H. R._____

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 accountability within the Senior Executive Service, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Senior Executive Service Accountability Act”.

4 SEC. 2. BIENNIAL JUSTIFICATION OF POSITIONS.

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

SEC. 3. EXTENSION OF PROBATIONARY PERIOD.

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

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

SEC. 4. MODIFICATION OF PAY RETENTION FOR SENIOR EXECUTIVE SERVICE MEMBERS REMOVED FOR UNDER PERFORMANCE.

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

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

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

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

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

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

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

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

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

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

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

(a) Suspension for 14 Days or Less for Senior
Executive Service Employee.—Paragraph (1) of Sec-
tion 7501 of title 5, United States Code, is amended to
read as follows:
“(1) ‘employee’ means—

“(A) an individual in the competitive service who is not serving a probationary period or trail period under an initial appointment or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less; or

“(B) a career appointee in the Senior Executive Service who—

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

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

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

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

(A) in subsection (a), by striking “misconduct,” and inserting “such cause as would promote the efficiency of the service, misconduct,”; and
(B) in subsection (b)(1), by striking “30” and inserting “15”.

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

(A) in section 3593—

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

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

(B) in section 3594(a), by striking “misconduct,” and inserting “such cause as would promote the efficiency of the service, misconduct,”.

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

(a) In general.—Subchapter II of chapter 63 of title 5, United States Code, is amended by adding at the end the following:
§ 6329. Mandatory leave for Senior Executive Service career appointees

(a) In this section—

(1) the term ‘employee’ means—

(A) a career appointee in the Senior Executive Service who—

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

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

(B) who has received written notice of removal from the civil service under subchapter V of chapter 75 of this title; and

(2) the term ‘mandatory leave’ means, with respect to an employee, an absence with pay but without duty during which such employee—

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

(B) may not accrue any annual leave under section 6303 for the period of such absence.

(b) Under regulations prescribed by the Office of Personnel Management, an agency may place an employee
on mandatory leave for misconduct, neglect of duty, malfeasance, or such cause as would promote the efficiency of the service.

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

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

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

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

(e) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Personnel Management shall prescribe regulations with respect to the leave provided by the amendment in subsection (a).