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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R.

To enhance accountability and efficiency in the Federal civil service, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HICE introduced the following bill; which was referred to the Committee
on _____

A BILL

To enhance accountability and efficiency in the Federal civil
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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Accountable Federal Employees Act” or the “Account-
6 able Feds Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CREATING SCHEDULE F IN THE EXCEPTED SERVICE

- Sec. 101. Short title.
- Sec. 102. Findings.
- Sec. 103. Schedule F of the excepted service.
- Sec. 104. Executive agency actions.
- Sec. 105. Definitions.

TITLE II—REMOVAL

- Sec. 201. Short title.
- Sec. 202. Findings.
- Sec. 203. Principles for accountability in the Federal workforce.
- Sec. 204. Standard for negotiating grievance procedures.
- Sec. 205. Managing the Federal workforce.
- Sec. 206. Ensuring integrity of personnel files.
- Sec. 207. Data collection of adverse actions.
- Sec. 208. Implementation.
- Sec. 209. General provisions.

TITLE III—UNION TIME

- Sec. 301. Short title.
- Sec. 302. Purposes.
- Sec. 303. Definitions.
- Sec. 304. Standards for reasonable and efficient taxpayer-funded union time usage.
- Sec. 305. Employee conduct with regard to agency time and resources.
- Sec. 306. Preventing unlawful or unauthorized expenditures.
- Sec. 307. Agency reporting requirements.
- Sec. 308. Public disclosure and transparency.
- Sec. 309. Implementation and renegotiation of collective bargaining agreements.

TITLE IV—COST REDUCING IN COLLECTIVE BARGAINING

- Sec. 401. Short title.
- Sec. 402. Findings.
- Sec. 403. Definitions.
- Sec. 404. Interagency labor relations working group.
- Sec. 405. Collective bargaining objectives.
- Sec. 406. Collective bargaining procedures.
- Sec. 407. Permissive bargaining.
- Sec. 408. Efficient bargaining over procedures and appropriate arrangements.
- Sec. 409. Public accessibility.
- Sec. 410. Lack of report.
- Sec. 411. Application.

1 **TITLE I—CREATING SCHEDULE**
2 **F IN THE EXCEPTED SERVICE**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Creating Schedule F
5 in the Excepted Service Act”.

6 **SEC. 102. FINDINGS.**

7 Congress finds the following:

8 (1) To effectively carry out the broad array of
9 activities assigned to the executive branch under law,
10 the President and his appointees must rely on men
11 and women in the Federal service employed in posi-
12 tions of a confidential, policy-determining, policy-
13 making, or policy-advocating character. Faithful exe-
14 cution of the law requires that the President have
15 appropriate management oversight regarding this se-
16 lect cadre of professionals.

17 (2) The Federal Government benefits from ca-
18 reer professionals in positions that are not normally
19 subject to change as a result of a Presidential tran-
20 sition but who discharge significant duties and exer-
21 cise significant discretion in formulating and imple-
22 menting executive branch policy and programs under
23 the laws of the United States. The heads of execu-
24 tive departments and agencies (agencies) and the
25 American people also entrust these career profes-

1 sionals with non-public information that must be
2 kept confidential.

3 (3) With the exception of attorneys in the Fed-
4 eral service who are appointed pursuant to schedule
5 A of the excepted service and members of the Senior
6 Executive Service, appointments to these positions
7 are generally made through the competitive service.
8 Given the importance of the functions they dis-
9 charge, employees in such positions must display ap-
10 appropriate temperament, acumen, impartiality, and
11 sound judgment.

12 (4) Due to these requirements, agencies should
13 have a greater degree of appointment flexibility with
14 respect to these employees than is afforded by the
15 existing competitive service process.

16 (5) Further, effective performance management
17 of employees in confidential, policy-determining, pol-
18 icy-making, or policy-advocating positions is of the
19 utmost importance. Unfortunately, the Government's
20 current performance management is inadequate, as
21 recognized by Federal workers themselves. For in-
22 stance, the 2016 Merit Principles Survey reveals
23 that less than a quarter of Federal employees believe
24 their agency addresses poor performers effectively.

1 (6) Separating employees who cannot or will
2 not meet required performance standards is impor-
3 tant, and it is particularly important with regard to
4 employees in confidential, policy-determining, policy-
5 making, or policy-advocating positions. High per-
6 formance by such employees can meaningfully en-
7 hance agency operations, while poor performance
8 can significantly hinder them. Senior agency officials
9 report that poor performance by career employees in
10 policy-relevant positions has resulted in long delays
11 and substandard-quality work for important agency
12 projects, such as drafting and issuing regulations.

13 (7) Conditions of good administration make
14 necessary an exception to the competitive hiring
15 rules and examinations for career positions in the
16 Federal service of a confidential, policy-determining,
17 policy-making, or policy-advocating character. These
18 conditions include the need to provide agency heads
19 with additional flexibility to assess prospective ap-
20 pointees without the limitations imposed by competi-
21 tive service selection procedures. Placing these posi-
22 tions in the excepted service will mitigate undue lim-
23 itations on their selection. This action will also give
24 agencies greater ability and discretion to assess crit-
25 ical qualities in applicants to fill these positions,

1 such as work ethic, judgment, and ability to meet
2 the particular needs of the agency. These are all
3 qualities individuals should have before wielding the
4 authority inherent in their prospective positions, and
5 agencies should be able to assess candidates without
6 proceeding through complicated and elaborate com-
7 petitive service processes or rating procedures that
8 do not necessarily reflect their particular needs.

9 (8) Conditions of good administration similarly
10 make necessary excepting such positions from the
11 adverse action procedures set forth in chapter 75 of
12 title 5, United States Code. Chapter 75 of title 5,
13 United States Code, requires agencies to comply
14 with extensive procedures before taking adverse ac-
15 tion against an employee. These requirements can
16 make removing poorly performing employees dif-
17 ficult. Only a quarter of Federal supervisors are con-
18 fident that they could remove a poor performer. Ca-
19 reer employees in confidential, policy-determining,
20 policy-making, and policy-advocating positions wield
21 significant influence over Government operations
22 and effectiveness. Agencies need the flexibility to ex-
23 peditiously remove poorly performing employees
24 from these positions without facing extensive delays
25 or litigation.

1 **SEC. 103. SCHEDULE F OF THE EXCEPTED SERVICE.**

2 (a) IN GENERAL.—Appointments of individuals to
3 positions of a confidential, policy-determining, policy-mak-
4 ing, or policy-advocating character that are not normally
5 subject to change as a result of a Presidential transition
6 shall be made under schedule F of the excepted service,
7 as established by subsection (b).

8 (b) REGULATIONS.—The Director of the Office of
9 Personnel Management shall—

10 (1) amend section 6.2 of title 5, Code of Fed-
11 eral Regulations, to read as follows:

12 “OPM shall list positions that it excepts from the
13 competitive service in Schedules A, B, C, D, E, and F,
14 which schedules shall constitute parts of this rule, as fol-
15 lows:

16 “Schedule A. Positions other than those of a con-
17 fidential or policy-determining character for which it is not
18 practicable to examine shall be listed in Schedule A.

19 “Schedule B. Positions other than those of a con-
20 fidential or policy-determining character for which it is not
21 practicable to hold a competitive examination shall be list-
22 ed in Schedule B. Appointments to these positions shall
23 be subject to such noncompetitive examination as may be
24 prescribed by OPM.

1 “Schedule C. Positions of a confidential or policy-de-
2 termining character normally subject to change as a result
3 of a Presidential transition shall be listed in Schedule C.

4 “Schedule D. Positions other than those of a con-
5 fidential or policy-determining character for which the
6 competitive service requirements make impracticable the
7 adequate recruitment of sufficient numbers of students at-
8 tending qualifying educational institutions or individuals
9 who have recently completed qualifying educational pro-
10 grams. These positions, which are temporarily placed in
11 the excepted service to enable more effective recruitment
12 from all segments of society by using means of recruiting
13 and assessing candidates that diverge from the rules gen-
14 erally applicable to the competitive service, shall be listed
15 in Schedule D.

16 “Schedule E. Position of administrative law judge ap-
17 pointed under 5 U.S.C. 3105. Conditions of good adminis-
18 tration warrant that the position of administrative law
19 judge be placed in the excepted service and that appoint-
20 ment to this position not be subject to the requirements
21 of 5 CFR, part 302, including examination and rating re-
22 quirements, though each agency shall follow the principle
23 of veteran preference as far as administratively feasible.

24 “Schedule F. Positions of a confidential, policy-deter-
25 mining, policy-making, or policy-advocating character not

1 normally subject to change as a result of a Presidential
2 transition shall be listed in Schedule F. In appointing an
3 individual to a position in Schedule F, each agency shall
4 follow the principle of veteran preference as far as admin-
5 istratively feasible”;

6 (2) amend section 6.4 of title 5, Code of Fed-
7 eral Regulations, to read as follows:

8 “Except as required by statute, the Civil Service Rules
9 and Regulations shall not apply to removals from positions
10 listed in Schedules A, C, D, E, or F, or from positions
11 excepted from the competitive service by statute. The Civil
12 Service Rules and Regulations shall apply to removals
13 from positions listed in Schedule B of persons who have
14 competitive status.”;

15 (3) adopt such regulations as the Director de-
16 termines may be necessary to implement this title,
17 including, as appropriate, amendments to or rescis-
18 sions of regulations that are inconsistent with, or
19 that would impede the implementation of, this title,
20 giving particular attention to—

21 (A) section 302.101 of title 5, Code of
22 Federal Regulations;

23 (B) subpart D of part 212 of such title;

24 and

1 (C) subparts A and C of part 213 of such
2 title; and

3 (4) provide guidance on conducting a swift, or-
4 derly transition from the existing appointment proc-
5 esses to the schedule F process established by this
6 title.

7 **SEC. 104. EXECUTIVE AGENCY ACTIONS.**

8 (a) REVIEW.—

9 (1) IN GENERAL.—Each Executive agency head
10 shall conduct, not later than 90 days after the date
11 of enactment of this Act, a preliminary review of the
12 positions in the Executive agency that are covered
13 by subchapter II of chapter 75 of title 5, United
14 States Code, and shall conduct a complete review of
15 the positions in the agency not later than 210 days
16 after the date of enactment of this Act. Thereafter,
17 each agency head shall conduct a review of such po-
18 sitions that are covered by subchapter II of chapter
19 75 of title 5, United States Code, on at least an an-
20 nual basis.

21 (2) PETITIONS.—

22 (A) IN GENERAL.—Following a review
23 under paragraph (1), each agency head shall,
24 for positions not excepted from the competitive
25 service by statute, petition the Director to place

1 in schedule F any such competitive service,
2 schedule A, schedule B, or schedule D positions
3 in the Executive agency that the agency head
4 determines to be of a confidential, policy-deter-
5 mining, policy-making, or policy-advocating
6 character and that are not normally subject to
7 change as a result of a Presidential transition.

8 (B) PETITION EXPLANATION.—Any peti-
9 tion submitted under subparagraph (A) shall
10 include a written explanation documenting the
11 basis for the agency head’s determination that
12 such position should be placed in schedule F.

13 (3) DETERMINATIONS.—

14 (A) IN GENERAL.—Following a review
15 under paragraph (1), each agency head shall,
16 for positions excepted from the competitive
17 service by statute, determine which such posi-
18 tions are of a confidential, policy-determining,
19 policy-making, or policy-advocating character
20 and are not normally subject to change as a re-
21 sult of a Presidential transition.

22 (B) DETERMINATION EFFECT.—A position
23 which the agency head determines under sub-
24 paragraph (A) to be of a confidential, policy-de-
25 termining, policy-making, or policy-advocating

1 character and not normally subject to change as
2 a result of a Presidential transition shall be
3 considered a schedule F position for the pur-
4 poses of Executive agency actions under sub-
5 sections (d) and (f).

6 (C) PUBLICATION.—An agency head shall
7 publish each determination made under sub-
8 paragraph (A) in the Federal Register.

9 (b) APPLICABILITY.—The requirements set forth in
10 subsection (a) shall apply to currently existing positions
11 and newly created positions.

12 (c) ADDITIONAL CONSIDERATION.—When con-
13 ducting the review required by subsection (a), each agency
14 head should give particular consideration to the appro-
15 priateness of either petitioning the Director to place in
16 schedule F or including in the determination published in
17 the Federal Register, as applicable, positions of which the
18 duties include any of the following:

19 (1) Substantive participation in the advocacy
20 for or development or formulation of policy, espe-
21 cially—

22 (A) substantive participation in the devel-
23 opment or drafting of regulations and guidance;
24 or

1 (B) substantive policy-related work in an
2 Executive agency or Executive agency compo-
3 nent that primarily focuses on policy.

4 (2) The supervision of attorneys.

5 (3) Substantial discretion to determine the
6 manner in which the Executive agency exercises
7 functions committed to the agency by law.

8 (4) Viewing, circulating, or otherwise working
9 with proposed regulations, guidance, executive or-
10 ders, or other non-public policy proposals or delib-
11 erations generally covered by deliberative process
12 privilege and either—

13 (A) directly reporting to or regularly work-
14 ing with an individual appointed by either the
15 President or an agency head who is paid at a
16 rate not less than that earned by employees at
17 Grade 13 of the General Schedule; or

18 (B) working in the Executive agency or
19 Executive agency component executive secre-
20 tariat (or equivalent).

21 (5) Conducting, on the Executive agency's be-
22 half, collective bargaining negotiations under chapter
23 71 of title 5, United States Code.

24 (d) PETITION DECISION.—The Director shall
25 promptly determine whether to grant any petition under

1 subsection (a). Not later than December 31 of each year,
2 the Director shall report to the President, through the Di-
3 rector of the Office of Management and Budget and the
4 Assistant to the President for Domestic Policy, concerning
5 the number of petitions granted and denied for that year
6 for each Executive agency.

7 (e) COLLECTIVE BARGAINING EXCLUSIONS.—Each
8 agency head shall, as necessary and appropriate, expedi-
9 tiously petition the Federal Labor Relations Authority to
10 determine whether any schedule F position must be ex-
11 cluded from a collective bargaining unit under section
12 7112(b) of title 5, United States Code, paying particular
13 attention to the question of whether incumbents in such
14 positions are required or authorized to formulate, deter-
15 mine, or influence the policies of the agency.

16 (f) PROHIBITED PERSONNEL PRACTICES.—Agency
17 heads shall establish rules to prohibit the personnel prac-
18 tices prohibited by section 2302(b) of title 5, United
19 States Code, with respect to any employee or applicant
20 for employment in schedule F of the excepted service.

21 **SEC. 105. DEFINITIONS.**

22 In this title:

23 (1) AGENCY HEAD.—The term “agency head”
24 means the head of an Executive agency.

1 (2) DIRECTOR.—The term “Director” means
2 the Director of the Office of Personnel Management.

3 (3) EXECUTIVE AGENCY.—The term “Executive
4 agency” has the meaning given such term in section
5 105 of title 5, United States Code, but excluding the
6 Government Accountability Office.

7 (4) NORMALLY SUBJECT TO CHANGE AS A RE-
8 SULT OF A PRESIDENTIAL TRANSITION.—The term
9 “normally subject to change as a result of a Presi-
10 dential transition” refers to positions whose occu-
11 pants are, as a matter of practice, expected to resign
12 upon a Presidential transition, including all positions
13 whose appointment requires the assent of the White
14 House Office of Presidential Personnel.

15 **TITLE II—REMOVAL**

16 **SEC. 201. SHORT TITLE.**

17 This title may be cited as the “Promoting Account-
18 ability and Streamlining Removal Procedures Consistent
19 with Merit System Principles Act”.

20 **SEC. 202. FINDINGS.**

21 Congress finds the following:

22 (1) Federal merit system principles call for
23 holding Federal employees accountable for perform-
24 ance and conduct.

1 (2) They state that employees should maintain
2 high standards of integrity, conduct, and concern for
3 the public interest, and that the Federal workforce
4 should be used efficiently and effectively. They fur-
5 ther state that employees should be retained based
6 on the adequacy of their performance, inadequate
7 performance should be corrected, and employees
8 should be separated who cannot or will not improve
9 their performance to meet required standards.

10 (3) Unfortunately, implementation of America's
11 civil service laws has fallen far short of these ideals.

12 (4) The Federal Employee Viewpoint Survey
13 has consistently found that less than one-third of
14 Federal employees believe that the Government deals
15 with poor performers effectively.

16 (5) Failure to address unacceptable perform-
17 ance and misconduct undermines morale, burdens
18 good performers with subpar colleagues, and inhibits
19 the ability of any agency to accomplish their mis-
20 sions.

21 (6) This title advances the ability of supervisors
22 in agencies to promote civil servant accountability
23 consistent with merit system principles while simul-
24 taneously recognizing employees' procedural rights
25 and protections.

1 **SEC. 203. PRINCIPLES FOR ACCOUNTABILITY IN THE FED-**
2 **ERAL WORKFORCE.**

3 In managing the Federal workforce, and in addition
4 to the other requirements of this title, each agency shall,
5 to the greatest extent practicable, adhere to and carry out
6 the following principles:

7 (1) Removing unacceptable performers should
8 be a straightforward process that minimizes the bur-
9 den on supervisors. Agencies shall limit opportunity
10 periods to demonstrate acceptable performance
11 under section 4302(c)(6) of title 5, United States
12 Code, to the amount of time that provides sufficient
13 opportunity to demonstrate acceptable performance.

14 (2) Supervisors and deciding officials shall not
15 be required to use progressive discipline. The penalty
16 for an instance of misconduct should be tailored to
17 the facts and circumstances.

18 (3) Each employee's work performance and dis-
19 ciplinary history is unique, and disciplinary action
20 should be calibrated to the specific facts and cir-
21 cumstances of each individual employee's situation.
22 Conduct that justifies discipline of one employee at
23 one time does not necessarily justify similar dis-
24 cipline of a different employee at a different time—
25 particularly where the employees are in different
26 work units or chains of supervision—and agencies

1 are not prohibited from removing an employee sim-
2 ply because they did not remove a different employee
3 for comparable conduct. Nonetheless, employees
4 should be treated equitably, so agencies should con-
5 sider appropriate comparators as they evaluate po-
6 tential disciplinary actions.

7 (4) Suspension should not be a substitute for
8 removal in circumstances in which removal would be
9 appropriate. Agencies should not require suspension
10 of an employee before proposing to remove that em-
11 ployee, except as may be appropriate under applica-
12 ble facts.

13 (5) When taking disciplinary action, agencies
14 should have discretion to take into account an em-
15 ployee's disciplinary record and past work record, in-
16 cluding all past misconduct—not only similar past
17 misconduct. Agencies should provide an employee
18 with appropriate notice when taking a disciplinary
19 action.

20 (6) To the extent practicable, agencies should
21 issue decisions on proposed removals taken under
22 chapter 75 of title 5, United States Code, within 15
23 business days of the end of the employee reply pe-
24 riod following a notice of proposed removal.

1 (7) To the extent practicable, agencies should
2 limit the written notice of adverse action to the 30
3 days prescribed in section 7513(b)(1) of title 5,
4 United States Code.

5 (8) The removal procedures set forth in chapter
6 75 of title 5, United States Code, should be used in
7 appropriate cases to address instances of unaccept-
8 able performance.

9 (9) A probationary period should be used as the
10 final step in the hiring process of a new employee.
11 Supervisors should use that period to assess how
12 well an employee can perform the duties of a job. A
13 probationary period can be a highly effective tool to
14 evaluate a candidate's potential to be an asset to an
15 agency before the candidate's appointment becomes
16 final.

17 (10) Following issuance of regulations under
18 section 208 of this title, agencies should prioritize
19 performance over length of service when determining
20 which employees will be retained following a reduc-
21 tion in force.

22 **SEC. 204. STANDARD FOR NEGOTIATING GRIEVANCE PRO-**
23 **CEDURES.**

24 Whenever reasonable in view of the particular cir-
25 cumstances, agency heads shall endeavor to exclude from

1 the application of any grievance procedures negotiated
2 under section 7121 of title 5, United States Code, any
3 dispute concerning decisions to remove any employee from
4 Federal service for misconduct or unacceptable perform-
5 ance. Each agency shall commit the time and resources
6 necessary to achieve this goal and to fulfill its obligation
7 to bargain in good faith. If an agreement cannot be
8 reached, the agency shall promptly request the assistance
9 of the Federal Mediation and Conciliation Service and, as
10 necessary, the Federal Service Impasses Panel in the reso-
11 lution of the disagreement. Not later than 30 days after
12 the date of adoption of any collective bargaining agree-
13 ment that fails to achieve this goal, the agency head shall
14 provide an explanation to the President, through the Di-
15 rector of the Office of Personnel Management (in this title
16 referred to as the “Director”).

17 **SEC. 205. MANAGING THE FEDERAL WORKFORCE.**

18 To promote good morale in the Federal workforce,
19 employee accountability, and high performance, and to en-
20 sure the effective and efficient accomplishment of agency
21 missions and the efficiency of the Federal service, no agen-
22 cy shall—

23 (1) subject to grievance procedures or binding
24 arbitration disputes concerning—

25 (A) the assignment of ratings of record; or

1 (B) the award of any form of incentive
2 pay, including cash awards; quality step in-
3 creases; or recruitment, retention, or relocation
4 payments;

5 (2) make any agreement, including a collective
6 bargaining agreement—

7 (A) that limits the agency's discretion to
8 employ the removal procedures set forth in
9 chapter 75 of title 5, United States Code, to
10 address unacceptable performance of an em-
11 ployee;

12 (B) that requires the use of procedures
13 under chapter 43 of title 5, United States Code
14 (including any performance assistance period or
15 similar informal period to demonstrate im-
16 proved performance prior to the initiation of an
17 opportunity period under section 4302(c)(6) of
18 such title), before removing an employee for un-
19 acceptable performance; or

20 (C) that limits the agency's discretion to
21 remove an employee from Federal service with-
22 out first engaging in progressive discipline; or

23 (3) generally afford an employee more than a
24 30-day period to demonstrate acceptable perform-
25 ance under section 4302(c)(6) of title 5, United

1 States Code, except when the agency determines in
2 its sole and exclusive discretion that a longer period
3 is necessary to provide sufficient time to evaluate an
4 employee's performance.

5 **SEC. 206. ENSURING INTEGRITY OF PERSONNEL FILES.**

6 Agencies shall not agree to erase, remove, alter, or
7 withhold from another agency any information about a ci-
8 vilian employee's performance or conduct in that employ-
9 ee's official personnel records, including an employee's Of-
10 ficial Personnel Folder and Employee Performance File,
11 as part of, or as a condition to, resolving a formal or infor-
12 mal complaint by the employee or settling an administra-
13 tive challenge to an adverse personnel action.

14 **SEC. 207. DATA COLLECTION OF ADVERSE ACTIONS.**

15 (a) IN GENERAL.—For fiscal year 2021 and for each
16 fiscal year thereafter, each agency shall provide, to the Di-
17 rector, the Committee on Oversight and Reform of the
18 House of Representatives, and the Committee on Home-
19 land Security and Governmental Affairs of the Senate, a
20 report containing information on—

21 (1) the number of civilian employees in a proba-
22 tionary period or otherwise employed for a specific
23 term who were removed by the agency;

24 (2) the number of civilian employees rep-
25 rimanded in writing by the agency;

1 (3) the number of civilian employees afforded
2 an opportunity period by the agency under section
3 4302(c)(6) of title 5, United States Code, breaking
4 out the number of such employees receiving an op-
5 portunity period longer than 30 days;

6 (4) the number of adverse personnel actions
7 taken against civilian employees by the agency, bro-
8 ken down by type of adverse personnel action, in-
9 cluding reduction in grade or pay (or equivalent),
10 suspension, and removal;

11 (5) the number of decisions on proposed remov-
12 als by the agency taken under chapter 75 of title 5,
13 United States Code, not issued within 15 business
14 days of the end of the employee reply period;

15 (6) the number of adverse personnel actions by
16 the agency for which employees received written no-
17 tice in excess of the 30 days prescribed in section
18 7513(b)(1) of title 5, United States Code;

19 (7) the number and key terms of settlements
20 reached by the agency with civilian employees in
21 cases arising out of adverse personnel actions; and

22 (8) the resolutions of litigation about adverse
23 personnel actions involving civilian employees
24 reached by the agency.

1 (b) PUBLICATION.—To enhance public accountability
2 of agencies for their management of the Federal work-
3 force, the Director shall, consistent with applicable law,
4 publish the information received under subsection (a) of
5 this section, at the minimum level of aggregation nec-
6 essary to protect personal privacy. The Director may with-
7 hold particular information if publication would unduly
8 risk disclosing information protected by law, including per-
9 sonally identifiable information.

10 (c) GUIDANCE.—Not later than 60 days after the
11 date of enactment of this Act, the Director shall issue
12 guidance regarding the implementation of this section, in-
13 cluding with respect to any exemptions necessary for com-
14 pliance with applicable law and the reporting format for
15 submissions required by subsection (a).

16 **SEC. 208. IMPLEMENTATION.**

17 (a) IN GENERAL.—Not later than 45 days after the
18 date of enactment of this Act, the Director shall examine
19 whether existing regulations effectuate the principles set
20 forth in section 203 and the requirements of sections 204,
21 205, 206, and 207. To the extent necessary or appro-
22 priate, the Director shall, as soon as practicable, propose
23 for notice and public comment appropriate regulations to
24 effectuate the principles set forth in section 203 and the
25 requirements of sections 204, 205, 206, and 207.

1 (b) REVISION OF POLICIES.—The head of each agen-
2 cy shall take steps to conform internal agency discipline
3 and unacceptable performance policies to the principles
4 and requirements of this title. Each agency head shall—

5 (1) not later than 45 days after the date of en-
6 actment of this Act, revise its discipline and unac-
7 ceptable performance policies to conform to the prin-
8 ciples and requirements of this title, in areas where
9 new final Office of Personnel Management regula-
10 tions are not required, and shall further revise such
11 policies as necessary to conform to any new final Of-
12 fice regulations, within 45 days of the issuance of
13 such regulations; and

14 (2) renegotiate, as applicable, any collective
15 bargaining agreement provisions that are incon-
16 sistent with any part of this title or any final Office
17 of Personnel Management regulations promulgated
18 pursuant to this title.

19 (c) COLLECTIVE BARGAINING.—In carrying out sub-
20 section (b)(2), each agency shall give any contractually re-
21 quired notice of its intent to alter the terms of such agree-
22 ment and reopen negotiations. Each agency shall subse-
23 quently conform such terms to the requirements of this
24 title, and to any final Office regulations issued pursuant

1 to this title, on the earliest practicable date permitted by
2 law.

3 (d) REPORT.—Not later than 15 months after the
4 adoption of any final rules issued pursuant to subsection
5 (a) of this section, the Director shall submit to the Presi-
6 dent a report, through the Director of the Office of Man-
7 agement and Budget, evaluating the effect of those rules,
8 including their effect on the ability of Federal supervisors
9 to hold employees accountable for their performance.

10 (e) GOVERNMENT-WIDE TRAINING.—Within a rea-
11 sonable amount of time following the adoption of any final
12 rules issued pursuant to subsection (a), the Director and
13 the Chief Human Capital Officers Council shall undertake
14 a Government-wide initiative to educate Federal super-
15 visors about holding employees accountable for unaccept-
16 able performance or misconduct under those rules.

17 **SEC. 209. GENERAL PROVISIONS.**

18 (a) CONSULTATION REQUIRED; COLLECTIVE BAR-
19 GAINING.—Agencies shall consult with employee labor rep-
20 resentatives about the implementation of this title.

21 (b) APPLICATION.—Nothing in this title shall abro-
22 gate any collective bargaining agreement in effect on the
23 date of enactment of this title.

24 (c) DEFINITION OF AGENCY.—In this title, the term
25 “agency” has the meaning given the term “Executive

1 agency” in section 105 of title 5, United States Code, but
2 not including the Government Accountability Office.

3 **TITLE III—UNION TIME**

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Ensuring Trans-
6 parency, Accountability, and Efficiency in Taxpayer-
7 Funded Federal Union Time Use Act”.

8 **SEC. 302. PURPOSES.**

9 The purposes of this title are as follows:

10 (1) An effective and efficient government keeps
11 careful track of how it spends the taxpayers’ money
12 and eliminates unnecessary, inefficient, or unreason-
13 able expenditures. To advance this policy, executive
14 branch employees should spend their duty hours per-
15 forming the work of the Federal Government and
16 serving the public.

17 (2) Federal law allows Federal employees to
18 represent labor organizations and perform other
19 non-agency business while being paid by American
20 taxpayers (taxpayer-funded union time). The Con-
21 gress, however, has also instructed the executive
22 branch to interpret the law in a manner consistent
23 with the requirements of an effective and efficient
24 government.

1 (3) To that end, agencies should ensure that
2 taxpayer-funded union time is used efficiently and
3 authorized in amounts that are reasonable, nec-
4 essary, and in the public interest. Federal employees
5 should spend the clear majority of their duty hours
6 working for the public. No agency should pay for
7 Federal labor organizations' expenses, except where
8 required by law. Agencies should eliminate unre-
9 stricted grants of taxpayer-funded union time and
10 instead require employees to obtain specific author-
11 ization before using such time. Agencies should also
12 monitor use of taxpayer-funded union time, ensure it
13 is used only for authorized purposes, and make in-
14 formation regarding its use readily available to the
15 public.

16 **SEC. 303. DEFINITIONS.**

17 For purposes of this title, the following definitions
18 shall apply:

19 (1) AGENCY.—Except for purposes of section
20 305, the term “agency” has the meaning given the
21 term in section 7103(a)(3) of title 5, United States
22 Code, but includes only executive agencies. For pur-
23 poses of section 305, the term “agency” has the
24 meaning given the term “Executive agency” in sec-

1 tion 105 of title 5, United States Code, but excludes
2 the Government Accountability Office.

3 (2) AGENCY BUSINESS.—The term “agency
4 business” means work performed by Federal employ-
5 ees, including detailees or assignees, on behalf of an
6 agency, but does not include work performed on tax-
7 payer-funded union time.

8 (3) BARGAINING UNIT.—The term “bargaining
9 unit” means a group of employees represented by an
10 exclusive representative in an appropriate unit for
11 collective bargaining under subchapter II of chapter
12 71 of title 5, United States Code.

13 (4) DIRECTOR.—The term “Director” means
14 the Director of the Office of Personnel Management.

15 (5) DISCOUNTED USE OF GOVERNMENT PROP-
16 ERTY.—The term “discounted use of government
17 property” means charging less to use government
18 property than the value of the use of such property,
19 as determined by the General Services Administra-
20 tion, where applicable, or otherwise by the generally
21 prevailing commercial cost of using such property.

22 (6) EMPLOYEE.—The term “employee” has the
23 meaning given the term in section 7103(a)(2) of title
24 5, United States Code, except for purposes of section
25 305, in which case it means an individual employed

1 in an “Executive agency” as that term is defined in
2 section 105 of title 5, United States Code, but ex-
3 cluding the Government Accountability Office.

4 (7) GRIEVANCE.—The term “grievance” has
5 the meaning given the term in section 7103(a)(9) of
6 title 5, United States Code.

7 (8) LABOR ORGANIZATION.—The term “labor
8 organization” has the meaning given the term in
9 section 7103(a)(4) of title 5, United States Code.

10 (9) PAID TIME.—The term “paid time” means
11 time for which an employee is paid by the Federal
12 Government, including both duty time, in which the
13 employee performs agency business, and taxpayer-
14 funded union time. It does not include time spent on
15 paid or unpaid leave, or an employee’s off-duty
16 hours.

17 (10) TAXPAYER-FUNDED UNION TIME.—The
18 term “taxpayer-funded union time” means official
19 time granted to an employee pursuant to section
20 7131 of title 5, United States Code.

21 (11) UNION TIME RATE.—The term “union
22 time rate” means the total number of duty hours in
23 the fiscal year that employees in a bargaining unit
24 used for taxpayer-funded union time, divided by the
25 number of employees in such bargaining unit.

1 **SEC. 304. STANDARDS FOR REASONABLE AND EFFICIENT**
2 **TAXPAYER-FUNDED UNION TIME USAGE.**

3 (a) IN GENERAL.—No agency shall agree to author-
4 ize any amount of taxpayer-funded union time under sec-
5 tion 7131(d) of title 5, United States Code, unless such
6 time is reasonable, necessary, and in the public interest.
7 Notwithstanding such section 7131(d), agreements au-
8 thorizing taxpayer-funded union time that would cause the
9 union time rate in a bargaining unit to exceed 1 hour
10 should ordinarily, taking into account the size of the bar-
11 gaining unit, and the amount of taxpayer-funded union
12 time anticipated to be granted under sections 7131(a) and
13 7131(c) of such title, not be considered reasonable, nec-
14 essary, and in the public interest, or to satisfy the “effec-
15 tive and efficient” goal set forth in section 302 of this
16 title and section 7101(b) of such title. Agencies shall com-
17 mit the time and resources necessary to strive for a nego-
18 tiated union time rate of 1 hour or less, and to fulfill their
19 obligation to bargain in good faith.

20 (b) REPORT.—

21 (1) IN GENERAL.—If an agency agrees to au-
22 thorize amounts of taxpayer-funded union time
23 under section 7131(d) of title 5, United States Code,
24 that would cause the union time rate in a bargaining
25 unit to exceed 1 hour (or proposes to the Federal
26 Service Impasses Panel or an arbitrator engaging in

1 interest arbitration an amount that would cause the
2 union time rate in a bargaining unit to exceed 1
3 hour), the agency head shall report this agreement
4 or proposal to the President (through the Director
5 of the Office of Personnel Management), the Com-
6 mittee on Oversight and Reform of the House of
7 Representatives, and the Committee on Homeland
8 Security and Governmental Affairs within 15 days of
9 such an agreement or proposal. Such report shall ex-
10 plain why such expenditures are reasonable, nec-
11 essary, and in the public interest, describe the ben-
12 efit (if any) the public will receive from the activities
13 conducted by employees on such taxpayer-funded
14 union time, and identify the total cost of such time
15 to the agency. This reporting duty may not be dele-
16 gated.

17 (2) NOTIFICATION.—Each agency head shall re-
18 quire relevant subordinate agency officials to inform
19 the agency head 5 business days in advance of pre-
20 senting or accepting a proposal that would result in
21 a union time rate of greater than 1 hour for any
22 bargaining unit, if the subordinate agency officials
23 anticipate they will present or agree to such a provi-
24 sion.

1 (2)(A) Except as provided in subparagraph (B),
2 employees shall spend at least three-quarters of their
3 paid time, measured each fiscal year, performing
4 agency business or attending necessary training (as
5 required by their agency), in order to ensure that
6 they develop and maintain the skills necessary to
7 perform their agency duties efficiently and effec-
8 tively.

9 (B) Employees who have spent one-quarter of
10 their paid time in any fiscal year on non-agency
11 business may continue to use taxpayer-funded union
12 time in that fiscal year for purposes covered by sec-
13 tions 7131(a) or 7131(c) of title 5, United States
14 Code.

15 (C) Any time in excess of one-quarter of an em-
16 ployee's paid time used to perform non-agency busi-
17 ness in a fiscal year shall count toward the limita-
18 tion set forth in subparagraph (A) in subsequent fis-
19 cal years.

20 (3) No employee, when acting on behalf of a
21 Federal labor organization, may be permitted the
22 free or discounted use of government property or
23 any other agency resources if such free or dis-
24 counted use is not generally available for non-agency
25 business by employees when acting on behalf of non-

1 Federal organizations. Such property and resources
2 include office or meeting space, reserved parking
3 spaces, phones, photocopy machines, computers, and
4 computer systems.

5 (4) Employees may not be permitted reimburse-
6 ment for expenses incurred performing non-agency
7 business, unless required by law or regulation.

8 (5)(A) Employees may not use taxpayer-funded
9 union time to prepare or pursue grievances (includ-
10 ing arbitration of grievances) brought against an
11 agency under procedures negotiated pursuant to sec-
12 tion 7121 of title 5, United States Code, except
13 where such use is otherwise authorized by law or
14 regulation.

15 (B) The prohibition in subparagraph (A) does
16 not apply to—

17 (i) an employee using taxpayer-funded
18 union time to prepare for, confer with an exclu-
19 sive representative regarding, or present a
20 grievance brought on the employee's own be-
21 half; or to appear as a witness in any grievance
22 proceeding; or

23 (ii) an employee using taxpayer-funded
24 union time to challenge an adverse personnel
25 action taken against the employee in retaliation

1 for engaging in federally protected whistle-
2 blower activity, including for engaging in activ-
3 ity protected under section 2302(b)(8) of title
4 5, United States Code, under section 78u-
5 6(h)(1) of title 15, United States Code, under
6 section 3730(h) of title 31, United States Code,
7 or under any other similar whistleblower law.

8 (b) ADVANCE AUTHORIZATION.—Employees may not
9 use taxpayer-funded union time without advance written
10 authorization from their agency, except where obtaining
11 prior approval is deemed impracticable under regulations
12 or guidance adopted pursuant to subsection (c).

13 (c) ADMINISTRATION.—

14 (1) IN GENERAL.—The requirements of this
15 section shall become effective 45 days after the date
16 of enactment of this Act. The Office of Personnel
17 Management shall be responsible for administering
18 the requirements of this section. Not later than 45
19 days after the date of enactment of this Act, the Di-
20 rector shall examine whether existing regulations are
21 consistent with the rules set forth in this section. If
22 the regulations are not, the Director shall propose
23 for notice and public comment, as soon as prac-
24 ticable, appropriate regulations to clarify and assist

1 agencies in implementing these rules, consistent with
2 applicable law.

3 (2) AGENCY COMPLIANCE.—The head of each
4 agency is responsible for ensuring compliance by em-
5 ployees within such agency with the requirements of
6 this section. Each agency head shall examine wheth-
7 er existing regulations, policies, and practices are
8 consistent with the rules set forth in this section. If
9 they are not, the agency head shall take all appro-
10 priate steps to bring them into compliance with this
11 section as soon as practicable.

12 (d) APPLICATION.—Nothing in this title shall be con-
13 strued to prohibit agencies from permitting employees to
14 take unpaid leave to perform representational activities
15 under chapter 71 of title 5, United States Code, including
16 for purposes covered by section 7121(b)(1)(C) of such
17 title.

18 **SEC. 306. PREVENTING UNLAWFUL OR UNAUTHORIZED EX-**
19 **PENDITURES.**

20 (a) IN GENERAL.—Any employee who uses taxpayer-
21 funded union time without advance written agency author-
22 ization required by section 305(b), or for purposes not spe-
23 cifically authorized by the agency, shall be considered ab-
24 sent without leave and subject to appropriate disciplinary
25 action. Repeated misuse of taxpayer-funded union time

1 may constitute serious misconduct that impairs the effi-
2 ciency of the Federal service. In such instances, agencies
3 shall take appropriate disciplinary action to address such
4 misconduct.

5 (b) PROCEDURE FOR AUTHORIZING UNION TIME.—
6 As soon as practicable, but not later than 180 days after
7 the date of enactment of this Act, each agency shall de-
8 velop and implement a procedure governing the authoriza-
9 tion of taxpayer-funded union time under section 305(b).
10 Such procedure shall, at a minimum, require a requesting
11 employee to specify the number of taxpayer-funded union
12 time hours to be used and the specific purposes for which
13 such time will be used, providing sufficient detail to iden-
14 tify the tasks the employee will undertake. That procedure
15 shall also allow the authorizing official to assess whether
16 it is reasonable, necessary, and in the public interest to
17 grant such amount of time to accomplish such tasks. For
18 continuing or ongoing requests, each agency shall require
19 requests for authorization renewals to be submitted not
20 less than once per pay period. Each agency shall further
21 require separate advance authorization for any use of tax-
22 payer-funded union time in excess of previously authorized
23 hours or for purposes for which such time was not pre-
24 viously authorized.

1 (c) MONITORING USE OF UNION TIME.—As soon as
2 practicable, but not later than 180 days after the date of
3 enactment of this Act, each agency shall develop and im-
4 plement a system to monitor the use of taxpayer-funded
5 union time to ensure that it is used only for authorized
6 purposes, and that it is not used contrary to law or regula-
7 tion. In developing these systems, each agency shall give
8 special attention to ensuring taxpayer-funded union time
9 is not used for—

10 (1) internal union business in violation of sec-
11 tion 7131(b) of title 5, United States Code;

12 (2) lobbying activities in violation of section
13 1913 of title 18, United States Code, or in violation
14 of section 305(a)(1) of this title; or

15 (3) political activities in violation of subchapter
16 III of chapter 73 of title 5, United States Code.

17 **SEC. 307. AGENCY REPORTING REQUIREMENTS.**

18 (a) IN GENERAL.—Each agency shall submit, by a
19 date as determined by the Director, an annual report to
20 the Director, the Committee on Oversight and Reform of
21 the House of Representatives, and the Committee on
22 Homeland Security and Governmental Affairs on the fol-
23 lowing:

1 (1) The purposes for which the agency has au-
2 thorized the use of taxpayer-funded union time, and
3 the amounts of time used for each such purpose.

4 (2) The job title and total compensation of each
5 employee who has used taxpayer-funded union time
6 in the fiscal year, as well as the total number of
7 hours each employee spent on these activities and
8 the proportion of each employee's total paid hours
9 that number represents.

10 (3) If the agency has allowed labor organiza-
11 tions or individuals on taxpayer-funded union time
12 the free or discounted use of government property,
13 the total value of such free or discounted use.

14 (4) Any expenses, including travel or per diem
15 expenses, the agency paid for activities conducted on
16 taxpayer-funded union time.

17 (5) The amount of any reimbursement paid by
18 the labor organizations for the use of government
19 property.

20 (b) NOTIFICATION; REPORT.—

21 (1) NOTIFICATION.—Agencies shall notify the
22 Interagency Labor Relations Working Group (estab-
23 lished under title IV of this Act) if a bargaining
24 unit's union time rate exceeds 1 hour.

1 (2) REPORT.—Not later than 1 year after the
2 date of enactment of this Act and annually there-
3 after, the Director shall submit, to the Committee
4 on Oversight and Reform of the House of Represent-
5 atives and the Committee on Homeland Security and
6 Governmental Affairs, a report summarizing the
7 number and contents of notifications received under
8 paragraph (1) during the previous year.

9 (c) EXPLANATION.—If an agency’s aggregate union
10 time rate (defined in this subsection as the average of the
11 union time rates in each agency bargaining unit, weighted
12 by the number of employees in each unit) has increased
13 overall from the last fiscal year, the agency shall explain
14 this increase in the report required under subsection (a).

15 **SEC. 308. PUBLIC DISCLOSURE AND TRANSPARENCY.**

16 (a) IN GENERAL.—Not later than 180 days after the
17 date of the enactment of this Act, the Director shall pub-
18 lish a standardized form that each agency shall use in pre-
19 paring the reports required by section 307.

20 (b) ANALYSIS.—Not later than June 30 of each year,
21 the Director shall analyze the agency submissions under
22 section 307 and publish an annual report detailing—

23 (1) for each agency and for agencies in the ag-
24 gregate, the number of employees using taxpayer-
25 funded union time, the number of employees using

1 taxpayer-funded union time separately listed by in-
2 tervals of the proportion of paid time spent on such
3 activities, the number of hours spent on taxpayer-
4 funded union time, the cost of taxpayer-funded
5 union time (measured by the compensation of the
6 employees involved), the aggregate union time rate,
7 the number of bargaining unit employees, and the
8 percentage change in each of these values from the
9 previous fiscal year;

10 (2) for each agency and in the aggregate, the
11 value of the free or discounted use of any govern-
12 ment property the agency has provided to labor or-
13 ganizations, and any expenses, such as travel or per
14 diems, the agency paid for activities conducted on
15 taxpayer-funded union time, as well as the amount
16 of any reimbursement paid for such use of govern-
17 ment property, and the percentage change in each of
18 these values from the previous fiscal year;

19 (3) the purposes for which taxpayer-funded
20 union time was granted; and

21 (4) the information required by section
22 307(a)(2) for employees using taxpayer-funded
23 union time, sufficiently aggregated that such disclo-
24 sure would not unduly risk disclosing information

1 protected by law, including personally identifiable in-
2 formation.

3 (c) **ADDITIONAL GUIDANCE.**—The Director shall,
4 after consulting with the Chief Human Capital Officers
5 designated under chapter 14 of title 5, United States
6 Code, promulgate any additional guidance that may be
7 necessary or appropriate to assist the heads of agencies
8 in complying with the requirements of this title.

9 **SEC. 309. IMPLEMENTATION AND RENEGOTIATION OF COL-**
10 **LECTIVE BARGAINING AGREEMENTS.**

11 (a) **IN GENERAL.**—Each agency shall implement the
12 requirements of this title not later than 45 days after the
13 date of the enactment of this Act, except for section
14 305(b), which shall be effective for employees at an agency
15 when such agency implements the procedure required by
16 section 306(b). The head of each agency shall designate
17 an official within the agency tasked with ensuring imple-
18 mentation of this title, and shall report the identity of
19 such official to the Office of Personnel Management not
20 later than 30 days after the date of enactment of this Act.

21 (b) **CONSULTATION.**—Each agency shall consult with
22 employee labor representatives about the implementation
23 of this title. On the earliest date permitted by law, and
24 to effectuate the terms of this title, any agency that is
25 party to a collective bargaining agreement that has at

1 least one provision that is inconsistent with any part of
2 this title shall give any contractually required notice of its
3 intent to alter the terms of such agreement and either re-
4 open negotiations and negotiate to obtain provisions con-
5 sistent with this title, or subsequently terminate such pro-
6 vision and implement the requirements of this title.

7 (c) APPLICATION.—Nothing in this title shall abro-
8 gate any collective bargaining agreement in effect on the
9 date of enactment of this title.

10 **TITLE IV—COST REDUCING IN** 11 **COLLECTIVE BARGAINING**

12 **SEC. 401. SHORT TITLE.**

13 This title may be cited as the “Developing Efficient,
14 Effective, and Cost-Reducing Approaches to Federal Sec-
15 tor Collective Bargaining Act”.

16 **SEC. 402. FINDINGS.**

17 Congress finds the following:

18 (1) Section 7101(b) of title 5, United States
19 Code, requires the Federal Service Labor-Manage-
20 ment Relations Statute (in this section referred to as
21 the “Statute”) to be interpreted in a manner con-
22 sistent with the requirement of an effective and effi-
23 cient Government. Unfortunately, implementation of
24 the Statute has fallen short of these goals. CBAs
25 and other agency agreements with collective bar-

1 gaining representatives often make it harder for
2 agencies to reward high performers, hold low-per-
3 formers accountable, or flexibly respond to oper-
4 ational needs. Many agencies and collective bar-
5 gaining representatives spend years renegotiating
6 CBAs, with taxpayers paying for both sides' nego-
7 tiators. Agencies must also engage in prolonged ne-
8 gotiations before making even minor operational
9 changes, like relocating office space.

10 (2) The Federal Government must do more to
11 apply the Statute in a manner consistent with effec-
12 tive and efficient Government.

13 (3) To fulfill this obligation, agencies should se-
14 cure CBAs that—

15 (A) promote an effective and efficient
16 means of accomplishing agency missions;

17 (B) encourage the highest levels of em-
18 ployee performance and ethical conduct;

19 (C) ensure employees are accountable for
20 their conduct and performance on the job;

21 (D) expand agency flexibility to address
22 operational needs;

23 (E) reduce the cost of agency operations,
24 including with respect to the use of taxpayer-
25 funded union time;

1 (F) are consistent with applicable laws,
2 rules, and regulations;

3 (G) do not cover matters that are not, by
4 law, subject to bargaining; and

5 (H) preserve management rights under
6 section 7106(a) of title 5, United States Code.

7 (4) Further, agencies that form part of an ef-
8 fective and efficient Government should not take
9 more than a year to renegotiate CBAs.

10 **SEC. 403. DEFINITIONS.**

11 For purposes of this title:

12 (1) CBA.—The term “CBA” means a collective
13 bargaining agreement of a fixed or indefinite dura-
14 tion reached through substantive bargaining, as op-
15 posed to—

16 (A) agreements reached through impact
17 and implementation bargaining pursuant to sec-
18 tions 7106(b)(2) and 7106(b)(3) of title 5,
19 United States Code; or

20 (B) mid-term agreements, negotiated while
21 the basic comprehensive labor contract is in ef-
22 fect, about subjects not included in such con-
23 tract.

24 (2) DIRECTOR.—The term “Director” means
25 the Director of the Office of Personnel Management.

1 (3) TAXPAYER-FUNDED UNION TIME.—The
2 term “taxpayer-funded union time” means time
3 granted to a Federal employee to perform non-agen-
4 cy business during duty hours pursuant to section
5 7131 of title 5, United States Code.

6 **SEC. 404. INTERAGENCY LABOR RELATIONS WORKING**
7 **GROUP.**

8 (a) IN GENERAL.—There is hereby established an
9 Interagency Labor Relations Working Group (referred to
10 in this title as the “Labor Relations Group”).

11 (b) ORGANIZATION.—The Labor Relations Group
12 shall consist of—

13 (1) the Director of the Office of Personnel
14 Management;

15 (2) a representative who is a supervisor or a
16 management official described under section
17 7103(a)(2)(B)(iii) of title 5, United States Code,
18 from each agency participating in the Labor Rela-
19 tions Group under subsection (d), as determined by
20 the head of such agency in consultation with the Di-
21 rector; and

22 (3) any employee who is such a supervisor or a
23 management official within the Office of Personnel
24 Management, as assigned by the Director.

1 (c) CHAIR; ADMINISTRATIVE SUPPORT.—The Direc-
2 tor shall chair the Labor Relations Group and, subject to
3 the availability of appropriations, provide administrative
4 support for the Labor Relations Group.

5 (d) AGENCIES.—

6 (1) PARTICIPATION.—Agencies with at least
7 1,000 employees represented by a collective bar-
8 gaining representative pursuant to chapter 71 of
9 title 5, United States Code, shall participate in the
10 Labor Relations Group. Agencies with a smaller
11 number of employees represented by a collective bar-
12 gaining representative may, at the election of their
13 agency head and with the concurrence of the Direc-
14 tor, participate in the Labor Relations Group.

15 (2) SUPPORT.—Agencies participating in the
16 Labor Relations Group shall provide assistance help-
17 ful in carrying out the responsibilities outlined in
18 subsection (e) of this section. Such assistance shall
19 include designating an agency employee to serve as
20 a point of contact with the Office of Personnel Man-
21 agement responsible for providing the Labor Rela-
22 tions Group with sample language for proposals and
23 counter-proposals on significant matters proposed
24 for inclusion in CBAs, as well as for analyzing and
25 discussing with the Office of Personnel Management

1 and the Labor Relations Group the effects of signifi-
2 cant CBA provisions on agency effectiveness and ef-
3 ficiency. Participating agencies shall provide other
4 assistance as necessary to support the Labor Rela-
5 tions Group in its mission.

6 (e) RESPONSIBILITIES AND FUNCTIONS.—The Labor
7 Relations Group shall assist the Director on matters in-
8 volving labor-management relations in the executive
9 branch. Its responsibilities shall include the following:

10 (1) Gathering information to support agency
11 negotiating efforts, including the submissions re-
12 quired under section 409 of this title, and creating
13 an inventory of language on significant subjects of
14 bargaining that have relevance to more than one
15 agency and that have been proposed for inclusion in
16 at least one CBA.

17 (2) Developing model ground rules for negotia-
18 tions that, if implemented, would minimize delay, set
19 reasonable limits for good-faith negotiations, call for
20 the Federal Mediation and Conciliation Service to
21 mediate disputed issues not resolved within a reason-
22 able time, and, as appropriate, promptly bring re-
23 maining unresolved issues to the Federal Service Im-
24 passes Panel (in this title referred to as the
25 “Panel”) for resolution.

1 (3) Analyzing provisions of CBAs on subjects of
2 bargaining that have relevance to more than one
3 agency, particularly those that may infringe on, or
4 otherwise affect, reserved management rights. Such
5 analysis shall include an assessment of CBA provi-
6 sions that cover comparable subjects, without in-
7 fringing, or otherwise affecting, reserved manage-
8 ment rights. The analysis shall also assess the con-
9 sequences of such CBA provisions on Federal effec-
10 tiveness, efficiency, cost of operations, and employee
11 accountability and performance. The analysis shall
12 take particular note of how certain provisions may
13 impede the policies set forth in section 402 of this
14 title or the orderly implementation of laws, rules, or
15 regulations. The Labor Relations Group may exam-
16 ine general trends and commonalities across CBAs,
17 and their effects on bargaining-unit operations, but
18 need not separately analyze every provision of each
19 CBA in every Federal bargaining unit.

20 (4) Sharing information and analysis, including
21 significant proposals and counter-proposals offered
22 in bargaining, in order to reduce duplication of ef-
23 forts and encourage common approaches across
24 agencies, as appropriate.

1 (5) Establishing ongoing communications
2 among agencies engaging with the same labor orga-
3 nizations in order to facilitate common solutions to
4 common bargaining initiatives.

5 (6) Assisting the Director in developing, where
6 appropriate, Government-wide approaches to bar-
7 gaining issues that advance the policies set forth in
8 section 402 of this title.

9 (f) REPORT.—Not later than 18 months after the
10 first meeting of the Labor Relations Group, the Director,
11 as the Chair of the group, shall submit, to the President
12 (through the Office of Management and Budget), the
13 Committee on Oversight and Reform of the House of Rep-
14 resentatives, and the Committee on Homeland Security
15 and Governmental Affairs of the Senate, a report pro-
16 posing recommendations for meeting the goals set forth
17 in section 402 of this title and for improving the organiza-
18 tion, structure, and functioning of labor relations pro-
19 grams across agencies.

20 **SEC. 405. COLLECTIVE BARGAINING OBJECTIVES.**

21 (a) IN GENERAL.—The head of each agency that en-
22 gages in collective bargaining under chapter 71 of title 5,
23 United States Code, shall direct appropriate officials with-
24 in each agency to prepare a report on all operative CBAs
25 at least 1 year before their expiration or renewal date. The

1 report shall recommend new or revised CBA language the
2 agency could seek to include in a renegotiated agreement
3 that would better support the objectives of section 402 of
4 this title. The officials preparing the report shall consider
5 the analysis and advice of the Labor Relations Group in
6 making recommendations for revisions. These reports
7 shall be deemed guidance and advice for agency manage-
8 ment related to collective bargaining under section
9 7114(b)(4)(C) of title 5, United States Code, and thus not
10 subject to disclosure to the exclusive representative or its
11 authorized representative.

12 (b) CBA NEGOTIATION REQUIREMENTS.—Consistent
13 with the requirements and provisions of chapter 71 of title
14 5, United States Code, and other applicable laws and reg-
15 ulations, an agency, when negotiating with a collective
16 bargaining representative, shall—

17 (1) establish collective bargaining objectives
18 that advance the policies of section 402 of this title,
19 with such objectives informed, as appropriate, by the
20 reports required by subsection (a) of this section;

21 (2) consider the analysis and advice of the
22 Labor Relations Group in establishing these collec-
23 tive bargaining objectives and when evaluating col-
24 lective bargaining representative proposals;

1 (3) make every effort to secure a CBA that
2 meets these objectives; and

3 (4) ensure management and supervisor partici-
4 pation in the negotiating team representing the
5 agency.

6 **SEC. 406. COLLECTIVE BARGAINING PROCEDURES.**

7 (a) IN GENERAL.—To achieve the purposes of this
8 title, agencies shall begin collective bargaining negotia-
9 tions by making their best effort to negotiate ground rules
10 that minimize delay, set reasonable time limits for good-
11 faith negotiations, call for Federal Mediation and Concilia-
12 tion Service mediation of disputed issues not resolved
13 within those time limits, and, as appropriate, promptly
14 bring remaining unresolved issues to the Panel for resolu-
15 tion. For collective bargaining negotiations, a negotiating
16 period of six weeks or less to achieve ground rules, and
17 a negotiating period of between four and six months for
18 a CBA under those ground rules, shall ordinarily be con-
19 sidered reasonable and to satisfy the goal set forth in sec-
20 tion 402(3)(A) of this title. Agencies shall commit the time
21 and resources necessary to satisfy these temporal objec-
22 tives and to fulfill their obligation to bargain in good faith.
23 Any negotiations to establish ground rules that do not con-
24 clude after a reasonable period shall be expeditiously ad-
25 vanced to mediation and, as necessary, to the Panel.

1 (b) NEGOTIATIONS DEADLINES.—During any collec-
2 tive bargaining negotiations under chapter 71 of title 5,
3 United States Code, and consistent with section 7114(b)
4 of that chapter, the agency shall negotiate in good faith
5 to reach agreement on a CBA, memorandum of under-
6 standing, or any other type of binding agreement that pro-
7 motes the policies outlined in section 402 of this title. If
8 such negotiations last longer than the period established
9 by the CBA ground rules—or, absent a pre-set deadline,
10 a reasonable time—the agency shall consider whether re-
11 questing assistance from the Federal Mediation and Con-
12 ciliation Service and, as appropriate, the Panel, would bet-
13 ter promote effective and efficient Government than would
14 continuing negotiations. Such consideration should evalu-
15 ate the likelihood that continuing negotiations without
16 Federal Mediation and Conciliation Service assistance or
17 referral to the Panel would produce an agreement con-
18 sistent with the goals of section 402 of this title, as well
19 as the cost to the public of continuing to pay for both
20 agency and collective bargaining representative negoti-
21 ating teams. Upon the conclusion of the sixth month of
22 any negotiation, the agency head shall receive notice from
23 appropriate agency staff and shall receive monthly notifi-
24 cations thereafter regarding the status of negotiations
25 until they are complete. The agency head shall notify the

1 President through the Office of Personnel Management of
2 any negotiations that have lasted longer than nine months,
3 in which the assistance of the Federal Mediation and Con-
4 ciliation Service either has not been requested or, if re-
5 quested, has not resulted in agreement or advancement
6 to the Panel.

7 (c) FAILURE TO NEGOTIATE IN GOOD FAITH.—If the
8 commencement or any other stage of bargaining is delayed
9 or impeded because of a collective bargaining representa-
10 tive’s failure to comply with the duty to negotiate in good
11 faith pursuant to section 7114(b) of title 5, United States
12 Code, the agency shall consider whether to—

13 (1) file an unfair labor practice complaint under
14 section 7118 of title 5, United States Code, after
15 considering evidence of bad-faith negotiating, includ-
16 ing refusal to meet to bargain, refusal to meet as
17 frequently as necessary, refusal to submit proposals
18 or counterproposals, undue delays in bargaining,
19 undue delays in submission of proposals or counter-
20 proposals, inadequate preparation for bargaining,
21 and other conduct that constitutes bad-faith negoti-
22 ating; or

23 (2) propose a new contract, memorandum, or
24 other change in agency policy and implement that

1 proposal if the collective bargaining representative
2 does not offer counter-proposals in a timely manner.

3 (d) NO DELAY FOR UNFAIR LABOR PRACTICE COM-
4 PLAINT.—An agency’s filing of a an unfair labor practice
5 complaint under section 7118 of title 5, United States
6 Code, against a collective bargaining representative shall
7 not further delay negotiations. Agencies shall negotiate in
8 good faith or request assistance from the Federal Medi-
9 ation and Conciliation Service and, as appropriate, the
10 Panel, while such an unfair labor practice complaint is
11 pending.

12 (e) WRITTEN PROPOSAL EXCHANGE.—In developing
13 proposed ground rules, and during any negotiations, agen-
14 cy negotiators shall request the exchange of written pro-
15 posals, so as to facilitate resolution of negotiability issues
16 and assess the likely effects of specific proposals on agency
17 operations and management rights. To the extent that an
18 agency’s CBAs, ground rules, or other agreements contain
19 requirements for a bargaining approach other than the ex-
20 change of written proposals addressing specific issues, the
21 agency shall, at the soonest opportunity, take steps to
22 eliminate them. If such requirements are based on now-
23 revoked Executive Orders, including Executive Order
24 12871 (58 Fed. Reg. 52201; relating to Labor-Manage-
25 ment Partnerships) and Executive Order 13522 (74 Fed.

1 Reg. 66203; relating to Creating Labor-Management Fo-
2 rums to Improve Delivery of Government Services), agen-
3 cies shall take action to rescind these requirements.

4 (f) **AGREEMENT REVIEW.**—Pursuant to section
5 7114(c)(2) of title 5, United States Code, the agency head
6 shall review all binding agreements with collective bar-
7 gaining representatives to ensure that all their provisions
8 are consistent with all applicable laws, rules, and regula-
9 tions. When conducting this review, the agency head shall
10 ascertain whether the agreement contains any provisions
11 concerning subjects that are non-negotiable, including pro-
12 visions that violate Government-wide requirements set
13 forth in any applicable law, rule, or regulation. If an
14 agreement contains any such provisions, the agency head
15 shall disapprove such provisions. The agency head shall
16 take all practicable steps to render the determinations re-
17 quired by this subsection within 30 days of the date the
18 agreement is executed, in accordance with section 7114(c)
19 of title 5, United States Code, so as not to permit any
20 part of an agreement to become effective that is contrary
21 to applicable law, rule, or regulation.

22 **SEC. 407. PERMISSIVE BARGAINING.**

23 The heads of agencies subject to the provisions of
24 chapter 71 of title 5, United States Code, may not nego-
25 tiate over the substance of the subjects set forth in section

1 7106(b)(1) of title 5, United States Code, and shall in-
2 struct subordinate officials that they may not negotiate
3 over those same subjects.

4 **SEC. 408. EFFICIENT BARGAINING OVER PROCEDURES AND**
5 **APPROPRIATE ARRANGEMENTS.**

6 (a) **MATTERS COVERED BY EXISTING AGREE-**
7 **MENTS.**—Before beginning negotiations during a CBA
8 over matters addressed by sections 7106(b)(2) or
9 7106(b)(3) of title 5, United States Code, agencies shall
10 evaluate whether or not such matters are already covered
11 by the CBA and therefore are not subject to the duty to
12 bargain. If such matters are already covered by a CBA,
13 the agency shall not bargain over such matters.

14 (b) **PERMISSIBLE BARGAINING.**—Consistent with
15 section 402 of this title, agencies that engage in bar-
16 gaining over procedures pursuant to section 7106(b)(2) of
17 title 5, United States Code, shall, consistent with their ob-
18 ligation to negotiate in good faith, bargain over only those
19 items that constitute procedures associated with the exer-
20 cise of management rights, which do not include measures
21 that excessively interfere with the exercise of such rights.
22 Likewise, consistent with section 402 of this title, agencies
23 that engage in bargaining over appropriate arrangements
24 pursuant to section 7106(b)(3) of title 5, United States
25 Code, shall, consistent with their obligation to negotiate

1 in good faith, bargain over only those items that constitute
2 appropriate arrangements for employees adversely af-
3 fected by the exercise of management rights. In such nego-
4 tiations, agencies shall ensure that a resulting appropriate
5 arrangement does not excessively interfere with the exer-
6 cise of management rights.

7 **SEC. 409. PUBLIC ACCESSIBILITY.**

8 (a) **REPORT CBAS.**—Each agency subject to chapter
9 71 of title 5, United States Code, that engages in any ne-
10 gotiation with a collective bargaining representative, as de-
11 fined therein, shall submit to the Director each CBA cur-
12 rently in effect and its expiration date. Such agency shall
13 also submit any new CBA and its expiration date to the
14 Director within 30 days of its effective date, and submit
15 new arbitral awards to the Director within 10 business
16 days of receipt. The Director shall make each CBA pub-
17 licly accessible on the Internet as soon as practicable.

18 (b) **CBA REPORT FORMAT.**—Within 90 days of the
19 date of enactment of this Act, the Director shall prescribe
20 a reporting format for submissions required by subsection
21 (a) of this section. Within 30 days of the Director’s having
22 prescribed the reporting format, agencies shall use this re-
23 porting format and make the submissions required under
24 subsection (a) of this section.

1 **SEC. 410. LACK OF REPORT.**

2 The failure to produce a report for the agency head
3 prior to the termination or renewal of a CBA under sec-
4 tion 405(a) shall not prevent an agency from opening a
5 CBA for renegotiation.

6 **SEC. 411. APPLICATION.**

7 Nothing in this title shall abrogate any collective bar-
8 gaining agreement in effect on the date of enactment of
9 this title.