

118TH CONGRESS
1ST SESSION

H. R. 1080

To provide for the reinstatement or compensation of Federal employees forced to resign their careers between September 9, 2021, and January 24, 2022, because of the Federal COVID–19 vaccination mandate, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2023

Mr. GAETZ introduced the following bill; which was referred to the Committee on Oversight and Accountability, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the reinstatement or compensation of Federal employees forced to resign their careers between September 9, 2021, and January 24, 2022, because of the Federal COVID–19 vaccination mandate, 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 “COVID–19 Federal
5 Employee Reinstatement Act”.

1 **SEC. 2. REINSTATEMENT OR COMPENSATION FOR IM-**
2 **PACTED EMPLOYEES.**

3 (a) IN GENERAL.—Each impacted Federal employee,
4 other than an impacted Federal employee entitled to a
5 payment under subsection (b), is entitled, in accordance
6 with this Act, to select either—

7 (1) an appointment to a position in the former
8 employing agency of such impacted Federal em-
9 ployee that is the same or similar to the previous
10 Federal position of such impacted Federal employee
11 and payment in an amount equal to the amount that
12 such impacted Federal employee would have been
13 paid by such former employing agency during the
14 period beginning on September 9, 2021, and ending
15 on the date on which such impacted Federal em-
16 ployee is so appointed if such impacted Federal em-
17 ployee had not become an impacted Federal em-
18 ployee; or

19 (2) payment in an amount equal to the amount
20 that such impacted Federal employee would have
21 been paid by the former employing agency during
22 the period beginning on September 9, 2021, and
23 ending on the date that is 180 days after the date
24 on which the impacted Federal employee receives the
25 notice required under section 3(a) if such impacted

1 Federal employee had not become an impacted Fed-
2 eral employee.

3 (b) SUBSEQUENT FEDERAL EMPLOYMENT.—

4 (1) IN GENERAL.—An impacted Federal em-
5 ployee that was appointed to a new Federal position
6 is entitled to the payments described in paragraph
7 (2).

8 (2) PAYMENT DESCRIBED.—The payments de-
9 scribed in this subparagraph are—

10 (A) a payment in an amount equal to the
11 sum of—

12 (i) the sum of the difference in pay
13 between the previous Federal position of
14 the impacted Federal employee and any
15 new Federal positions of the impacted Fed-
16 eral employee for each pay period that the
17 impacted Federal employee held such new
18 Federal position during the period begin-
19 ning on the date on which such impacted
20 Federal employee became an impacted
21 Federal employee and ending on the date
22 of the enactment of this Act; and

23 (ii) the amount that the impacted
24 Federal employee would have been paid by
25 the former employing agency if the im-

1 impacted Federal employee had not become
2 an impacted Federal employee for each pe-
3 riod occurring between September 9, 2021,
4 and the date of the enactment of this Act
5 in which the impacted Federal employee
6 did not hold a new Federal position; and

7 (B) a payment equal to the sum of the dif-
8 ferences in pay between the previous Federal
9 position of the impacted Federal employee and
10 any new Federal positions of the impacted Fed-
11 eral employee during the one-year period begin-
12 ning on the date of the enactment of this Act.

13 (3) NEW FEDERAL POSITION DEFINED.—In
14 this subsection, the term “new Federal position”
15 means a position in the Federal Government—

16 (A) to which the impacted Federal em-
17 ployee was appointed after becoming an im-
18 pacted Federal employee;

19 (B) that is not subject to a vaccination re-
20 quirement implemented pursuant to Executive
21 Order 14043; and

22 (C) for which the pay is or was less than
23 the pay of the previous Federal position of the
24 impacted Federal employee.

25 (c) PAYMENT.—

1 (1) IN GENERAL.—The former employing agen-
2 cy of an impacted Federal employee shall begin mak-
3 ing any payment to which such impacted Federal
4 employee is entitled under this section not later than
5 90 days after the pay for each relevant position is
6 determined in accordance with section 7.

7 (2) METHOD.—A payment described in sub-
8 section (a) or (b) shall be paid either in one lump
9 sum or in 12 equal, monthly payments.

10 (3) TAXATION.—For purposes of the Internal
11 Revenue Code of 1986, any payment to an individual
12 under subsection (a) or (b) shall be treated as wages
13 paid with respect to the employment of such indi-
14 vidual.

15 (4) PAY LIMITS.—A payment to an impacted
16 Federal employee under this section shall be dis-
17 regarding with respect to any limit on the pay of
18 employees that is applicable to the impacted Federal
19 employee.

20 (d) REINSTATEMENT IMPRACTICABLE.—If the head
21 of the relevant employing agency determines that an ap-
22 pointment in accordance with subsection (a)(1) is imprac-
23 ticable for an impacted Federal employee not entitled to
24 a payment under subsection (b), such impacted Federal

1 employee shall only be entitled to select payment under
2 subsection (a)(2).

3 (e) REINSTATEMENT.—An appointment under sub-
4 section (a)(1) to a position in the competitive service (as
5 defined in section 2102 of title 5, United States Code)
6 shall be made without regard to the provisions of sub-
7 chapter I of chapter 33 of title 5, United States Code.

8 **SEC. 3. NOTICE AND SELECTION.**

9 (a) NOTICE.—Not later than 90 days after the date
10 of the enactment of this Act, the head of each Executive
11 agency shall notify each individual that was voluntarily or
12 involuntarily separated from such Executive employing
13 agency during the period beginning on September 9, 2021,
14 and ending on January 24, 2022, of the rights of impacted
15 Federal employees under this Act.

16 (b) SELECTION.—

17 (1) IN GENERAL.—An impacted Federal em-
18 ployee entitled to make a selection under section
19 2(a) must notify the former employing agency of
20 such impacted Federal employee of his or her selec-
21 tion not later than 90 days after receiving the notice
22 required by subsection (a).

23 (2) FORFEITURE.—An impacted Federal em-
24 ployee described in paragraph (1) that does not no-
25 tify the former employing agency in accordance with

1 such paragraph shall cease to be entitled to make a
2 selection under section 2(a).

3 (3) AGENCY COMPLIANCE.—If an impacted
4 Federal employee selects an appointment and pay-
5 ment under section 2(a)(1), not later than 90 days
6 after such impacted Federal employee provides the
7 notice in accordance with paragraph (1), the head of
8 the former employing agency shall make the ap-
9 pointment described in section 2(a)(1).

10 **SEC. 4. TREATMENT OF IMPACTED FEDERAL EMPLOYEES.**

11 (a) IN GENERAL.—Each impacted Federal em-
12 ployee—

13 (1) is deemed to have been involuntarily sepa-
14 rated without cause from the previous Federal posi-
15 tion of such impacted Federal employee; and

16 (2) during the five-year period beginning on the
17 date of the enactment of this Act, shall be entitled
18 to priority consideration for each appointment to a
19 position in the Federal Government for which the
20 impacted Federal employee is qualified if the im-
21 pacted Federal employee has not been appointed to
22 any other position in the Federal Government after
23 becoming an impacted Federal employee that—

1 (A) was not subject to a vaccination re-
2 quirement pursuant to Executive Order 14043;
3 or

4 (B) is an equal or higher grade than the
5 previous Federal position of such impacted Fed-
6 eral employee.

7 (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-
8 tion shall be construed to override the application of vet-
9 erans preferences under chapter 33 of title 5, United
10 States Code.

11 **SEC. 5. ANNUITIES.**

12 (a) **REINSTATED EMPLOYEES.**—

13 (1) **ANNUITY ENTITLEMENT.**—

14 (A) **IN GENERAL.**—An impacted Federal
15 employee described in subparagraph (E) is
16 deemed to have additional service equal to the
17 number of twelfth parts of a year that is equal
18 to the number of months that such impacted
19 Federal employee was an impacted Federal em-
20 ployee prior to an appointment under section
21 2(a)(1), including the month in which such im-
22 pacted Federal employee became an impacted
23 Federal employee.

24 (B) **WITHHOLDINGS.**—The head of the
25 former employing agency of an impacted Fed-

1 eral employee described in subparagraph (E)
2 shall—

3 (i) if such impacted Federal employee
4 was subject to chapter 83 of title 5, United
5 States Code, immediately before becoming
6 an impacted Federal employee—

7 (I) withhold from amounts paid
8 to such impacted Federal employee
9 under section 2(a)(1) an amount
10 equal to the amount that such former
11 employing agency would withhold
12 under subsection (k) or (a)(1)(A) of
13 section 8334 of title 5, United States
14 Code, as applicable, if—

15 (aa) the amounts paid under
16 section 2(a)(1) were the total
17 basic pay of such impacted Fed-
18 eral employee; and

19 (bb) such impacted Federal
20 employee was employed in the
21 previous Federal position of such
22 impacted Federal employee; and

23 (II) deposit in the Treasury of
24 the United States to the credit of the
25 Fund amounts withheld under sub-

1 clause (I) in the same manner as
2 amounts withheld under subsection
3 (k) or (a)(1)(A) of section 8334 of
4 title 5, United States Code, as appli-
5 cable; and

6 (ii) if such impacted Federal employee
7 was subject to chapter 84 of title 5, United
8 States Code, immediately before becoming
9 an impacted Federal employee—

10 (I) withhold from amounts paid
11 to such impacted Federal employee
12 under section 2(a)(1) an amount
13 equal to the amount that such former
14 employing agency would withhold
15 under section 8422(a) of title 5,
16 United States Code, if—

17 (aa) the amounts paid under
18 section 2(a)(1) were the total
19 basic pay of such impacted Fed-
20 eral employee; and

21 (bb) such impacted Federal
22 employee was employed in the
23 previous Federal position of such
24 impacted Federal employee; and

1 (II) deposit in the Treasury of
2 the United States to the credit of the
3 Fund amounts withheld under sub-
4 clause (I) in the same manner as
5 amounts withheld under section
6 8422(a) of title 5, United States
7 Code.

8 (C) WITHHOLDINGS CREDITED.—Amounts
9 withheld under—

10 (i) subparagraph (B)(i) shall be en-
11 tered on individual retirement records
12 under section 8334(f) of title 5, United
13 States Code; and

14 (ii) subparagraph (B)(ii) shall be en-
15 tered on individual retirement records
16 under section 8422(d) of such title.

17 (D) GOVERNMENT CONTRIBUTIONS.—

18 (i) CIVIL SERVICE RETIREMENT AN-
19 NUITY.—If the head of the former employ-
20 ing agency withholds amounts under sub-
21 paragraph (B)(i), the head of such former
22 employing agency shall make contributions
23 in accordance with section 8334(a)(1)(B)
24 of title 5, United States Code, as if the
25 amounts withheld under subparagraph

1 (B)(i) are retirement deductions made
2 from the basic pay of the impacted Federal
3 employee under subsection (k) or (a)(1)(A)
4 of section 8334 of such title, as applicable.

5 (ii) FEDERAL EMPLOYEES' RETIRE-
6 MENT SYSTEM.—If the head of the former
7 employing agency withholds amounts under
8 subparagraph (B)(ii), the head of such
9 former employing agency shall deposit in
10 the Treasury of the United States to the
11 credit of the Fund an amount equal to the
12 amount that the former employing agency
13 would so deposit under section 8423 of
14 title 5, United States Code, if the amounts
15 paid under section 2(a)(1) to an impacted
16 Federal employee described subparagraph
17 (E) were the basic pay of such impacted
18 Federal employee and such impacted Fed-
19 eral employee, at the time of such pay-
20 ment, was—

21 (I) at the time of such payment,
22 an employee of the former employer
23 agency in the previous Federal posi-
24 tion of such impacted Federal em-
25 ployee; and

1 (II) subject to section 8422(a) of
2 title 5, United States Code.

3 (E) IMPACTED FEDERAL EMPLOYEE DE-
4 SCRIBED.—An impacted Federal employee de-
5 scribed in this subparagraph is an impacted
6 Federal employee that—

7 (i) selects an appointment and pay-
8 ment under section 2(a)(1);

9 (ii) as of the date of such selection,
10 has not received and is not entitled to re-
11 ceive, and with respect to whose service no
12 other person has received or is entitled to
13 receive, a lump-sum payment under either
14 chapter 83 or 84 of title 5, United States
15 Code, other than—

16 (I) a lump-sum payment under
17 sections 8343a or 8420a of such title;
18 or

19 (II) a lump-sum payment that
20 was received or to which the entitle-
21 ment arose before the date on which
22 such impacted Federal employee be-
23 came an impacted Federal employee;
24 and

1 (iii) is not otherwise prohibited from
2 receiving an annuity pursuant to section
3 8312, 8314, or 8315 of such title.

4 (2) PREVIOUS LUMP-SUM PAYMENT.—

5 (A) IN GENERAL.—At the time an im-
6 pacted Federal employee described in subpara-
7 graph (G) selects an appointment and payment
8 under section 2(a)(1), such impacted Federal
9 employee may elect to pay to the Treasury of
10 the United States to the credit of the Fund an
11 amount equal to—

12 (i) the amount paid to such impacted
13 Federal employee under section 8342 or
14 8424 of title 5, United States Code, after
15 the impacted Federal employee became an
16 impacted Federal employee plus interest;
17 or

18 (ii) any portion of the amount de-
19 scribed in clause (i) that is greater than
20 zero.

21 (B) ANNUITY RIGHTS REINSTATED.—

22 (i) IN GENERAL.—An impacted Fed-
23 eral employee that makes the election and
24 payment under subparagraph (A)—

1 (I) shall have restored the annu-
2 ity rights of such impacted Federal
3 employee that were voided by the re-
4 ceipt of, or becoming entitled to, the
5 payment of lump-sum credit under
6 section 8342 or 8424 of title 5,
7 United States Code, after the im-
8 pacted Federal employee became an
9 impacted Federal employee—

10 (aa) in full in the case of a
11 payment in the amount described
12 in subparagraph (A)(i); or

13 (bb) in the case of a pay-
14 ment described in subparagraph
15 (A)(ii), in equal proportion to
16 such payment; and

17 (II) is deemed to have additional
18 service equal to the number of twelfth
19 parts of a year that is equal to the
20 number of months that such impacted
21 Federal employee was an impacted
22 Federal employee prior to an appoint-
23 ment under section 2(a)(1), including
24 the month in which such impacted

1 Federal employee became an impacted
2 Federal employee.

3 (ii) OTHER LUMP-SUM PAYMENT RE-
4 CIPIENTS.—Notwithstanding any other
5 provision of law, the restoration of the
6 rights of an impacted Federal employee
7 under clause (i) shall not—

8 (I) reinstate the rights of an indi-
9 vidual under chapter 83 or 84 of title
10 5, United States Code, that were void-
11 ed or fulfilled by the receipt of or be-
12 coming entitled to a lump-sum pay-
13 ment under chapter 83 or 84 of title
14 5, United States Code, other than a
15 lump-sum payment under section
16 8343a or 8420a of such title, after
17 the date on which such impacted Fed-
18 eral employee became an impacted
19 Federal employee that was based in
20 full or in part on the service of such
21 impacted Federal employee before
22 such date; or

23 (II) entitle an individual de-
24 scribed in subclause (I) to any other

1 payment or annuity under chapter 83
2 or 84 of such title.

3 (C) ENTITLEMENT WAIVER.—For the pur-
4 poses of subparagraph (A), the waiver of a
5 right to the payment of a lump-sum credit
6 under section 8342 or 8424 of title 5, United
7 States Code, is deemed to be a payment to the
8 Treasury of the United States to the credit of
9 the Fund equal to the amount of such lump-
10 sum credit.

11 (D) PAYMENT TIMING.—An impacted Fed-
12 eral employee that makes the election under
13 subparagraph (A) must make the payment de-
14 scribed in such subparagraph not later than one
15 year after making such election.

16 (E) WITHHOLDINGS AND CONTRIBU-
17 TIONS.—Subparagraphs (B), (C), and (D) of
18 paragraph (1) shall apply with respect to an
19 impacted Federal employee that makes the elec-
20 tion under subparagraph (A) as if such im-
21 pacted Federal employee is an impacted Fed-
22 eral employee described in paragraph (1)(E).

23 (F) DECLINE ELECTION.—

24 (i) IN GENERAL.—With respect to an
25 impacted Federal employee described in

1 subparagraph (H) that declines to make
2 the election under subparagraph (A), the
3 head of the former employing agency of
4 such impacted Federal employee shall
5 withhold from amounts paid under section
6 2(a)(1) to such impacted Federal em-
7 ployee—

8 (I) if such impacted Federal em-
9 ployee was subject to chapter 83 of
10 title 5, United States Code, imme-
11 diately before becoming an impacted
12 Federal employee, an amount equal to
13 the amount that such former employ-
14 ing agency would withhold under sub-
15 section (k) or (a)(1)(A) of section
16 8334 of such title, as applicable, if—

17 (aa) the amounts paid under
18 section 2(a)(1) were basic pay of
19 such impacted Federal employee;
20 and

21 (bb) such impacted Federal
22 employee was employed in the
23 previous Federal position of such
24 impacted Federal employee; or

1 (II) if such impacted Federal em-
2 ployee was subject to chapter 84 of
3 title 5, United States Code, imme-
4 diately before becoming an impacted
5 Federal employee, an amount equal to
6 the amount that such former employ-
7 ing agency would withhold under sec-
8 tion 8422(a) of such title if—

9 (aa) the amounts paid under
10 section 2(a)(1) were basic pay of
11 such impacted Federal employee;
12 and

13 (bb) such impacted Federal
14 employee was employed in the
15 previous Federal position of such
16 impacted Federal employee.

17 (ii) DISTRIBUTION.—An amount with-
18 held under clause (i)—

19 (I) in the case of an amount de-
20 scribed in clause (i)(I), is deemed to
21 be a retirement deduction made from
22 the basic pay of the impacted Federal
23 employee under subsection (k) or
24 (a)(1)(A) of section 8334 of title 5,
25 United States Code, as applicable,

1 and shall be paid as a lump-sum cred-
2 it in accordance with section 8342 of
3 such title; and

4 (II) in the case of an amount de-
5 scribed in clause (i)(II), is deemed to
6 be a retirement deduction made from
7 the basic pay of the impacted Federal
8 employee under section 8422(a) of
9 such title and shall be paid as a lump-
10 sum credit in accordance with section
11 8424 of such title.

12 (G) IMPACTED FEDERAL EMPLOYEE DE-
13 SCRIBED.—An impacted Federal employee de-
14 scribed in this subparagraph is an impacted
15 Federal employee that—

16 (i) selects an appointment and pay-
17 ment under section 2(a)(1);

18 (ii) as of the date of such selection,
19 has received or is entitled to receive, or
20 with respect to whose service another per-
21 son has received or is entitled to receive, a
22 lump-sum payment under either chapter
23 83 or 84 of title 5, United States Code,
24 other than—

1 (I) a lump-sum payment under
2 sections 8343a or 8420a of such title;
3 or

4 (II) a lump-sum payment that
5 was received or to which the entitle-
6 ment arose before the date on which
7 such impacted Federal employee be-
8 came an impacted Federal employee;
9 and

10 (iii) is not otherwise prohibited from
11 receiving an annuity pursuant to section
12 8312, 8314, or 8315 of such title.

13 (b) NON-REINSTATED EMPLOYEES.—

14 (1) ANNUITY ENTITLEMENT.—

15 (A) IN GENERAL.—An impacted Federal
16 employee described in subparagraph (E) is
17 deemed to have one additional year of service.

18 (B) WITHHOLDINGS.—The head of the
19 former employing agency of an impacted Fed-
20 eral employee described in subparagraph (E)
21 shall—

22 (i) if such impacted Federal employee
23 was subject to chapter 83 of title 5, United
24 States Code, immediately before becoming
25 an impacted Federal employee—

1 (I) withhold from amounts paid
2 to such impacted Federal employee
3 under subsection (a)(2) or (b) of sec-
4 tion 2, as applicable, an amount equal
5 to the amount that such former em-
6 ploying agency would withhold under
7 subsection (k) or (a)(1)(A) of section
8 8334 of title 5, United States Code,
9 as applicable, if—

10 (aa) the amounts paid under
11 subsection (a)(2) or (b) of section
12 2, as applicable, were the total
13 basic pay of such impacted Fed-
14 eral employee; and

15 (bb) such impacted Federal
16 employee was employed in the
17 previous Federal position of such
18 impacted Federal employee; and

19 (II) deposit in the Treasury of
20 the United States to the credit of the
21 Fund amounts withheld under sub-
22 clause (I) in the same manner as
23 amounts withheld under subsection
24 (k) or (a)(1)(A) of section 8334 of

1 title 5, United States Code, as appli-
2 cable; and

3 (ii) if such impacted Federal employee
4 was subject to chapter 84 of title 5, United
5 States Code, immediately before becoming
6 an impacted Federal employee—

7 (I) withhold from amounts paid
8 to such impacted Federal employee
9 under subsection (a)(2) or (b) of sec-
10 tion 2, as applicable, an amount equal
11 to the amount that such former em-
12 ploying agency would withhold under
13 section 8422(a) of title 5, United
14 States Code, if—

15 (aa) the amounts paid under
16 subsection (a)(2) or (b) of section
17 2, as applicable, were the total
18 basic pay of such impacted Fed-
19 eral employee; and

20 (bb) such impacted Federal
21 employee was employed in the
22 previous Federal position of such
23 impacted Federal employee; and

24 (II) deposit in the Treasury of
25 the United States to the credit of the

1 Fund amounts withheld under sub-
2 clause (I) in the same manner as
3 amounts withheld under section
4 8422(a) of title 5, United States
5 Code.

6 (C) WITHHOLDINGS CREDITED.—Amounts
7 withheld under—

8 (i) subparagraph (B)(i) shall be en-
9 tered on individual retirement records
10 under section 8334(f) of title 5, United
11 States Code; and

12 (ii) subparagraph (B)(ii) shall be en-
13 tered on individual retirement records
14 under section 8422(d) of such title.

15 (D) GOVERNMENT CONTRIBUTIONS.—

16 (i) CIVIL SERVICE RETIREMENT AN-
17 NUITY.—If the head of the former employ-
18 ing agency withholds amounts under sub-
19 paragraph (B)(i), the head of such former
20 employing agency shall make contributions
21 in accordance with section 8334(a)(1)(B)
22 of title 5, United States Code, as if the
23 amounts withheld under subparagraph
24 (B)(i) are retirement deductions made
25 from the basic pay of the impacted Federal

1 employee under subsection (k) or (a)(1)(A)
2 of section 8334 of title 5, United States
3 Code, as applicable.

4 (ii) FEDERAL EMPLOYEES' RETIRE-
5 MENT SYSTEM.—If the head of the former
6 employing agency withholds amounts under
7 subparagraph (B)(ii), the head of such
8 former employing agency shall deposit in
9 the Treasury of the United States to the
10 credit of the Fund an amount equal to the
11 amount that the former employing agency
12 would so deposit under section 8423 of
13 title 5, United States Code, if the amounts
14 paid under subsection (a)(2) or (b) of sec-
15 tion 2, as applicable, to an impacted Fed-
16 eral employee described subparagraph (E)
17 were the basic pay of such impacted Fed-
18 eral employee and such impacted Federal
19 employee, at the time of such payment,
20 was—

21 (I) at the time of such payment,
22 an employee of the former employer
23 agency in the previous Federal posi-
24 tion of such impacted Federal em-
25 ployee; and

1 (II) subject to section 8422(a) of
2 title 5, United States Code.

3 (E) IMPACTED FEDERAL EMPLOYEE DE-
4 SCRIBED.—An impacted Federal employee de-
5 scribed in this subparagraph is an impacted
6 Federal employee that—

7 (i) selects payment under section
8 2(a)(2) or is entitled to payment under
9 section 2(b);

10 (ii) as of the date of the enactment of
11 this Act, has not received and is not enti-
12 tled to receive, and with respect to whose
13 service no other person has received or is
14 entitled to receive, a lump-sum payment
15 under either chapter 83 or 84 of title 5,
16 United States Code, other than—

17 (I) a lump-sum payment under
18 sections 8343a or 8420a of such title;
19 or

20 (II) a lump-sum payment that
21 was received or to which the entitle-
22 ment arose before the date on which
23 such impacted Federal employee be-
24 came an impacted Federal employee;
25 and

1 (iii) is not otherwise prohibited from
2 receiving an annuity pursuant to section
3 8312, 8314, or 8315 of such title.

4 (2) LUMP-SUM CREDIT RECIPIENTS.—

5 (A) LUMP-SUM DISTRIBUTION.—

6 (i) IN GENERAL.—The head of the
7 former employing agency of an impacted
8 Federal employee described in clause (iii)
9 shall withhold from amounts paid to such
10 impacted Federal employee under sub-
11 section (a)(2) or (b) of section 2, as appli-
12 cable—

13 (I) if the impacted Federal em-
14 ployee was subject to chapter 83 of
15 title 5, United States Code, imme-
16 diately before becoming an impacted
17 Federal employee, an amount equal to
18 the amount that such former employ-
19 ing agency would withhold under sub-
20 section (k) or (a)(1)(A) of section
21 8334 of such title, as applicable, if—

22 (aa) the amounts paid under
23 subsection (a)(2) or (b) of section
24 2, as applicable, were the total

1 basic pay of such impacted Fed-
2 eral employee; and

3 (bb) such impacted Federal
4 employee was employed in the
5 previous Federal position of such
6 impacted Federal employee; or

7 (II) if the impacted Federal em-
8 ployee was subject to chapter 84 of
9 title 5, United States Code, imme-
10 diately before becoming an impacted
11 Federal employee, an amount equal to
12 the amount that such former employ-
13 ing agency would withhold under sec-
14 tion 8422(a) of such title if—

15 (aa) the amounts paid under
16 subsection (a)(2) or (b) of section
17 2, as applicable, were the total
18 basic pay of such impacted Fed-
19 eral employee; and

20 (bb) such impacted Federal
21 employee was employed in the
22 previous Federal position of such
23 impacted Federal employee.

24 (ii) DISTRIBUTION.—An amount with-
25 held under clause (i)—

1 (I) in the case of an amount de-
2 scribed in clause (i)(I), is deemed to
3 be a retirement deduction made from
4 the basic pay of the impacted Federal
5 employee under subsection (k) or
6 (a)(1)(A) of section 8334 of title 5,
7 United States Code, as applicable,
8 and shall be paid as a lump-sum cred-
9 it in accordance with section 8342 of
10 such title; and

11 (II) in the case of an amount de-
12 scribed in clause (i)(II), is deemed to
13 be a retirement deduction made from
14 the basic pay of the impacted Federal
15 employee under section 8422(a) of
16 such title and shall be paid as a lump-
17 sum credit in accordance with section
18 8424 of such title.

19 (iii) IMPACTED FEDERAL EMPLOYEE
20 DESCRIBED.—An impacted Federal em-
21 ployee described in this clause is an im-
22 pacted Federal employee that—

23 (I) selects payment under section
24 2(a)(2) or is entitled to payment
25 under section 2(b);

1 (II) as of the date of such selec-
2 tion or becoming so entitled, has re-
3 ceived or is entitled to receive, or with
4 respect to whose service another per-
5 son has received or is entitled to re-
6 ceive, a lump-sum payment under ei-
7 ther chapter 83 or 84 of title 5,
8 United States Code, other than—

9 (aa) a lump-sum payment
10 under sections 8343a or 8420a of
11 such title; or

12 (bb) a lump-sum payment
13 that was received or to which the
14 entitlement arose before the date
15 on which such impacted Federal
16 employee became an impacted
17 Federal employee;

18 (III) is not entitled to an annuity
19 under either such chapter; and

20 (IV) as of the date of the enact-
21 ment of this Act, does not hold a posi-
22 tion subjecting such impacted Federal
23 employee to either such chapter.

24 (B) BUYBACK.—

1 (i) IN GENERAL.—At the time an im-
2 pacted Federal employee described in
3 clause (vi) selects a payment under section
4 2(a)(2) or, in the case of a payment under
5 section 2(b), not later than 90 days after
6 the impacted Federal employee is notified
7 of the payment under section 3, such im-
8 pacted Federal employee may elect to pay
9 to the Treasury of the United States to the
10 credit of the Fund an amount equal to—

11 (I) the amount paid to such im-
12 pacted Federal employee under sec-
13 tion 8342 or 8424 of title 5, United
14 States Code, after the impacted Fed-
15 eral employee became an impacted
16 Federal employee plus interest; or

17 (II) any portion of the amount
18 described in clause (i) that is greater
19 than zero.

20 (ii) ANNUITY RIGHTS REINSTATED.—

21 (I) IN GENERAL.—An impacted
22 Federal employee that makes the elec-
23 tion and payment under clause (i)—

24 (aa) shall have restored the
25 annuity rights of such impacted

1 Federal employee that were void-
2 ed by the receipt of, or becoming
3 entitled to, the payment of a
4 lump-sum credit under section
5 8342 or 8424 of title 5, United
6 States Code, after such impacted
7 Federal employee became an im-
8 pacted Federal employee—

9 (AA) in full in the case
10 of a payment in the amount
11 described in clause (i)(I); or

12 (BB) in the case of a
13 payment described in clause
14 (i)(II), in equal proportion
15 to such payment; and

16 (bb) is deemed to have one
17 additional year of service.

18 (II) OTHER LUMP-SUM PAYMENT
19 RECIPIENTS.—Notwithstanding any
20 other provision of law, the restoration
21 of the rights of an impacted Federal
22 employee under subclause (I) shall
23 not—

24 (aa) reinstate the rights of
25 an individual under chapter 83 or

1 84 of title 5, United States Code,
2 that were voided or fulfilled by
3 the receipt of or becoming enti-
4 tled to a lump-sum payment
5 under chapter 83 or 84 of title 5,
6 United States Code, other than a
7 lump-sum payment under section
8 8343a or 8420a of such title,
9 after the date on which such im-
10 pacted Federal employee became
11 an impacted Federal employee
12 that was based in full or in part
13 on the service of such impacted
14 Federal employee before such
15 date; or

16 (bb) entitle an individual de-
17 scribed in item (aa) to any other
18 payment or annuity under chap-
19 ter 83 or 84 of such title.

20 (iii) ENTITLEMENT WAIVER.—For the
21 purposes of clause (i), the waiver of a right
22 to the payment of a lump-sum credit under
23 section 8342 or 8424 of title 5, United
24 States Code, is deemed to be a payment to
25 the Treasury of the United States to the

1 credit of the Fund equal to the amount of
2 such lump-sum credit.

3 (iv) WITHHOLDINGS AND GOVERN-
4 MENT CONTRIBUTIONS.—Subparagraphs
5 (B), (C), and (D) of paragraph (1) shall
6 apply with respect to an impacted Federal
7 employee who makes the election described
8 in clause (i) as if such impacted Federal
9 employee is an impacted Federal employee
10 described in paragraph (1)(E).

11 (v) PAYMENT TIMING.—An impacted
12 Federal employee that makes the election
13 under clause (i) must make the payment
14 described in such clause not later than one
15 year after making such election.

16 (vi) IMPACTED FEDERAL EMPLOYEE
17 DESCRIBED.—An impacted Federal em-
18 ployee described in this clause is an im-
19 pacted Federal employee that—

20 (I) selects payment under section
21 2(a)(2) or is entitled to payment
22 under section 2(b);

23 (II) as of the date of such selec-
24 tion, has received or is entitled to re-
25 ceive, or with respect to whose service

1 another person has received or is enti-
2 tled to receive, a lump-sum payment
3 under either chapter 83 or 84 of title
4 5, United States Code, other than—

5 (aa) a lump-sum payment
6 under sections 8343a or 8420a of
7 such title; or

8 (bb) a lump-sum payment
9 that was received or to which the
10 entitlement arose before the date
11 on which such impacted Federal
12 employee became an impacted
13 Federal employee;

14 (III) is not otherwise prohibited
15 from receiving an annuity pursuant to
16 section 8312, 8314, or 8315 of such
17 title; and

18 (IV) as of the date of the enact-
19 ment of this Act, holds a position sub-
20 jecting such impacted Federal em-
21 ployee to either chapter 83 or 84 of
22 title 5, United States Code.

23 (c) PAYMENT AND WITHHOLDINGS TREATMENT.—

24 (1) TIMING AND TREATMENT.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), for purposes of chapters 83
3 and 84 of title 5, United States Code, with re-
4 spect to an impacted Federal employee de-
5 scribed in paragraph (2), amounts paid to such
6 impacted Federal employee under section 2(a)
7 shall be deemed to be the basic pay of such im-
8 pacted Federal employee that was earned by
9 such impacted Federal employee at the time
10 that such impacted Federal employee would
11 have earned such portion if such employee had
12 not been separated from the former employing
13 agency based on a vaccination requirement im-
14 plemented at such former employing agency
15 pursuant to Executive Order 14043.

16 (B) CONCURRENT FEDERAL EMPLOYMENT
17 EXCLUSION.—Any portion of an amount paid to
18 an impacted Federal employee under section 2
19 that is deemed under subparagraph (A) to have
20 been earned by such impacted Federal employee
21 at a time during which such impacted Federal
22 employee held a position subjecting such im-
23 pacted Federal employee to either chapter 83 or
24 84 of title 5, United States Code, and any
25 amounts paid under section 2(b) to an impacted

1 Federal employee while such impacted Federal
2 employee holds such a position shall not be
3 deemed to be basic pay of the impacted Federal
4 employee for the purposes of calculating the av-
5 erage pay of the impacted Federal employee
6 under either such chapter.

7 (C) AVERAGE PAY DEFINED.—For the
8 purposes of this paragraph, the term “average
9 pay”—

10 (i) with respect to chapter 83 of title
11 5, United States Code, has the meaning
12 given such term under section 8331 of
13 such title; and

14 (ii) with respect to chapter 84 of such
15 title, has the meaning given such term
16 under section 8401 of such title.

17 (2) IMPACTED FEDERAL EMPLOYEES DE-
18 SCRIBED.—An impacted Federal employee described
19 in this paragraph is an impacted Federal em-
20 ployee—

21 (A)(i) that makes the selection described in
22 section 2(a)(1); and

23 (ii) is either—

24 (I) deemed to have additional service
25 under subsection (a)(1); or

1 (II) makes the election described in
2 subsection (a)(2)(A);

3 (B)(i) that makes the selection described in
4 section 2(a)(2); and

5 (ii) is either—

6 (I) deemed to have additional service
7 under subsection (b)(1); or

8 (II) employed in a position subjecting
9 such impacted Federal employee to either
10 chapter 83 or 84 of title 5, United States
11 Code, and makes the election described in
12 paragraph (b)(2)(B)(i);

13 (C) with respect to whose service another
14 individual—

15 (i) is entitled to an annuity under
16 chapter 83 or 84 of title 5, United States
17 Code; or

18 (ii) received or is entitled to receive a
19 lump-sum payment under either such
20 chapter.

21 (d) DEFINITIONS.—In this section—

22 (1) FUND.—The term “Fund” means the Civil
23 Service Retirement and Disability Fund under sec-
24 tion 8348 of title 5, United States Code.

1 (2) LUMP-SUM CREDIT; SERVICE.—The terms
2 “lump-sum credit” and “service”—

3 (A) with respect to chapter 83 of title 5,
4 United States Code, have the meanings given
5 such terms under section 8331 of such title;
6 and

7 (B) with respect to chapter 84 of such
8 title, have the meanings given such terms under
9 section 8401 of such title.

10 **SEC. 6. DECEASED EMPLOYEES.**

11 (a) IN GENERAL.—An impacted Federal employee
12 entitled to make a selection under section 2(a) that is de-
13 ceased prior to making such selection is deemed to have
14 made the selection described in section 2(a)(2).

15 (b) PAYMENT.—

16 (1) DISTRIBUTION.—The payment to which a
17 deceased impacted Federal employee is entitled
18 under subsection (b) or subsection (a)(2) of section
19 2, less any amounts withheld under section 5(b) pur-
20 suant to subsection (c), shall be made to the person
21 or persons surviving such impacted Federal em-
22 ployee and alive as of the date such impacted Fed-
23 eral employee becomes entitled to such payment in
24 the following order of precedence:

1 (A) First, to the beneficiary or bene-
2 ficiaries designated by the impacted Federal
3 employee in a signed and witnessed writing exe-
4 cuted and filed with the Office of Personnel
5 Management before the death of such impacted
6 Federal employee, except that a designation,
7 change, or cancellation of beneficiary in a will
8 or other document not so executed and filed has
9 no force or effect.

10 (B) Second, if there is no designated bene-
11 ficiary, to the widow or widower of the impacted
12 Federal employee.

13 (C) Third, if none of the above, to the
14 child or children of the impacted Federal em-
15 ployee and descendants of deceased children by
16 representation.

17 (D) Fourth, if none of the above, to the
18 parents of the impacted Federal employee or
19 the survivor of such parents.

20 (E) Fifth, if none of the above, to the duly
21 appointed executor or administrator of the es-
22 tate of the impacted Federal employee.

23 (F) Sixth, if none of the above, to such
24 other next of kin of the impacted Federal em-
25 ployee as the Director of the Office of Per-

1 sonnel Management determines to be entitled
2 under the laws of the domicile of the impacted
3 Federal employee at the date of his death.

4 (2) CHILD DEFINED.—In this paragraph, the
5 term “child” includes a natural child and an adopted
6 child, but does not include a stepchild.

7 (c) ANNUITIES.—

8 (1) LUMP-SUM PAYMENTS.—If any individual
9 other than a deceased impacted Federal employee
10 received a lump-sum payment under chapter 83 or
11 84 of title 5, United States Code, other than a
12 lump-sum payment under section 8343a or 8420a of
13 such title, after the date on which such impacted
14 Federal employee became an impacted Federal em-
15 ployee and such lump-sum payment was based in
16 full or in part on the service of such deceased im-
17 pacted Federal employee before such date, such im-
18 pacted Federal employee is deemed to be an im-
19 pacted Federal employee described in section
20 5(b)(2)(A)(iii) and to have been subject to the chap-
21 ter of title 5 under which such lump-sum payment
22 was made.

23 (2) ANNUITY PAYMENTS.—If any individual
24 other than a deceased impacted Federal employee
25 became entitled to an annuity under chapter 83 or

1 84 of title 5, United States Code, after the date on
2 which such impacted Federal employee became an
3 impacted Federal employee and such entitlement
4 was based in full or in part on the service of such
5 deceased impacted Federal employee before such
6 date, such impacted Federal employee is deemed to
7 be an impacted Federal employee described in sec-
8 tion 5(b)(1)(E) and to have been subject to the
9 chapter of title 5 under which such individual is en-
10 titled to the annuity.

11 **SEC. 7. PAY DETERMINATION.**

12 (a) IN GENERAL.—For the purposes of this Act, the
13 Director of the Office of Personnel Management shall de-
14 termine the pay for a position held by an impacted Federal
15 employee based on such evidence of the pay of such posi-
16 tion as the impacted Federal employee may provide, or
17 if the Director determines sufficient evidence has not been
18 so provided to adequately determine the pay for such posi-
19 tion, the pay shall be determined by the Director based
20 on such other information as the Director determines ap-
21 propriate.

22 (b) EMPLOYEE INFORMATION.—An impacted Federal
23 employee may provide evidence of the pay of a position
24 to the Director of the Office of Personnel Management
25 under subsection (a) until the earlier of—

1 (1) the date that is six months after the date
2 on which such impacted Federal employee received
3 the notice described in section 3(a); or

4 (2) the date on which the Director determines
5 the pay for such positions for the purposes of this
6 Act.

7 (c) INFORMATION SHARING.—The head of each Ex-
8 ecutive agency shall provide to the Director of the Office
9 of Personnel Management such information as the Direc-
10 tor may require to carry out this Act.

11 **SEC. 8. REGULATORY AUTHORITY.**

12 The Director of the Office of Personnel Management
13 shall implement such regulations as are necessary to carry
14 out this Act, including such regulations as are necessary
15 to ensure that, to the extent practicable and notwith-
16 standing any other provision of law, an impacted Federal
17 employee that is covered in part or in whole by a retire-
18 ment system established for employees of the Government
19 other than those under chapter 83 or 84 of title 5, United
20 States Code, has the same rights and benefits under such
21 other retirement system as those provided by sections 4,
22 5, and 6 of this Act to an impacted Federal employee cov-
23 ered in whole by a retirement system under chapter 83
24 or 84 of such title with respect to the applicable retirement
25 system under such chapter 83 or 84.

1 **SEC. 9. STATEMENT OF IMPACTED FEDERAL EMPLOYEE**
2 **STATUS.**

3 (a) IN GENERAL.—Not later 90 days after the date
4 on which an impacted Federal employee receives a notice
5 under section 3(a), the impacted Federal employee shall
6 submit to the Director of the Office of Personnel Manage-
7 ment and to the head of the former employing agency of
8 such impacted Federal employee a written statement
9 signed by such impacted Federal employee stating that
10 such impacted Federal employee was voluntarily or invol-
11 untarily separated from service in an Executive agency
12 during the period beginning on September 9, 2021, and
13 ending on January 24, 2022, based on a vaccination re-
14 quirement implemented at such Executive agency pursu-
15 ant to Executive Order 14043.

16 (b) EXCLUSION FROM BENEFITS.—An impacted
17 Federal employee that does not submit the statement re-
18 quired under subsection (a) in accordance with such sub-
19 section shall not be entitled to any payment, appointment,
20 or other benefit under this Act based on the status of such
21 impacted Federal employee as an impacted Federal em-
22 ployee, and any amounts paid to such impacted Federal
23 employee under section 2 or 4 or to any other person
24 under section 6 with respect to such impacted Federal em-
25 ployee must be repaid to the Government.

1 (c) DECEASED EMPLOYEES.—This section does not
2 apply with respect to an impacted Federal employee that
3 is deceased prior to the date that is 90 days after the date
4 on which such impacted Federal employee receives a notice
5 under section 3(a).

6 **SEC. 10. DEFINITIONS.**

7 In this Act:

8 (1) CIVIL SERVICE RETIREMENT AND DIS-
9 ABILITY FUND.—The term “Civil Service Retirement
10 and Disability Fund” means the Civil Service Re-
11 tirement and Disability Fund established under sec-
12 tion 8348 of title 5, United States Code.

13 (2) EXECUTIVE AGENCY.—The term “Executive
14 agency” has the meaning given such term in section
15 105 of title 5, United States Code, except that such
16 term does not include the Government Account-
17 ability Office.

18 (3) EMPLOYEE.—The term “employee” has the
19 meaning given such term in section 2105 of title 5,
20 United States Code, including an employee paid
21 from nonappropriated funds.

22 (4) EXECUTIVE ORDER 14043.—The term “Ex-
23 ecutive Order 14043” means Executive Order 14043
24 (86 Fed. Reg. 50989; relating to requiring COVID-
25 19 vaccinations for Federal Employees).

1 (5) FORMER EMPLOYING AGENCY.—With re-
2 spect to an impacted Federal employee, the term
3 “former employing agency” means the Executive
4 agency from which the separation of such individual
5 made such individual an impacted Federal employee.

6 (6) IMPACTED FEDERAL EMPLOYEE.—The term
7 “impacted Federal employee” means an individual
8 who was voluntarily or involuntarily separated from
9 service in an Executive agency during the period be-
10 ginning on September 9, 2021, and ending on Janu-
11 ary 24, 2022, based on a vaccination requirement
12 implemented at such Executive agency pursuant to
13 Executive Order 14043.

14 (7) PREVIOUS FEDERAL POSITION.—The term
15 “previous Federal position” means the position in
16 the Federal Government held by the impacted Fed-
17 eral employee in the former employing agency imme-
18 diately before becoming an impacted Federal em-
19 ployee.

○