

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2579**

OFFERED BY _____

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Government Employee
3 Accountability Act”.

4 SEC. 2. SUSPENSION FOR 14 DAYS OR LESS FOR SENIOR EX-

5 EXECUTIVE SERVICE EMPLOYEES.

6 Paragraph (1) of section 7501 of title 5, United
7 States Code, is amended to read as follows:

8 “(1) ‘employee’ means—

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

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

1 “(i) has completed the probationary
2 period prescribed under section 3393(d); or
3 “(ii) was covered by the provisions of
4 subchapter II of this chapter immediately
5 before appointment to the Senior Executive
6 Service;”.

7 **SEC. 3. INVESTIGATIVE LEAVE AND TERMINATION AU-**
8 **THORITY FOR SENIOR EXECUTIVE SERVICE**
9 **EMPLOYEES.**

10 (a) IN GENERAL.—Chapter 75 of title 5, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “SUBCHAPTER VI—INVESTIGATIVE LEAVE FOR
14 SENIOR EXECUTIVE SERVICE EMPLOYEES

15 “§ 7551. Definitions

16 “For the purposes of this subchapter—

17 “(1) ‘employee’ has the meaning given such
18 term in section 7541; and

19 “(2) ‘investigative leave’ means a temporary ab-
20 sence without duty for disciplinary reasons, of a pe-
21 riod not greater than 90 days.

22 “§ 7552. Actions covered

23 “This subchapter applies to investigative leave.

1 **“§ 7553. Cause and procedure**

2 “(a)(1) Under regulations prescribed by the Office of
3 Personnel Management, an agency may place an employee
4 on investigative leave, without loss of pay and without
5 charge to annual or sick leave, only for misconduct, ne-
6 glect of duty, malfeasance, or misappropriation of funds.

7 “(2) If an agency determines that such employee’s
8 conduct is serious or flagrant, the agency may place such
9 employee on investigative leave under this subchapter
10 without pay.

11 “(b)(1) At the end of each 45-day period during a
12 period of investigative leave implemented under this sec-
13 tion, the relevant agency shall review the investigation into
14 the employee with respect to the misconduct, neglect of
15 duty, malfeasance, or misappropriation of funds.

16 “(2) Not later than 5 business days after the end of
17 each such 45-day period, the agency shall submit a report
18 describing such review to the Committee on Oversight and
19 Government Reform of the House of Representatives and
20 the Committee on Homeland Security and Governmental
21 Affairs of the Senate.

22 “(3) At the end of a period of investigative leave im-
23 plemented under this section, the agency shall—

24 “(A) remove an employee placed on investiga-
25 tive leave under this section;

26 “(B) suspend such employee without pay; or

1 “(C) reinstate or restore such employee to duty.

2 “(4) The agency may extend the period of investiga-
3 tive leave with respect to an action under this subchapter
4 for an additional period not to exceed 90 days.

5 “(c) An employee against whom an action covered by
6 this subchapter is proposed is entitled to, before being
7 placed on investigative leave under this section—

8 “(1) at least 30 days’ advance written notice,
9 stating specific reasons for the proposed action, un-
10 less—

11 “(A) there is reasonable cause to believe
12 that the employee has committed a crime for
13 which a sentence of imprisonment can be im-
14 posed; or

15 “(B) the agency determines that the em-
16 ployee’s conduct with respect to which an action
17 covered by this subchapter is proposed is seri-
18 ous or flagrant as prescribed in regulation by
19 the Office of Personnel Management;

20 “(2) a reasonable time, but not less than 7
21 days, to answer orally and in writing and to furnish
22 affidavits and other documentary evidence in sup-
23 port of the answer;

24 “(3) be represented by an attorney or other
25 representative; and

1 “(4) a written decision and specific reasons
2 therefor at the earliest practicable date.

3 “(d) An agency may provide, by regulation, for a
4 hearing which may be in lieu of or in addition to the op-
5 portunity to answer provided under subsection (c)(2).

6 “(e) An employee against whom an action is taken
7 under this section is entitled to appeal to the Merit Sys-
8 tems Protection Board under section 7701.

9 “(f) Copies of the notice of proposed action, the an-
10 swer of the employee when written, and a summary there-
11 of when made orally, the notice of decision and reasons
12 therefor, and any order effecting an action covered by this
13 subchapter, together with any supporting material, shall
14 be maintained by the agency and shall be furnished to the
15 Merit Systems Protection Board upon its request and to
16 the employee affected upon the employee’s request.

17 “SUBCHAPTER VII—REMOVAL OF SENIOR
18 EXECUTIVE SERVICE EMPLOYEES

19 “§ 7561. **Definition**

20 “For purposes of this subchapter, the term ‘em-
21 ployee’ has the meaning given such term in section 7541.

22 “§ 7562. **Removal of Senior Executive Service employ-**
23 **ees**

24 “(a) Notwithstanding any other provision of law, the
25 head of an agency may remove an employee for neglect

1 of duty, misappropriation of funds, or malfeasance if the
2 head of the agency—

3 “(1) determines that the employee acted in a
4 manner that endangers the interest of the agency
5 mission;

6 “(2) considers the removal to be necessary or
7 advisable in the interests of the United States; and

8 “(3) determines that the procedures prescribed
9 in other provisions of law that authorize the removal
10 of such employee cannot be invoked in a manner
11 that the head of an agency considers consistent with
12 the efficiency of the Government.

13 “(b) An employee removed under this section shall
14 be notified of the reasons for such removal. Within 30
15 days after the notification, the employee is entitled to sub-
16 mit to the official designated by the head of the agency
17 statements or affidavits to show why the employee should
18 be restored to duty. If such statements and affidavits are
19 submitted, the head of the agency shall provide a written
20 response, and may restore the employee’s employment if
21 the head of the agency chooses.

22 “(c) Whenever the head of the agency removes an em-
23 ployee under the authority of this section, the head of the
24 agency shall notify Congress of such termination, and the
25 specific reasons for the action.

1 “(d) An employee against whom an action is taken
2 under this section is entitled to appeal to the Merit Sys-
3 tems Protection Board under section 7701 of this title.

4 “(e) Copies of the notice of proposed action, the an-
5 swer of the employee when written, and a summary there-
6 of when made orally, the notice of decision and reasons
7 therefor, and any order effecting an action covered by this
8 subchapter, together with any supporting material, shall
9 be maintained by the agency and shall be furnished to the
10 Merit Systems Protection Board upon its request and to
11 the employee affected upon the employee’s request.

12 “(f) A removal under this section does not affect the
13 right of the employee affected to seek or accept employ-
14 ment with any other department or agency of the United
15 States if that employee is declared eligible for such em-
16 ployment by the Director of the Office of Personnel Man-
17 agement.

18 “(g) The authority of the head of the agency under
19 this section may not be delegated.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of chapter 75 of title 5, United States
22 Code, is amended by adding after the item relating to sec-
23 tion 7543 the following:

“SUBCHAPTER VI—INVESTIGATIVE LEAVE FOR SENIOR EXECUTIVE SERVICE
EMPLOYEES

“7551. Definitions.

“7552. Actions covered.

“7553. Cause and procedure.

“SUBCHAPTER VII—REMOVAL OF SENIOR EXECUTIVE SERVICE EMPLOYEES

“7561. Definition.

“7562. Removal of Senior Executive Employees.”.

1 **SEC. 4. SUSPENSION OF SENIOR EXECUTIVE SERVICE EM-**
2 **EMPLOYEES.**

3 Section 7543 of title 5, United States Code, is
4 amended—

5 (1) in subsection (a), by inserting “misappropriation of funds,” after “malfeasance;” and
6

7 (2) in subsection (b), by amending paragraph
8 (1) to read as follows:

9 “(1) at least 30 days’ advance written notice,
10 stating specific reasons for the proposed action, un-
11 less—

12 “(A) there is reasonable cause to believe
13 that the employee has committed a crime for
14 which a sentence of imprisonment can be im-
15 posed; or

16 “(B) the agency determines that the em-
17 ployee’s conduct with respect to which an action
18 covered by this subchapter is proposed is seri-
19 ous or flagrant as prescribed in regulation by
20 the Office of Personnel Management;”.

1 **SEC. 5. MISAPPROPRIATION OF FUNDS AMENDMENTS.**

2 (a) REINSTATEMENT IN THE SENIOR EXECUTIVE
3 SERVICE.—Section 3593 of title 5, United States Code,
4 is amended—

5 (1) in subsection (a)(2), by inserting “mis-
6 appropriation of funds,” after “malfeasance,”; and

7 (2) in subsection (b), by striking “or malfea-
8 sance” and inserting “malfeasance, or misappropria-
9 tion of funds”.

10 (b) PLACEMENT IN OTHER PERSONNEL SYSTEMS.—
11 Section 3594(a) of title 5, United States Code, is amended
12 by striking “or malfeasance” and inserting “malfeasance,
13 or misappropriation of funds”.

