

Union Calendar No. 448

113TH CONGRESS
2^D SESSION

H. R. 5169

[Report No. 113–603]

To amend title 5, United States Code, to enhance accountability within the Senior Executive Service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2014

Mr. WALBERG (for himself and Mr. ISSA) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

SEPTEMBER 16, 2014

Additional sponsor: Mr. CARTER

SEPTEMBER 16, 2014

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend title 5, United States Code, to enhance accountability within the Senior Executive Service, 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 “Senior Executive Serv-
5 ice Accountability Act”.

6 **SEC. 2. BIENNIAL JUSTIFICATION OF POSITIONS.**

7 Section 3133(a)(2) of title 5, United States Code, is
8 amended by inserting after “positions” the following: “,
9 with a justification for each position (by title and organi-
10 zational location) and the specific result expected from
11 each position, including the impact of such result on the
12 agency mission,”.

13 **SEC. 3. EXTENSION OF PROBATIONARY PERIOD.**

14 (a) IN GENERAL.—Section 3393(d) of title 5, United
15 States Code, is amended by striking “1-year” and insert-
16 ing “2-year”.

17 (b) CONFORMING AMENDMENT.—Section 3592(a)(1)
18 of such title is amended by striking “1-year” and inserting
19 “2-year”.

20 **SEC. 4. MODIFICATION OF PAY RETENTION FOR SENIOR**
21 **EXECUTIVE SERVICE MEMBERS REMOVED**
22 **FOR UNDER PERFORMANCE.**

23 Section 3594(c)(1)(B) of title 5, United States Code,
24 is amended to read as follows:

1 “(B)(i) any career appointee placed under
 2 subsection (a) or (b)(2) of this section shall be
 3 entitled to receive basic pay at the highest of—

4 “(I) the rate of basic pay in effect for
 5 the position in which placed;

6 “(II) the rate of basic pay in effect at
 7 the time of the placement for the position
 8 the career appointee held in the civil serv-
 9 ice immediately before being appointed to
 10 the Senior Executive Service; or

11 “(III) the rate of basic pay in effect
 12 for the career appointee immediately before
 13 being placed under subsection (a) or (b) of
 14 this section; and

15 “(ii) any career appointee placed under
 16 subsection (b)(1) of this section shall be entitled
 17 to receive basic pay at the rate of basic pay in
 18 effect for the position in which placed; and”.

19 **SEC. 5. REQUIREMENT THAT PERFORMANCE REQUIRE-**
 20 **MENTS BE ESTABLISHED IN ADVANCE.**

21 Section 4312(b)(1) of title 5, United States Code, is
 22 amended—

23 (1) by striking “on or” and inserting “not later
 24 than 30 calendar days”; and

1 (2) by inserting “in writing” after “commu-
2 nicated”.

3 **SEC. 6. AMENDMENTS TO ADVERSE ACTION PROVISIONS**
4 **WITH RESPECT TO CAREER APPOINTEES IN**
5 **THE SENIOR EXECUTIVE SERVICE.**

6 (a) SUSPENSION FOR 14 DAYS OR LESS FOR SENIOR
7 EXECUTIVE SERVICE EMPLOYEE.—Paragraph (1) of Sec-
8 tion 7501 of title 5, United States Code, is amended to
9 read as follows:

10 “(1) ‘employee’ means—

11 “(A) an individual in the competitive serv-
12 ice who is not serving a probationary period or
13 trial period under an initial appointment or who
14 has completed 1 year of current continuous em-
15 ployment in the same or similar positions under
16 other than a temporary appointment limited to
17 1 year or less; or

18 “(B) a career appointee in the Senior Ex-
19 ecutive Service who—

20 “(i) has completed the probationary
21 period prescribed under section 3393(d); or

22 “(ii) was covered by the provisions of
23 subchapter II of this chapter immediately
24 before appointment to the Senior Executive
25 Service; and”.

1 (b) MODIFICATION OF CAUSE AND PROCEDURE FOR
2 SUSPENSION AND TERMINATION.—

3 (1) IN GENERAL.—Section 7543 of title 5,
4 United States Code, is amended—

5 (A) in subsection (a), by striking “mis-
6 conduct,” and inserting “such cause as would
7 promote the efficiency of the service, mis-
8 conduct,”; and

9 (B) in subsection (b)(1), by striking “30”
10 and inserting “15”.

11 (2) CONFORMING AMENDMENTS.—Subchapter
12 V of chapter 35 of title 5, United States Code, is
13 amended—

14 (A) in section 3593—

15 (i) in subsection (a)(2), by striking
16 “misconduct,” and inserting “such cause
17 as would promote the efficiency of the
18 service, misconduct,”; and

19 (ii) in subsection (b), by striking
20 “misconduct,” and inserting “such cause
21 as would promote the efficiency of the
22 service, misconduct,”; and

23 (B) in section 3594(a), by striking “mis-
24 conduct,” and inserting “such cause as would

1 promote the efficiency of the service, mis-
2 conduct,”.

3 **SEC. 7. MANDATORY LEAVE FOR CAREER APPOINTEES IN**
4 **THE SENIOR EXECUTIVE SERVICE.**

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

8 **“§ 6329. Mandatory leave for Senior Executive Serv-**
9 **ice career appointees**

10 “(a) In this section—

11 “(1) the term ‘employee’ means—

12 “(A) a career appointee in the Senior Ex-
13 ecutive Service who—

14 “(i) has completed the probationary
15 period prescribed under section 3393(d) of
16 this title; or

17 “(ii) was covered by the provisions of
18 subchapter II of chapter 75 of this title
19 immediately before appointment to the
20 Senior Executive Service; and

21 “(B) who has received written notice of re-
22 moval from the civil service under subchapter V
23 of chapter 75 of this title; and

1 “(2) the term ‘mandatory leave’ means, with re-
2 spect to an employee, an absence with pay but with-
3 out duty during which such employee—

4 “(A) shall be charged accrued annual leave
5 for the period of such absence; and

6 “(B) may not accrue any annual leave
7 under section 6303 for the period of such ab-
8 sence.

9 “(b) Under regulations prescribed by the Office of
10 Personnel Management, an agency may place an employee
11 on mandatory leave for misconduct, neglect of duty, mal-
12 feasance, or such cause as would promote the efficiency
13 of the service.

14 “(c) If an agency determines that an employee should
15 be placed on mandatory leave under subsection (b), such
16 leave shall begin no earlier than the date on which the
17 employee received written notice of a removal under sub-
18 chapter V of chapter 75.

19 “(d) If a final order or decision is issued in favor
20 of such employee with respect to removal under sub-
21 chapter V of chapter 75 by the agency, the Merit Systems
22 Protection Board, or the United States Court of Appeals
23 for the Federal Circuit, any annual leave that is charged
24 to an employee by operation of this section shall be re-
25 stored to the applicable leave account of such employee.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 of chapter 63 of title 5, United States Code, is amended
3 by adding after the item relating to section 6328 the fol-
4 lowing new item:

“6329. Mandatory leave for Senior Executive Service career appointees.”.

5 (c) REGULATIONS.—Not later than 6 months after
6 the date of enactment of this Act, the Director of the Of-
7 fice of Personnel Management shall prescribe regulations
8 with respect to the leave provided by the amendment in
9 subsection (a).

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