sion to the—

10                   “(A) committees of jurisdiction;

11                   “(B) Committee on Homeland Security  
12                   and Governmental Affairs of the Senate; and

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

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

18           “(3) OPM REVIEW.—An agency shall request  
19           from the Director, and include with the notification  
20           required under paragraph (1), the opinion of the Di-  
21           rector—

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

1                   “(B) which shall not be binding on the  
2                   agency.

3                   “(4) SUNSET.—The authority provided under  
4                   this subsection shall expire on the date that is 6  
5                   years after the date of enactment of this section.

6                   “(f) CONSULTATION GUIDANCE.—Not later than 1  
7                   year after the date of enactment of this section, the Coun-  
8                   cil of the Inspectors General on Integrity and Efficiency,  
9                   in consultation with the Attorney General and the Special  
10                  Counsel, shall issue guidance on best practices for con-  
11                  sultation between an investigator and an agency on the  
12                  need to place an employee in investigative leave during an  
13                  investigation of the employee, including during a criminal  
14                  investigation, because the continued presence of the em-  
15                  ployee in the workplace during the investigation may—

16                  “(1) pose a threat to the employee or others;

17                  “(2) result in the destruction of evidence rel-  
18                  evant to an investigation;

19                  “(3) result in loss of or damage to Government  
20                  property; or

21                  “(4) otherwise jeopardize legitimate Govern-  
22                  ment interests.

23                  “(g) REPORTING AND RECORDS.—

1           “(1) IN GENERAL.—An agency shall keep a  
2 record of the placement of an employee in investiga-  
3 tive leave or notice leave by the agency, including—

4                   “(A) the basis for the determination made  
5 under subsection (c)(1);

6                   “(B) an explanation of why an action  
7 under subsection (c)(2) was not appropriate;

8                   “(C) the length of the period of leave;

9                   “(D) the amount of salary paid to the em-  
10 ployee during the period of leave;

11                   “(E) the reasons for authorizing the leave,  
12 including, if applicable, the recommendation  
13 made by an investigator under subsection  
14 (d)(1); and

15                   “(F) the action taken by the agency at the  
16 end of the period of leave, including, if applica-  
17 ble, the granting of any extension of a period  
18 of investigative leave under subsection (d) or  
19 (e).

20           “(2) AVAILABILITY OF RECORDS.—An agency  
21 shall make a record kept under paragraph (1) avail-  
22 able—

23                   “(A) to any committee of Congress, upon  
24 request;

1           “(B) to the Office of Personnel Manage-  
2           ment; and

3           “(C) as otherwise required by law, includ-  
4           ing for the purposes of the Administrative  
5           Leave Act of 2016.

6           “(h) REGULATIONS.—

7           “(1) OPM ACTION.—Not later than 1 year  
8           after the date of enactment of this section, the Di-  
9           rector shall prescribe regulations to carry out this  
10          section, including guidance to agencies regarding—

11           “(A) acceptable purposes for the use of—

12                   “(i) investigative leave; and

13                   “(ii) notice leave;

14           “(B) the proper recording of—

15                   “(i) the leave categories described in  
16                   subparagraph (A); and

17                   “(ii) other leave authorized by law;

18           “(C) baseline factors that an agency shall  
19           consider when making a determination that the  
20           continued presence of an employee in the work-  
21           place may—

22                   “(i) pose a threat to the employee or  
23                   others;

24                   “(ii) result in the destruction of evi-  
25                   dence relevant to an investigation;

1                   “(iii) result in loss or damage to Gov-  
2                   ernment property; or

3                   “(iv) otherwise jeopardize legitimate  
4                   Government interests; and

5                   “(D) procedures and criteria for the ap-  
6                   proval of an extension of a period of investiga-  
7                   tive leave under subsection (d) or (e).

8                   “(2) AGENCY ACTION.—Not later than 1 year  
9                   after the date on which the Director prescribes regu-  
10                  lations under paragraph (1), each agency shall revise  
11                  and implement the internal policies of the agency to  
12                  meet the requirements of this section.

13                  “(i) RELATION TO OTHER LAWS.—Notwithstanding  
14                  subsection (a) of section 7421 of title 38, this section shall  
15                  apply to an employee described in subsection (b) of that  
16                  section.”.

17                  (b) PERSONNEL ACTION.—Section 2302(a)(2)(A) of  
18                  title 5, United States Code, is amended—

19                   (1) in clause (xi), by striking “and” at the end;

20                   (2) by redesignating clause (xii) as clause (xiii);

21                  and

22                   (3) by inserting after clause (xi) the following:

23                   “(xii) a determination made by an agency  
24                   under section 6330a(c)(1) that the continued  
25                   presence of an employee in the workplace dur-

1           ing an investigation of the employee or while  
2           the employee is in a notice period, if applicable,  
3           may—

4                   “(I) pose a threat to the employee or  
5                   others;

6                   “(II) result in the destruction of evi-  
7                   dence relevant to an investigation;

8                   “(III) result in loss or damage to  
9                   Government property; or

10                   “(IV) otherwise jeopardize legitimate  
11                   Government interests; and”.

12           (c) GAO REPORT.—Not later than 5 years after the  
13           date of enactment of this Act, the Comptroller General  
14           of the United States shall report to the Committee on  
15           Homeland Security and Governmental Affairs of the Sen-  
16           ate and the Committee on Oversight and Government Re-  
17           form of the House of Representatives on the results of  
18           an evaluation of the implementation of the authority pro-  
19           vided under sections 6330 and 6330a of title 5, United  
20           States Code, as added by section 3(a) and subsection (a)  
21           of this section, respectively, including—

22                   (1) an assessment of agency use of the author-  
23                   ity provided under subsection (e) of such section  
24                   6330a, including data regarding—

1 (A) the number and length of extensions  
2 granted under that subsection; and

3 (B) the number of times that the Director  
4 of the Office of Personnel Management, under  
5 paragraph (3) of that subsection—

6 (i) concurred with the decision of an  
7 agency to grant an extension; and

8 (ii) did not concur with the decision of  
9 an agency to grant an extension, including  
10 the bases for those opinions of the Direc-  
11 tor;

12 (2) recommendations to Congress, as appro-  
13 priate, on the need for extensions beyond the exten-  
14 sions authorized under subsection (d) of such section  
15 6330a; and

16 (3) a review of the practice of agency placement  
17 of an employee in investigative or notice leave under  
18 subsection (b) of such section 6330a because of a  
19 determination under subsection (c)(1)(D) of that  
20 section that the employee jeopardized legitimate  
21 Government interests, including the extent to which  
22 such determinations were supported by evidence.

23 (d) TELEWORK.—Section 6502 of title 5, United  
24 States Code, is amended by adding at the end the fol-  
25 lowing:

1           “(c) **REQUIRED TELEWORK.**—If an agency deter-  
2 mines under section 6330a(c)(1) that the continued pres-  
3 ence of an employee in the workplace during an investiga-  
4 tion of the employee or while the employee is in a notice  
5 period, if applicable, may pose 1 or more of the threats  
6 described in that section and the employee is eligible to  
7 telework under subsections (a) and (b) of this section, the  
8 agency may require the employee to telework for the dura-  
9 tion of the investigation or the notice period, if applica-  
10 ble.”.

11           (e) **TECHNICAL AND CONFORMING AMENDMENT.**—  
12 The table of sections for subchapter II of chapter 63 of  
13 title 5, United States Code, is amended by inserting after  
14 the item relating to section 6330, as added by this Act,  
15 the following:

“6330a. Investigative leave and notice leave.”.

16 **SEC. 5. LEAVE FOR WEATHER AND SAFETY ISSUES.**

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

20 **“§ 6330b. Weather and safety leave**

21           “(a) **DEFINITIONS.**—In this section—

22                   “(1) the term ‘agency’—

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



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

3                   “(2) the term ‘employee’—

4                   “(A) has the meaning given the term in  
5                   section 2105; and

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

10                  “(b) LEAVE FOR WEATHER AND SAFETY ISSUES.—

11 An agency may approve the provision of leave under this  
12 section to an employee or a group of employees without  
13 loss of or reduction in the pay of the employee or employ-  
14 ees, leave to which the employee or employees are other-  
15 wise entitled, or credit to the employee or employees for  
16 time or service only if the employee or group of employees  
17 is prevented from safely traveling to or performing work  
18 at an approved location due to—

19                   “(1) an act of God;

20                   “(2) a terrorist attack; or

21                   “(3) another condition that prevents the em-  
22                   ployee or group of employees from safely traveling to  
23                   or performing work at an approved location.

1       “(c) RECORDS.—An agency shall record leave pro-  
2 vided under this section separately from leave authorized  
3 under any other provision of law.

4       “(d) REGULATIONS.—Not later than 1 year after the  
5 date of enactment of this section, the Director of the Of-  
6 fice of Personnel Management shall prescribe regulations  
7 to carry out this section, including—

8               “(1) guidance to agencies regarding the appro-  
9 priate purposes for providing leave under this sec-  
10 tion; and

11               “(2) the proper recording of leave provided  
12 under this section.

13       “(e) RELATION TO OTHER LAWS.—Notwithstanding  
14 subsection (a) of section 7421 of title 38, this section shall  
15 apply to an employee described in subsection (b) of that  
16 section.”.

17       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
18 The table of sections for subchapter II of chapter 63 of  
19 title 5, United States Code, is amended by inserting after  
20 the item relating to section 6330a, as added by this Act,  
21 the following:

“6330b. Weather and safety leave.”.

22 **SEC. 6. ADDITIONAL OVERSIGHT.**

23       (a) IN GENERAL.—Not later than 3 years after the  
24 date of enactment of this Act, the Director of the Office  
25 of Personnel Management shall complete a review of agen-

1 cy policies to determine whether agencies have complied  
2 with the requirements of this Act.

3 (b) REPORT TO CONGRESS.—Not later than 90 days  
4 after completing the review under subsection (a), the Di-  
5 rector shall submit to Congress a report evaluating the  
6 results of the review.