

**AMENDMENT TO H.R. 8773, AS REPORTED
OFFERED BY MR. CONNOLLY OF VIRGINIA**

At the end of the bill (before the short title), insert
the following:

1 SEC. _____. (a) None of the funds made available in
2 this Act may be obligated or expended by any agency—

3 (1) to except from the competitive service any
4 position in the competitive service unless such posi-
5 tion is placed—

6 (A) in any of the schedules A through E
7 as described in section 6.2 of title 5, Code of
8 Federal Regulations, as in effect on September
9 30, 2020; and

10 (B) under the terms and conditions under
11 part 6 of such title as in effect on such date;

12 (2) to transfer a position in the excepted service
13 to any schedule other than a schedule described in
14 subsection (1)(A);

15 (3) to transfer any occupied position from the
16 competitive service or excepted service into schedule
17 C of subpart C of part 213 of title 5, Code of Fed-
18 eral Regulations, without the prior written consent
19 of the Director;

1 (4) during any four-year presidential term, to
2 transfer, from the competitive service into the ex-
3 cepted service, a total number of employees that is
4 more than one percent of the total number of em-
5 ployees at such agency as of the first day of such
6 term, or five employees, whichever is greater; or

7 (5) notwithstanding any other provision of this
8 section—

9 (A) to transfer an employee who occupies
10 a position in the excepted service to an excepted
11 service schedule other than the schedule in
12 which such position is located without the ex-
13 press written consent of such employee; or

14 (B) to transfer an employee who occupies
15 a position in the competitive service to the ex-
16 cepted service without such employee's prior
17 written consent.

18 (b) Notwithstanding section 7425(b) of title 38,
19 United States Code, this section shall apply to positions
20 under chapter 73 or 74 of such title.

21 (c) Not later than March 15 of each calendar year,
22 the Director shall submit to Congress a report on the im-
23 mediately preceding calendar year that lists—

24 (1) each position that was transferred in such
25 year from the competitive service to the excepted

1 service and a justification as to why each position
2 was so transferred; and

3 (2) any violation of this section occurring dur-
4 ing such year.

5 (d) The Director shall issue regulations to implement
6 this section.

7 (e) In this section—

8 (1) the term “agency” means any department,
9 agency, or instrumentality of the Federal Govern-
10 ment;

11 (2) the term “competitive service” has the
12 meaning given such term in section 2102 of title 5,
13 United States Code;

14 (3) the term “Director” means the Director of
15 the Office of Personnel Management;

16 (4) the term “excepted service” has the mean-
17 ing given such term in section 2103 of title 5,
18 United States Code; and

19 (5) the term “employee” has the meaning given
20 such term in section 2105 of title 5, United States
21 Code.

