

**AMENDMENT TO H.R. 2662, AS REPORTED
OFFERED BY MR. BURGESS OF TEXAS**

Strike title I and insert the following (and amend
the table of contents accordingly):

1 **TITLE I—REMOVAL OR TRANS-**
2 **FER OF INSPECTORS GEN-**
3 **ERAL; PLACEMENT ON NON-**
4 **DUTY STATUS**

5 **SEC. 101. REMOVAL OR TRANSFER OF INSPECTORS GEN-**
6 **ERAL; PLACEMENT ON NON-DUTY STATUS.**

7 (a) IN GENERAL.—The Inspector General Act of
8 1978 (5 U.S.C. App.) is amended—

9 (1) in section 3(b)—

10 (A) by inserting “(1)(A)” after “(b)”;

11 (B) in paragraph (1), as so designated—

12 (i) in subparagraph (A), as so des-
13 ignated, in the second sentence—

14 (I) by striking “reasons” and in-
15 serting the following: “substantive ra-
16 tionale, including detailed and case-
17 specific reasons,”; and

18 (II) by inserting “(including to
19 the Committee on Homeland Security

1 and Governmental Affairs of the Sen-
2 ate, the Committee on Oversight and
3 Reform of the House of Representa-
4 tives, and any other congressional
5 committee that has jurisdiction with
6 respect to that Inspector General)”
7 after “Houses of Congress”; and
8 (ii) by adding at the end the fol-
9 lowing:

10 “(B) If there is an open or completed inquiry into
11 an Inspector General that relates to the removal or trans-
12 fer of the Inspector General under subparagraph (A), the
13 written communication required under that subparagraph
14 shall—

15 “(i) identify each entity that is conducting, or
16 that conducted, the inquiry; and

17 “(ii) in the case of a completed inquiry, contain
18 the findings made during the inquiry.”; and

19 (C) by adding at the end the following:

20 “(2)(A) Subject to the other provisions of this para-
21 graph, only the President may place an Inspector General
22 on non-duty status.

23 “(B) If the President places an Inspector General on
24 non-duty status, the President shall communicate in writ-
25 ing the substantive rationale, including detailed and case-

1 specific reasons, for the change in status to both Houses
2 of Congress (including to the Committee on Homeland Se-
3 curity and Governmental Affairs of the Senate, the Com-
4 mittee on Oversight and Reform of the House of Rep-
5 resentatives, and any other congressional committee that
6 has jurisdiction with respect to that Inspector General)
7 not later than 15 days before the date on which the change
8 in status takes effect, except that the President may sub-
9 mit that communication on the date on which the change
10 in status takes effect if—

11 “(i) the President has made a determination
12 that the continued presence of the Inspector General
13 in the workplace poses a threat described in any of
14 clauses (i) through (iv) of section 6329b(b)(2)(A) of
15 title 5, United States Code; and

16 “(ii) in the communication, the President in-
17 cludes a report on the determination described in
18 clause (i), which shall include—

19 “(I) a specification of which clause of sec-
20 tion 6329b(b)(2)(A) of title 5, United States
21 Code, the President has determined applies
22 under clause (i) of this subparagraph;

23 “(II) the substantive rationale, including
24 detailed and case-specific reasons, for the deter-
25 mination made under clause (i);

1 “(III) an identification of each entity that
2 is conducting, or that conducted, any inquiry
3 upon which the determination under clause (i)
4 was made; and

5 “(IV) in the case of an inquiry described
6 in subclause (III) that is completed, the find-
7 ings made during that inquiry.

8 “(C) The President may not place an Inspector Gen-
9 eral on non-duty status during the 30-day period pre-
10 ceding the date on which the Inspector General is removed
11 or transferred under paragraph (1)(A) unless the Presi-
12 dent—

13 “(i) has made a determination that the contin-
14 ued presence of the Inspector General in the work-
15 place poses a threat described in any of clauses (i)
16 through (iv) of section 6329b(b)(2)(A) of title 5,
17 United States Code; and

18 “(ii) not later than the date on which the
19 change in status takes effect, submits to both
20 Houses of Congress (including to the Committee on
21 Homeland Security and Governmental Affairs of the
22 Senate, the Committee on Oversight and Reform of
23 the House of Representatives, and any other con-
24 gressional committee that has jurisdiction with re-
25 spect to that Inspector General) a written commu-

1 nication that contains the information required
2 under subparagraph (B), including the report re-
3 quired under clause (ii) of that subparagraph.

4 “(D) For the purposes of this paragraph—

5 “(i) the term ‘Inspector General’—

6 “(I) means an Inspector General who was
7 appointed by the President, without regard to
8 whether the Senate provided advice and consent
9 with respect to that appointment; and

10 “(II) includes the Inspector General of an
11 establishment, the Special Inspector General for
12 Afghanistan Reconstruction, the Special Inspec-
13 tor General for the Troubled Asset Relief Pro-
14 gram, and the Special Inspector General for
15 Pandemic Recovery; and

16 “(ii) a reference to the removal or transfer of
17 an Inspector General under paragraph (1), or to the
18 written communication described in that paragraph,
19 shall be considered to be—

20 “(I) in the case of the Special Inspector
21 General for Afghanistan Reconstruction, a ref-
22 erence to section 1229(c)(6) of the National
23 Defense Authorization Act for Fiscal Year 2008
24 (Public Law 110–181; 122 Stat. 379);

1 “(II) in the case of the Special Inspector
2 General for the Troubled Asset Relief Program,
3 a reference to section 121(b)(4) of the Emer-
4 gency Economic Stabilization Act of 2008 (12
5 U.S.C. 5231(b)(4)); and

6 “(III) in the case of the Special Inspector
7 General for Pandemic Recovery, a reference to
8 section 4018(b)(3) of the CARES Act (15
9 U.S.C. 9053(b)(3)).”; and
10 (2) in section 8G(e)—

11 (A) in paragraph (1), by inserting “or
12 placement on non-duty status” after “a re-
13 moval”;

14 (B) in paragraph (2)—

15 (i) by inserting “(A)” after “(2)”;

16 (ii) in subparagraph (A), as so des-
17 ignated, in the first sentence—

18 (I) by striking “reasons” and in-
19 serting the following: “substantive ra-
20 tionale, including detailed and case-
21 specific reasons,”; and

22 (II) by inserting “(including to
23 the Committee on Homeland Security
24 and Governmental Affairs of the Sen-
25 ate, the Committee on Oversight and

1 Reform of the House of Representa-
2 tives, and any other congressional
3 committee that has jurisdiction with
4 respect to that Inspector General)”
5 after “Houses of Congress”; and

6 (iii) by adding at the end the fol-
7 lowing:

8 “(B) If there is an open or completed inquiry into
9 an Inspector General that relates to the removal or trans-
10 fer of the Inspector General under subparagraph (A), the
11 written communication required under that subparagraph
12 shall—

13 “(i) identify each entity that is conducting, or
14 that conducted, the inquiry; and

15 “(ii) in the case of a completed inquiry, contain
16 the findings made during the inquiry.”; and

17 (C) by adding at the end the following:

18 “(3)(A) Subject to the other provisions of this para-
19 graph, only the head of the applicable designated Federal
20 entity (referred to in this paragraph as the ‘covered offi-
21 cial’) may place an Inspector General on non-duty status.

22 “(B) If a covered official places an Inspector General
23 on non-duty status, the covered official shall communicate
24 in writing the substantive rationale, including detailed and
25 case-specific reasons, for the change in status to both

1 Houses of Congress (including to the Committee on
2 Homeland Security and Governmental Affairs of the Sen-
3 ate, the Committee on Oversight and Reform of the House
4 of Representatives, and any other congressional committee
5 that has jurisdiction with respect to that Inspector Gen-
6 eral) not later than 15 days before the date on which the
7 change in status takes effect, except that the covered offi-
8 cial may submit that communication on the date on which
9 the change in status takes effect if—

10 “(i) the covered official has made a determina-
11 tion that the continued presence of the Inspector
12 General in the workplace poses a threat described in
13 any of clauses (i) through (iv) of section
14 6329b(b)(2)(A) of title 5, United States Code; and

15 “(ii) in the communication, the covered official
16 includes a report on the determination described in
17 clause (i), which shall include—

18 “(I) a specification of which clause of sec-
19 tion 6329b(b)(2)(A) of title 5, United States
20 Code, the covered official has determined ap-
21 plies under clause (i) of this subparagraph;

22 “(II) the substantive rationale, including
23 detailed and case-specific reasons, for the deter-
24 mination made under clause (i);

1 “(III) an identification of each entity that
2 is conducting, or that conducted, any inquiry
3 upon which the determination under clause (i)
4 was made; and

5 “(IV) in the case of an inquiry described
6 in subclause (III) that is completed, the find-
7 ings made during that inquiry.

8 “(C) A covered official may not place an Inspector
9 General on non-duty status during the 30-day period pre-
10 ceding the date on which the Inspector General is removed
11 or transferred under paragraph (2)(A) unless the covered
12 official—

13 “(i) has made a determination that the contin-
14 ued presence of the Inspector General in the work-
15 place poses a threat described in any of clauses (i)
16 through (iv) of section 6329b(b)(2)(A) of title 5,
17 United States Code; and

18 “(ii) not later than the date on which the
19 change in status takes effect, submits to both
20 Houses of Congress (including to the Committee on
21 Homeland Security and Governmental Affairs of the
22 Senate, the Committee on Oversight and Reform of
23 the House of Representatives, and any other con-
24 gressional committee that has jurisdiction with re-
25 spect to that Inspector General) a written commu-

1 nication that contains the information required
2 under subparagraph (B), including the report re-
3 quired under clause (ii) of that subparagraph.

4 “(D) Nothing in this paragraph may be construed to
5 limit or otherwise modify—

6 “(i) any statutory protection that is afforded to
7 an Inspector General; or

8 “(ii) any other action that a covered official
9 may take under law with respect to an Inspector
10 General.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
12 Section 12(3) of the Inspector General Act of 1978 (5
13 U.S.C. App.) is amended by inserting “except as otherwise
14 expressly provided,” before “the term”.

 Strike title III and insert the following (and amend
 the table of contents accordingly):

15 **TITLE III—VACANCY IN POSI-**
16 **TION OF INSPECTOR GEN-**
17 **ERAL**

18 **SEC. 301. VACANCY IN POSITION OF INSPECTOR GENERAL.**

19 (a) IN GENERAL.—Section 3 of the Inspector General
20 Act of 1978 (5 U.S.C. App.) is amended by adding at the
21 end the following:

22 “(h)(1) In this subsection—

1 “(A) the term ‘first assistant to the position of
2 Inspector General’ means, with respect to an Office
3 of Inspector General—

4 “(i) an individual who, as of the day before
5 the date on which the Inspector General dies,
6 resigns, or otherwise becomes unable to perform
7 the functions and duties of that position—

8 “(I) is serving in a position in that
9 Office; and

10 “(II) has been designated in writing
11 by the Inspector General, through an order
12 of succession or otherwise, as the first as-
13 sistant to the position of Inspector Gen-
14 eral; or

15 “(ii) if the Inspector General has not made
16 a designation described in clause (i)(II)—

17 “(I) the Principal Deputy Inspector
18 General of that Office, as of the day before
19 the date on which the Inspector General
20 dies, resigns, or otherwise becomes unable
21 to perform the functions and duties of that
22 position; or

23 “(II) if there is no Principal Deputy
24 Inspector General of that Office, the Dep-
25 uty Inspector General of that Office, as of

1 the day before the date on which the In-
2 spector General dies, resigns, or otherwise
3 becomes unable to perform the functions
4 and duties of that position; and

5 “(B) the term ‘Inspector General’—

6 “(i) means an Inspector General who is ap-
7 pointed by the President, by and with the ad-
8 vice and consent of the Senate; and

9 “(ii) includes the Inspector General of an
10 establishment, the Special Inspector General for
11 the Troubled Asset Relief Program, and the
12 Special Inspector General for Pandemic Recov-
13 ery.

14 “(2) If an Inspector General dies, resigns, or is other-
15 wise unable to perform the functions and duties of the po-
16 sition—

17 “(A) section 3345(a) of title 5, United States
18 Code, shall not apply;

19 “(B) subject to paragraph (3), the first assist-
20 ant to the position of Inspector General shall per-
21 form the functions and duties of the Inspector Gen-
22 eral temporarily in an acting capacity subject to the
23 time limitations of section 3346 of title 5, United
24 States Code; and

1 “(C) notwithstanding subparagraph (B), and
2 subject to paragraphs (3) and (4), the President
3 (and only the President) may direct an officer or
4 employee of any Office of an Inspector General to
5 perform the functions and duties of the Inspector
6 General temporarily in an acting capacity subject to
7 the time limitations of section 3346 of title 5,
8 United States Code, only if—

9 “(i) during the 365-day period preceding
10 the date of death, resignation, or beginning of
11 inability to serve of the Inspector General, the
12 officer or employee served in a position in an
13 Office of an Inspector General for not less than
14 90 days, except that—

15 “(I) the requirement under this clause
16 shall not apply if the officer is an Inspec-
17 tor General; and

18 “(II) for the purposes of this subpara-
19 graph, performing the functions and duties
20 of an Inspector General temporarily in an
21 acting capacity does not qualify as service
22 in a position in an Office of an Inspector
23 General;

24 “(ii) the rate of pay for the position of the
25 officer or employee described in clause (i) is

1 equal to or greater than the minimum rate of
2 pay payable for a position at GS-15 of the
3 General Schedule;

4 “(iii) the officer or employee has dem-
5 onstrated ability in accounting, auditing, finan-
6 cial analysis, law, management analysis, public
7 administration, or investigations; and

8 “(iv) not later than 30 days before the
9 date on which the direction takes effect, the
10 President communicates in writing to both
11 Houses of Congress (including to the Com-
12 mittee on Homeland Security and Govern-
13 mental Affairs of the Senate, the Committee on
14 Oversight and Reform of the House of Rep-
15 resentatives, and any other congressional com-
16 mittee that has jurisdiction with respect to that
17 Inspector General) the substantive rationale, in-
18 cluding the detailed and case-specific reasons,
19 for such direction, including the reason for the
20 direction that someone other than the individual
21 who is performing the functions and duties of
22 the Inspector General temporarily in an acting
23 capacity (as of the date on which the President
24 issues that direction) perform those functions
25 and duties temporarily in an acting capacity.

1 “(3) An individual may perform the functions and
2 duties of an Inspector General temporarily and in an act-
3 ing capacity under subparagraph (B) or (C) of paragraph
4 (2), with respect to only 1 Inspector General position at
5 any given time.

6 “(4) If the President makes a direction under para-
7 graph (2)(C), during the 30-day period preceding the date
8 on which the direction of the President takes effect, the
9 functions and duties of the position of the applicable In-
10 spector General shall be performed by—

11 “(A) the first assistant to the position of In-
12 spector General; or

13 “(B) the individual performing those functions
14 and duties temporarily in an acting capacity, as of
15 the date on which the President issues that direc-
16 tion, if that individual is an individual other than
17 the first assistant to the position of Inspector Gen-
18 eral.”.

19 (b) **RULE OF CONSTRUCTION.**—Nothing in the
20 amendment made by subsection (a) may be construed to
21 limit the applicability of sections 3345 through 3349d of
22 title 5, United States Code (commonly known as the “Fed-
23 eral Vacancies Reform Act of 1998”), other than with re-
24 spect to section 3345(a) of that title.

25 (c) **EFFECTIVE DATE.**—

1 (1) DEFINITION.—In this subsection, the term
2 “Inspector General” has the meaning given the term
3 in subsection (h)(1)(B) of section 3 of the Inspector
4 General Act of 1978 (5 U.S.C. App.), as added by
5 subsection (a) of this section.

6 (2) APPLICABILITY.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (B), this section, and the amend-
9 ments made by this section, shall take effect on
10 the date of enactment of this Act.

11 (B) EXISTING VACANCIES.—If, as of the
12 date of enactment of this Act, an individual is
13 performing the functions and duties of an In-
14 spector General temporarily in an acting capac-
15 ity, this section, and the amendments made by
16 this section, shall take effect with respect to
17 that Inspector General position on the date that
18 is 30 days after the date of enactment of this
19 Act.

Page 27, line 2, insert before the closing quote the
following new subsections:

20 “(h) APPLICABILITY TO FEDERAL EMPLOYEES.—No
21 authority granted in this section may be used on a former
22 Federal employee who was not employed as a Federal em-
23 ployee on the date of the enactment of this section.

1 “(i) PAYMENT OF LEGAL FEES.—Any Inspector
2 General who uses the authority granted in this section
3 shall pay for the legal representation of the individual
4 whose testimony they are seeking to compel by subpoena.”

