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(Original Signature of Member)

113TH CONGRESS
2D SESSION

H. R. 5169

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

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend title 5, United States Code, to enhance account-
ability 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: “,

1 with a justification for each position (by title and organi-
2 zational location) and the specific result expected from
3 each position, including the impact of such result on the
4 agency mission.”.

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

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

9 (b) CONFORMING AMENDMENT.—Section 3592(a)(1)
10 of such title is amended by striking “1-year” and inserting
11 “2-year”.

12 **SEC. 4. MODIFICATION OF PAY RETENTION FOR SENIOR**
13 **EXECUTIVE SERVICE MEMBERS REMOVED**
14 **FOR UNDER PERFORMANCE.**

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

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

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

22 “(II) the rate of basic pay in effect at
23 the time of the placement for the position
24 the career appointee held in the civil serv-

1 ice immediately before being appointed to
2 the Senior Executive Service; or

3 “(III) the rate of basic pay in effect
4 for the career appointee immediately before
5 being placed under subsection (a) or (b) of
6 this section; and

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

11 **SEC. 5. REQUIREMENT THAT PERFORMANCE REQUIRE-**
12 **MENTS BE ESTABLISHED IN ADVANCE.**

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

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

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

19 **SEC. 6. AMENDMENTS TO ADVERSE ACTION PROVISIONS**
20 **WITH RESPECT TO CAREER APPOINTEES IN**
21 **THE SENIOR EXECUTIVE SERVICE.**

22 (a) **SUSPENSION FOR 14 DAYS OR LESS FOR SENIOR**
23 **EXECUTIVE SERVICE EMPLOYEE.**—Paragraph (1) of Sec-
24 tion 7501 of title 5, United States Code, is amended to
25 read as follows:

1 “(1) ‘employee’ means—

2 “(A) an individual in the competitive serv-
3 ice who is not serving a probationary period or
4 trail period under an initial appointment or who
5 has completed 1 year of current continuous em-
6 ployment in the same or similar positions under
7 other than a temporary appointment limited to
8 1 year or less; or

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

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

13 “(ii) was covered by the provisions of
14 subchapter II of this chapter immediately
15 before appointment to the Senior Executive
16 Service; and”.

17 (b) MODIFICATION OF CAUSE AND PROCEDURE FOR
18 SUSPENSION AND TERMINATION.—

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

21 (A) in subsection (a), by striking “mis-
22 conduct,” and inserting “such cause as would
23 promote the efficiency of the service, mis-
24 conduct,”; and

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

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

6 (A) in section 3593—

7 (i) in subsection (a)(2), by striking
8 “misconduct,” and inserting “such cause
9 as would promote the efficiency of the
10 service, misconduct,”; and

11 (ii) in subsection (b), by striking
12 “misconduct,” and inserting “such cause
13 as would promote the efficiency of the
14 service, misconduct,”; and

15 (B) in section 3594(a), by striking “mis-
16 conduct,” and inserting “such cause as would
17 promote the efficiency of the service, mis-
18 conduct,”.

19 **SEC. 7. MANDATORY LEAVE FOR CAREER APPOINTEES IN**
20 **THE SENIOR EXECUTIVE SERVICE.**

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

1 **“§ 6329. Mandatory leave for Senior Executive Serv-**
2 **ice career appointees**

3 “(a) In this section—

4 “(1) the term ‘employee’ means—

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

7 “(i) has completed the probationary
8 period prescribed under section 3393(d) of
9 this title; or

10 “(ii) was covered by the provisions of
11 subchapter II of chapter 75 of this title
12 immediately before appointment to the
13 Senior Executive Service; and

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

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

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

22 “(B) may not accrue any annual leave
23 under section 6303 for the period of such ab-
24 sence.

25 “(b) Under regulations prescribed by the Office of
26 Personnel Management, an agency may place an employee

1 on mandatory leave for misconduct, neglect of duty, mal-
2 feasance, or such cause as would promote the efficiency
3 of the service.

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

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

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

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

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