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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.

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## IN THE HOUSE OF REPRESENTATIVES

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

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# 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 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.