

H.R. 68

To amend the hiring procedures of Executive Branch agencies and give Americans a fair shot at employment.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 1, 2018

Mr. BERNARD CALDWELL of Pennsylvania (for himself, Mr. ZELTRIC of South Dakota, and Mr. TIM GEITHNER introduced the following bill; which was referred to the House floor

A BILL

To amend the hiring procedures of Executive Branch agencies and give Americans a fair shot at employment.

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

4 **SECTION 1. SHORT TITLE; SEVERABILITY; NON-RE-**  
5 **MOVAL OF EMPLOYEES; EFFECTIVE DATE.**

6 (a) This Act may be cited as the “America Works  
7 Act of 2018”.

8 (b) This Act shall be severable, in which that if  
9 any section of this Act is found unconstitutional, the  
10 rest shall remain in effect.

11 (c) No abolishment, transfer, or renaming under  
12 this Act shall mandate the removal of a government  
13 employee.

14 (d) Upon passage, this Act shall take effect on  
15 January 21, 2018.

16 **SEC. 2. DEFINITIONS.**

17 In this Act—

1 (1) the term “agency” has the meaning  
2 given it in 18 U. S. C. § 6.

3 **SEC. 3. PURPOSE.**

4 The purpose of this Act is to implement a com-  
5 mon-application-based system for Executive Branch  
6 applications and reorganize how Executive Branch  
7 agencies undergo their hiring process.

8 **SEC. 4. TABLE OF CONTENTS.**

9 (a) TABLE OF CONTENTS.—The table of con-  
10 tents for this Act is as follows:

11 **TITLE I—THE COMMON APPLICATION**

12 **Subtitle A—Implementing a common-application**  
13 **system for Executive Branch employees**

14 **SEC. 1001. THE COMMON APPLICATION.**

15 (a) IN GENERAL.—A common application shall  
16 be made and placed in game.

17 (b) DEFINITION OF THE COMMON APPLICA-  
18 TION.—The common application shall comprise multi-  
19 ple text fields on an in-game graphical user interface.

20 (1) The first field shall ask for the appli-  
21 cant’s name.

22 (2) The second field shall ask for the appli-  
23 cant’s Twitter username if applicable.

24 (3) The third field shall ask for the appli-  
25 cant’s discord identification username and num-  
26 ber.

27 (4) The fourth field shall ask for the appli-  
28 cant’s criminal and job history—if any—in the  
29 United States.

30 (5) The fifth field shall ask for the appli-  
31 cant’s agency interests.

32 (A) Within this field shall be a drop-  
33 down list of every single Executive

1           Branch agency that signs up for the com-  
 2           mon-application system under section  
 3           1004(a)(1).

4           (B) An applicant shall select as  
 5           many agencies that he is interested in as  
 6           he wants.

7           (6) The sixth field shall ask for the specific  
 8           position(s) within the agencies selected in the  
 9           field described in section 1001(b)(5) that he is in-  
 10          terested in.

11          (7) The seventh field shall ask the appli-  
 12          cant to describe his relevant experience for the  
 13          jobs for which he is applying.

14          (8) The eighth field shall ask the applicant  
 15          to describe his average per-week activity levels.

16          (9) The ninth field shall ask the applicant  
 17          to write a 500-word maximum personal state-  
 18          ment to describe why he is the best choice for  
 19          the jobs for which he is applying.

20          (10) The tenth field shall ask the applicant  
 21          to write a 500-word maximum statement de-  
 22          scribing a difficult circumstance he had to over-  
 23          come and how overcoming that circumstance  
 24          has shaped his personality and work ethic.

25          (c) The common-application game shall be  
 26          owned by the United States and placed on the United  
 27          States' group homepage to encourage accessibility  
 28          and usage by the American public writ large.

29       **SEC. 1002. THE COMMON APPLICATION'S TRELLO.**

30          (a) IN GENERAL.—All applications from the  
 31          common application shall be housed on a government-  
 32          owned trello board.

1 (b) THE TRELLO BOARD.—A trello board, owned  
 2 and operated by the Department of Education, shall  
 3 house common-application submissions.

4 (1) The trello board shall comprise indi-  
 5 vidual lists for each Executive Branch agency  
 6 housed under section 1001(b)(5)(A).

7 (A) Under each list, a copy of each  
 8 common-application submission pertain-  
 9 ing to that specific job shall be placed.

10 (i) EXAMPLE.—If an applicant  
 11 checks “Secret Service” and  
 12 “United States Marshals Service”  
 13 in his application, individual copies  
 14 of it shall be placed under both the  
 15 Secret Service and United States  
 16 Marshal Service categories on the  
 17 trello board.

18 **SEC. 1003. THE DEPARTMENT OF EDUCATION.**

19 (a) IN GENERAL.—All applications from the  
 20 common application and the trello board housing  
 21 those applications shall be managed by the Depart-  
 22 ment of Education.

23 (1) There shall be an oversight board  
 24 within the Department of Education to handle  
 25 common-application submissions.

26 (b) THE BOARD.—An oversight board named  
 27 the “Common-Application Board” shall be created  
 28 within the Department of Education.

29 (1) The Common-Application Board shall  
 30 be managed and led by a Chairman appointed  
 31 by the Secretary of Education.

32 (2) The Common-Application Board shall  
 33 comprise three other members, each appointed  
 34 by the Board’s Chairman.

1 (3) The Common-Application Board shall  
2 be responsible for the following—

3 (A) Overseeing the common-appli-  
4 cation system.

5 (B) Referring each application to  
6 the agencies that each application's appli-  
7 cant marks interest for pursuant to sec-  
8 tion 1001(b)(5)(A).

9 (C) Ensuring that those referred  
10 applications under section 1003(b)(3)(B)  
11 are read and responded to by the agencies  
12 marked under section 1001(b)(5)(A).

13 (4) Failure to perform the tasks under sec-  
14 tion 1003(b)(3) may result in termination from  
15 the Common-Application Board by the Secre-  
16 tary of Education.

17 **SEC. 1004. HIRING PROCEDURE.**

18 (a) IN GENERAL.—All Executive Branch Agen-  
19 cies may hire from the common-application pool but  
20 may then use their individual processes for further  
21 employment-eligibility testing.

22 (1) All Executive Branch Agencies, in or-  
23 der to use the common-application system, shall  
24 contact the Secretary of Education or an indi-  
25 vidual within the Department of Education at  
26 the Secretary of Education's direction to be  
27 listed under the application's Executive Branch  
28 agency drop-down list described under section  
29 1001(b)(5)(A).

30 (2) If an Executive Branch agency has  
31 signed up for the common-application system  
32 pursuant to section 1004(a)(1), it shall hire only  
33 from applicants who submit applications  
34 through the common application.

1           (3) An Executive Branch agency using the  
2           common application may attach further hiring  
3           requirements as it sees fit.

4                   (A) Further hiring requirements  
5           may include but are not necessarily lim-  
6           ited to additional test stages in the form of  
7           tryouts, interviews, *etc.*

8           (4) An Executive Branch agency may opt  
9           out of the common-application program.

10                   (A) In the case that an Executive  
11           Branch agency chooses to opt out, their  
12           agency shall be struck from the drop-  
13           down list defined in section 1001(b)(5)(A).

14           (b) The common-application trello board, as de-  
15           fined in section 1002(b), shall be accessible only to the  
16           following individuals—

- 17                   (1) The President of the United States;
- 18                   (2) The Vice President of the United  
19           States;
- 20                   (3) The White House Chief of Staff
- 21                   (4) The Secretary of Education;
- 22                   (5) The Deputy Secretary of Education;
- 23                   (6) Agency Directors;
- 24                   (7) Agency Deputy Directors;
- 25                   (8) The Chairman of the Common-Appli-  
26           cation Board; and
- 27                   (9) Members of the Common-Application  
28           Board.

29   **SEC. 1005. LABOR DISPUTES.**

30           (a) IN GENERAL.—A Board shall be created un-  
31           der the Executive authority of the United States to  
32           handle all labor disputes.

33                   (1) This Board shall be known as the Na-  
34           tional Labor Dispute Board.

1 (b) THE NATIONAL LABOR DISPUTE BOARD.—  
2 The National Labor Dispute Board shall comprise a  
3 Chairman appointed by the President with the advice  
4 and consent of the Senate of the United States and two  
5 Members appointed by the Board's Chairman.

6 (1) The Chairman and the two members  
7 shall enjoy a term of one month on the board.

8 (A) At the end of each one-month  
9 period, the President may re-nominate  
10 the Board's Chairman to be confirmed by  
11 the Senate of the United States; the two  
12 Chairman-appointed Members may also  
13 be reappointed.

14 (2) The National Labor Dispute Board  
15 shall—

16 (A) Hear, adjudicate, or provide for  
17 the hearing or adjudication of all matters  
18 within the jurisdiction of the Board under  
19 this Act, or any other law, rule, or regula-  
20 tion, and, subject to otherwise applicable  
21 provisions of law, take final action, make  
22 any order, or issue any decision on any  
23 such matter;

24 (B) Issue orders for the stay of any  
25 action or correction of an unlawful em-  
26 ployment action including but not limited  
27 to personnel actions as defined under sec-  
28 tion 1007;

29 (C) Order any Federal agency or  
30 employee to comply with any order or de-  
31 cision issued by the Board under the au-  
32 thority granted under this Act;

33 (D) Appoint a Special Counsel to  
34 handle disputes in a district court;

1 (i) Should a party to a pro-  
2 ceeding appeal the Board's findings,  
3 they shall take those claims to a dis-  
4 trict court for further adjudication.

5 (I) No controversy,  
6 complaint, or any other pro-  
7 ceeding under the jurisdiction  
8 of the Board shall be heard by  
9 a court of the United States  
10 without first being heard by  
11 the Board, unless such com-  
12 plaint or proceeding falls un-  
13 der the original jurisdiction of  
14 the Supreme Court, in which  
15 it shall be heard solely by the  
16 Supreme Court.

17 (E) Promulgate regulations with  
18 the approval of the President to ensure  
19 the proper maintenance of the Federal la-  
20 bor force;

21 (F) Have a seal that shall be judi-  
22 cially noted.

23 (3) Any Member of the Board shall—

24 (A) Issue subpoenas requiring the  
25 attendance and presentation of testimony  
26 of any individual, and the production of  
27 documentary or other evidence from any  
28 relevant place;

29 (B) Order the taking of depositions  
30 from and responses to written interroga-  
31 tories by any individual; and

32 (C) Administer such oaths or affir-  
33 mations that may be necessary to perform



1           the duties of their office or to fulfil the  
2           functions of the Board.

3           (4) In the case of contumacy or failure to  
4           obey a subpoena or order issued under the au-  
5           thority of the Board, upon petition by the  
6           Board's Chairman, a United States district  
7           court shall issue an order requiring such person  
8           to comply with such order created under the au-  
9           thority of the Board. Any failure to obey the or-  
10          der of the court shall be punished by the court  
11          as a contempt thereof.

12          (5) The Equal Opportunity Employment  
13          Commission, Merit System Protection Board,  
14          Federal Labor Relations Authority, Office of  
15          Personnel Management, and Office of Govern-  
16          ment Ethics and all of their officers are hereby  
17          abolished.

18          (6) All provisions regarding rulemaking or  
19          administrative procedure contained within Title  
20          5 of the United States Code shall apply neither  
21          to the Board and the rules, regulations, and or-  
22          ders created by it nor to the activities performed  
23          by it.

24          (7) The National Labor Dispute Board  
25          may keep a record of all Federal employees.

26          (8) The National Labor Dispute Board  
27          shall have the authority to create a mandatory  
28          system for the reporting of disciplinary action  
29          and hiring if they find such a system is neces-  
30          sary.

31          (9) No Member of the Board shall hold a  
32          position in another branch of the United States  
33          Federal or municipal governments while serv-  
34          ing on the Board.

1           (10) Members of the Board may be fired  
2           by the President of the United States for failure  
3           to perform the tasks outlined under section  
4           1005.

5           (11) The National Labor Dispute Board  
6           shall have the authority to create any order to  
7           enforce the provisions of this section, but it shall  
8           not order the President or any court to perform  
9           any action under the authority granted to it un-  
10          der section 1005.

11   **SEC. 1006. MERIT SYSTEM PRINCIPLES.**

12          (a) IN GENERAL.—It is the finding of Congress  
13          that the Federal Government exercise fair and open  
14          recruitment, competition, and employment practices  
15          free of political influence or other nonmerit factors.

16          (b) THE MERIT SYSTEM PRINCIPLES.—

17               (1) Recruitment to Executive Branch  
18               agencies shall be from qualified individuals from  
19               appropriate sources in an endeavor to achieve a  
20               workforce from all segments of society, and se-  
21               lection and advancement shall be determined  
22               solely on the basis of relative ability, knowledge,  
23               and skills, after fair and open competition which  
24               shall assure that all receive equal opportunity.

25               (2) All employees and applicants for em-  
26               ployment shall receive fair and equitable treat-  
27               ment in all aspects of personnel management  
28               without regard to political affiliation, race, color,  
29               religion, national origin, sex, age, or handicap-  
30               ping condition, and with proper regard for their  
31               privacy and constitutional rights.

32               (3) Equal reward shall be provided for  
33               work of equal value, and appropriate incentives

1 and recognition should be provided for excel-  
2 lence in performance.

3 (4) All employees shall maintain high  
4 standards of integrity, conduct, and concern for  
5 the public interest.

6 (5) The Federal workforce shall be used  
7 efficiently and effectively.

8 (6) Employees shall be retained on the ba-  
9 sis of the adequacy of their performance; inade-  
10 quate performance should be corrected; and  
11 employees shall be separated based upon who  
12 cannot or will not improve his performance to  
13 meet required standards.

14 (7) Employees should be provided with ef-  
15 fective education and training in cases in which  
16 such education and training would result in bet-  
17 ter organizational and individual performance.

18 (8) Employees shall be protected against  
19 arbitrary action, personal favoritism, or coer-  
20 cion for any reason; and shall be prohibited from  
21 influencing the results of any election by using  
22 their public office as an aid.

23 (c) ENFORCEMENT.—The President and the Na-  
24 tional Labor Dispute Board may jointly create any ap-  
25 propriate regulations to enforce the policies created  
26 under section 1006.

27 **SEC. 1007. PROHIBITED PERSONNEL PRACTICES.**

28 (a) DEFINITION.—For the purposes of this sec-  
29 tion, a “personnel practice” means—

- 30 (1) An appointment;  
31 (2) A promotion;  
32 (3) A disciplinary or corrective action;  
33 (4) A transfer or reassignment;  
34 (5) A reinstatement;

- 1 (6) A restoration;
- 2 (7) A re-employment;
- 3 (8) A performance evaluation;
- 4 (9) A decision concerning benefits or
- 5 awards, or concerning education or training;
- 6 (10) A decision regarding examination;
- 7 (11) The implementation of or enforce-
- 8 ment of any nondisclosure policy, form, or
- 9 agreement; and
- 10 (12) Any other significant change in du-
- 11 ties, responsibilities, or working conditions.

12 (b) RESTRICTIONS.—Any employee who has au-

13 thority to take, direct others to take, recommend, or

14 approve any personnel action, shall not, with respect

15 to such authority—

16 (1) Discriminate for or against any em-

17 ployee or applicant for employment on the basis

18 of—

19 (A) Race, color, religion, sex, or na-

20 tional origin;

21 (B) Age;

22 (C) Sex;

23 (D) Handicapping condition; and

24 (E) Political affiliation or action.

25 (2) Solicit or consider any recommenda-

26 tion or statement, oral or written, with respect

27 to any individual who requests or is under con-

28 sideration for any personnel action unless such

29 recommendation or statement is based on the

30 personal knowledge or records of the person

31 furnishing it and consists of—

32 (A) An evaluation of the work per-

33 formance, ability, aptitude, or general

34 qualifications of such individual; or

1 (B) An evaluation of the character,  
2 loyalty, or suitability of such individual.

3 (3) Coerce the political activity of any per-  
4 son (including the providing of any political con-  
5 tribution or service), or take any action against  
6 or for any employee or applicant for employ-  
7 ment as a reprisal for the refusal or reward for  
8 the acceptance of any person to engage in such  
9 political activity.

10 (4) Deceive or willfully obstruct any per-  
11 son with respect to his right to compete for em-  
12 ployment;

13 (5) Influence any person to withdraw from  
14 competition for any position for the purpose of  
15 improving or injuring his prospects or the pro-  
16 spects of another person's employment;

17 (6) Grant any preference or advantage not  
18 authorized by law, rule, or regulation to any em-  
19 ployee or applicant for employment (including  
20 defining the scope or manner of competition or  
21 the requirements for any position) for the pur-  
22 pose of improving or injuring the prospects of  
23 any particular person for employment;

24 (7) Appoint, employ, promote, advance, or  
25 advocate for appointment, employment, promo-  
26 tion, or advancement, in or to a civilian position  
27 any individual who has substantial negative or  
28 positive relationship of such employee if such  
29 position is in the agency in which such employee  
30 is serving as a public official or over which such  
31 employee exercises jurisdiction or control as  
32 such an official;

33 (8) Take or fail to take, or threaten to take  
34 or fail to take, a personnel action with respect to

1 any employee or applicant for employment be-  
2 cause of any disclosure of information by an em-  
3 ployee or applicant which the employee or appli-  
4 cant reasonably believes evidences any violation  
5 of law, regulation, rule, or gross mismanage-  
6 ment, abuse of authority, or a substantial and  
7 specific danger to public interest or safety;

8 (9) Take or take to take, or threaten to  
9 take or fail to take, any personnel action against  
10 any employee or applicant for employment be-  
11 cause of—

12 (A) The exercise of any appeal, com-  
13 plaint, or grievance right granted by any  
14 law, rule, or regulation;

15 (B) Testifying for or otherwise law-  
16 fully assisting any individual or organiza-  
17 tion;

18 (C) Cooperation with or disclosure  
19 of information to the Congress, Inspec-  
20 tors General, or any other proper investi-  
21 gatory authority; or

22 (D) Refusal to obey an order that  
23 would require the individual to violate a  
24 law, rule, or regulation.

25 (10) Discriminate for or against any em-  
26 ployee or applicant for employment on the basis  
27 of conduct which does not adversely affect the  
28 performance of the employee or applicant or the  
29 performance of others;

30 (11) Take or fail to take any other person-  
31 nel action if the taking of or failure to take such  
32 action violates any law, rule, or regulation im-  
33 plementing, or directly concerning, the merit  
34 system principles contained in section 1006(b);

1 (12) Implement or enforce any nondisclo-  
2 sure policy, form, or agreement, if such policy,  
3 form, or agreement does not contain the follow-  
4 ing statement:

5 “These provisions are consistent  
6 with and do not supersede, conflict with,  
7 or otherwise alter the employee obliga-  
8 tions, rights, or liabilities created by exist-  
9 ing statute or Executive Order relating to  
10 (1) classified information, (2) communica-  
11 tions to and with Congress, 93) the report-  
12 ing to an Inspector General of a violation  
13 of any law, rule, or regulation, or misman-  
14 agement, a gross waste of funds, an abuse  
15 of authority, or a substantial and specific  
16 danger to public health or safety, or (4)  
17 any other whistleblower protection. The  
18 definitions, requirements, obligations,  
19 rights, sanctions, and liabilities created by  
20 controlling Executive Orders and statu-  
21 tory provisions are incorporated into this  
22 agreement and are controlling.”

23 (c) JURISDICTION.—Any personnel action as de-  
24 fined by section 1007(a) of this section shall be under  
25 the jurisdiction of the National Labor Dispute Board.

26 (d) CORRECTIVE ACTION.—Any individual who  
27 the National Labor Dispute Board, head of an Execu-  
28 tive Branch agency, or a judge of a United States finds  
29 has performed an action prohibited under section  
30 1007(b) shall—

31 (1) For the first prohibited-action offense  
32 be suspended for not less than two days and de-  
33 moted if thought appropriate by the head of  
34 their agency;

1           (2) For the second prohibited-action of-  
2           fense be suspended not less than one week and  
3           demoted;

4           (3) For the third prohibited-action offense  
5           by removed from their agency.

6           (e) FURTHER JURISDICTION.—Any personnel ac-  
7           tion prohibited by 1007(b) shall be under the jurisdic-  
8           tion of the National Labor Dispute Board.

9           **SECTION 1008. ADVERSE ACTION.**

10          (a) EXEMPTION.—This section does not apply to  
11          employees who are employed by and with the advice  
12          and consent of the Senate of the United States.

13          (b) IN GENERAL.—An employee who is sus-  
14          pended, fired, removed from duties, demoted, or oth-  
15          erwise disciplined is entitled to—

16                (1) Notice of the disciplinary action and  
17                stated specific reason for the action;

18                (2) Representation by an attorney pro-  
19                vided by the Office of the Public Defender; and

20                (3) An appeal to the National Labor Dis-  
21                pute Board.

22          (c) CORRECTIVE ACTION.—The National Labor  
23          Dispute Board shall overturn, correct, or issue orders  
24          for stay for any disciplinary action as according to reg-  
25          ulation, law, and principles set out by this Act and  
26          proper conduct, and that disciplinary actions shall be  
27          under the jurisdiction of the National Labor Dispute  
28          Board.

29          **SECTION 1009. CONFLICTING LEGISLATION.**



1           (a) IN GENERAL.—All portions of legislation cur-  
2   rently in effect at the time of this Act’s passage that  
3   conflict with the contents of this Act shall be null and  
4   void.

