

115TH CONGRESS  
1ST SESSION

# H. R. 3257

To provide certain reforms to promote accountability and efficiency in the civil service, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2017

Mr. ROKITA (for himself, Mr. BRAT, Mr. LOUDERMILK, and Mr. SMITH of Missouri) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

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## A BILL

To provide certain reforms to promote accountability and efficiency in the 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 “Promote Accountability and Government Efficiency  
6 Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. At-will employment status for new Federal employees.
- Sec. 3. Immediate suspension of employees for misconduct or poor performance.
- Sec. 4. Limitation on appeal rights.

Sec. 5. Restriction of pay raises.

Sec. 6. Forfeiture of CSRS or FERS annuity for any employee convicted of a felony.

Sec. 7. Transfer from Senior Executive Service to General Schedule.

Sec. 8. Limitation on official time and use of Government resources in carrying out union activities.

1 **SEC. 2. AT-WILL EMPLOYMENT STATUS FOR NEW FEDERAL**  
 2 **EMPLOYEES.**

3 (a) IN GENERAL.—Notwithstanding any other provi-  
 4 sion of law, any employee in the civil service hired on or  
 5 after the date that is 1 year after the date of enactment  
 6 of this Act shall be hired on an at-will basis. Such an em-  
 7 ployee may be removed or suspended, without notice or  
 8 right to appeal, from service by the head of the agency  
 9 at which such employee is employed for good cause, bad  
 10 cause, or no cause at all.

11 (b) CLARIFICATION OF EMPLOYMENT PROTEC-  
 12 TIONS.—

13 (1) IN GENERAL.—Notwithstanding the re-  
 14 quirements of subsection (a) and consistent with  
 15 paragraph (2), this Act shall not be construed to ex-  
 16 tinguish or lessen any right or remedy available to  
 17 any employee or applicant for employment in the  
 18 civil service covered by subsection (a) under any law  
 19 listed in paragraph (3).

20 (2) LIMITATION.—No employee or applicant for  
 21 employment in the civil service may be awarded by  
 22 any court a remedy (including damages, costs, or at-

1       torney fees) under any of the provisions of law listed  
2       in paragraph (3) in a dollar amount that, in the ag-  
3       gregate, exceeds \$50,000.

4               (3) COVERED LAWS.—The provisions of law ref-  
5       erenced in paragraphs (1) and (2) are as follows:

6               (A) Title VII of the Civil Rights Act of  
7       1964 (42 U.S.C. 2000e et seq.), prohibiting dis-  
8       crimination on the basis of race, color, religion,  
9       sex, or national origin.

10              (B) The Age Discrimination in Employ-  
11       ment Act of 1967 (29 U.S.C. 621 et seq.), pro-  
12       hibiting discrimination on the basis of age.

13              (C) The Fair Labor Standards Act of  
14       1938 (29 U.S.C. 201 et seq.), prohibiting dis-  
15       crimination on the basis of sex.

16              (D) The Rehabilitation Act of 1973 (29  
17       U.S.C. 701 et seq.), prohibiting discrimination  
18       on the basis of handicapping condition.

19              (E) The Whistleblower Protection En-  
20       hancement Act of 2012 (Public Law 112–199).

21              (F) The provisions of any law, rule, or reg-  
22       ulation prohibiting discrimination on the basis  
23       of marital status or political affiliation.

1 (G) The Congressional Accountability Act  
2 of 1995, in the case of employees of the legisla-  
3 tive branch who are subject to such Act.

4 (H) The protections relating to prohibited  
5 personnel practices (as that term is defined in  
6 section 2302 of title 5, United States Code).

7 (I) Any law protecting the employment  
8 rights of veterans.

9 (4) COLLECTIVE BARGAINING.—No collective  
10 bargaining unit may be awarded by any court any  
11 remedy (including damages, costs, or attorney fees)  
12 for any breach of such agreement in an amount that  
13 exceeds \$10,000 per occurrence, or \$300,000 in any  
14 given calendar year, whichever is least.

15 (5) ENFORCEMENT.—To the extent any remedy  
16 of damages, costs, or attorney fees are awarded by  
17 a court in an amount that is in excess of the limits  
18 of this section, the amount awarded in excess shall  
19 be rendered null, void, and unenforceable. Efforts by  
20 an employee, applicant for employment, or collective  
21 bargaining unit or its members or legal counsel to  
22 seek to collect in excess of the statutory amounts, or  
23 efforts by any member of an agency to award a reme-  
24 dy in excess of these statutory amounts, shall be  
25 grounds for immediate separation of the employee or

1 agency personnel, termination of the applicable col-  
2 lective bargaining agreement, and a prohibition on  
3 hiring such an applicant for a period of 5 years be-  
4 ginning on the date of the collection effort in excess.

5 (c) APPEAL.—

6 (1) IN GENERAL.—Any employee or applicant  
7 for employment who is subject to subsection (a) and  
8 who seeks a remedy under any law listed in sub-  
9 section (b)(2) with respect to an adverse personnel  
10 action may appeal under the procedures set forth in  
11 title 5, United States Code, including appealing such  
12 action to the Merit Systems Protection Board or the  
13 Office of the Special Counsel.

14 (2) LIMITATION.—An employee or applicant for  
15 employment may appeal an adverse personnel action  
16 only to a single agency, and may not thereafter  
17 bring any appeal pertaining to such dismissal before  
18 any other agency. An employee or applicant for em-  
19 ployment who files multiple appeals of an adverse  
20 personnel action shall have any remedy for the claim  
21 limited to not more than \$1000 in the aggregate (in-  
22 cluding damages, costs, or attorney fees).

23 (d) APPLICATION.—This section shall apply with re-  
24 spect to any employee hired, or any individual who be-

1 comes an applicant for employment, on or after the date  
2 that is 1 year after the date of enactment of this Act.

3 (e) REGULATIONS.—Not later than 180 days after  
4 the date of enactment of this section, each agency or in-  
5 strumentality of the Government to which this section ap-  
6 plies shall develop operating standards consistent with the  
7 requirements of this section, including standards with re-  
8 spect to—

9 (1) notifying any employee hired on or after  
10 date specified in subsection (a) that such employee  
11 is an at-will employee;

12 (2) determining which senior positions within  
13 such agency or instrumentality have the authority to  
14 separate an at-will employee from service; and

15 (3) ensuring adequate oversight is in place to  
16 ensure that any separation of an at-will employee is  
17 not a result of discrimination or other violation of  
18 any law listed under subsection (b).

19 (f) REGULATIONS.—Not later than 180 days after  
20 the date of enactment of this section, each agency or in-  
21 strumentality of the Federal Government to which this  
22 section applies shall develop operating standards con-  
23 sistent with the requirements of this section, including  
24 standards with respect to—

1           (1) notifying any employee hired on or after  
2           date specified in subsection (a) that such employee  
3           is an at-will employee;

4           (2) determining which senior positions within  
5           such agency or instrumentality have the authority to  
6           separate an at-will employee from service; and

7           (3) ensuring adequate oversight is in place to  
8           ensure that any separation of an at-will employee is  
9           not a result of discrimination or other violation of  
10          any law listed under subsection (b).

11         (g) DEFINITIONS.—In this section:

12           (1) CIVIL SERVICE.—The term “civil service”  
13           has the meaning given such term in section 2101 of  
14           title 5, United States Code.

15           (2) EMPLOYEE.—The term “employee” has the  
16           meaning given such term in section 2105 of such  
17           title, and includes any officer or employee of the  
18           United States Postal Service or the Postal Regu-  
19           latory Commission.

20           (3) PERSONNEL ACTION.—The term “personnel  
21           action” has the meaning given such term in section  
22           2302(a)(2)(A) of such title.

23           (4) VETERAN.—The term “veteran” has the  
24           meaning given that term under section 2108(1) of  
25           such title.

1 **SEC. 3. IMMEDIATE SUSPENSION OF EMPLOYEES FOR MIS-**  
2 **CONDUCT OR POOR PERFORMANCE.**

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

6 “SUBCHAPTER VI—IMMEDIATE SUSPENSION  
7 FOR MISCONDUCT OR POOR PERFORMANCE

8 “§ 7551. **Definitions**

9 “In this subchapter—

10 “(1) the term ‘employee’ has the meaning given  
11 such term in section 7501(1) and includes any em-  
12 ployee of the United States Postal Service or the  
13 Postal Regulatory Commission, but does not include  
14 any at-will employee (as determined under section 2  
15 of the Promote Accountability and Government Effi-  
16 ciency Act); and

17 “(2) the term ‘suspend’ means the placing of  
18 any employee, for misconduct or poor performance,  
19 in a temporary status without duties.

20 “§ 7552. **Immediate suspension for misconduct or**  
21 **poor performance**

22 “(a) Under regulations prescribed by the Office of  
23 Personnel Management, the head of an agency may sus-  
24 pend (with or without pay) an employee of such agency  
25 if the head determines that the misconduct or performance



1 of the employee warrants such suspension. The period of  
2 any such suspension shall be determined by the head.

3 “(b) An employee who is suspended under subsection  
4 (a) is entitled, after suspension, to—

5 “(1) a written notice, not later than 10 days  
6 after the first day of such suspension, stating the  
7 specific reasons for the suspension;

8 “(2) a reasonable time, but not less than 10  
9 days, to answer orally and in writing and to furnish  
10 affidavits and other documentary evidence in sup-  
11 port of the answer;

12 “(3) be represented by an attorney or other  
13 representative; and

14 “(4) a review of the case by the agency head  
15 and a written final decision and the specific reasons  
16 therefor at the earliest practicable date.

17 “(c) An employee against whom an action is taken  
18 under this section is entitled to appeal to the merit sys-  
19 tems Protection Board under section 7701 of this title.  
20 During such appeal, the Merit Systems Protection Board  
21 may not take any action to reinstate the employee to the  
22 position of employment from which such employee is sus-  
23 pended until the date of the final decision of such appeal.

24 “(d) Copies of the notice of proposed action, the an-  
25 swer of the employee if written, a summary thereof if

1 made orally, the notice of decision and reasons therefor,  
2 and any order affecting the suspension, together with any  
3 supporting material, shall be maintained by the agency  
4 and shall be furnished to the Merit Systems Protection  
5 Board upon its request and to the employee affected upon  
6 the employee's request.

7 “(e) In the case of critical necessity, the head of an  
8 agency may immediately replace any employee suspended  
9 under subsection (a) without regard to sections 3309  
10 through 3318.”.

11 (b) CLERICAL AMENDMENT.—The table of sections  
12 for chapter 75 of title 5, United States Code, is amended  
13 by adding at the end the following:

“SUBCHAPTER VI—IMMEDIATE SUSPENSION FOR MISCONDUCT OR POOR  
PERFORMANCE

“7551. Definitions.

“7552. Immediate suspension for misconduct or poor performance.”.

14 **SEC. 4. LIMITATION ON APPEAL RIGHTS.**

15 Notwithstanding any other provision of law, an em-  
16 ployee (as that term is defined in section 2(g)(2)) or appli-  
17 cant for employment may not appeal an adverse personnel  
18 action to more than 1 agency.

19 **SEC. 5. RESTRICTION OF PAY RAISES.**

20 (a) IN GENERAL.—Notwithstanding any other provi-  
21 sion of law, an employee may not receive an increase in  
22 annual rate of pay if such employee—

1           (1) did not receive at least a score of 4 or 5 out  
2           of 5 (or an equivalent rating with respect to a per-  
3           formance appraisal system that does provide for  
4           such a scoring system) on such employee's latest  
5           performance review under the performance appraisal  
6           system applicable to such employee; and

7           (2) the number of employees receiving a score  
8           of 4 out of 5 (or an equivalent rating with respect  
9           to a performance appraisal system that does provide  
10          for such a scoring system) does not exceed 50 per-  
11          cent of all employees in that agency.

12          (b) REPORT.—Not later than 1 year after the date  
13          of enactment of this Act, the Director of the Office of Per-  
14          sonnel Management shall submit to Congress a report that  
15          contains recommendations for a single-agency rating sys-  
16          tem.

17          (c) COLLECTIVE BARGAINING AGREEMENTS.—

18                (1) APPLICATION.—The requirements of this  
19                section shall apply to any collective bargaining  
20                agreement entered into by the head of an agency on  
21                or after the date of enactment of this Act.

22                (2) GRIEVANCE.—In the case of an employee  
23                covered by a collective bargaining agreement re-  
24                ferred to in paragraph (1), a grievance filed on be-  
25                half of such employee that results in an increased

1 performance rating for such employee may not result  
2 in an increase in annual rate of pay for such em-  
3 ployee.

4 (d) DEFINITION.—In this section, the term “em-  
5 ployee” has the meaning given such term in section 2105  
6 of title 5, United States Code, and includes any officer  
7 or employee of the United States Postal Service or the  
8 Postal Regulatory Commission.

9 **SEC. 6. FORFEITURE OF CSRS OR FERS ANNUITY FOR ANY**  
10 **EMPLOYEE CONVICTED OF A FELONY.**

11 (a) IN GENERAL.—Subchapter II of chapter 83 of  
12 title 5, United States Code, is amended by adding at the  
13 end the following:

14 **“§ 8323. Forfeiture of annuity for felony conviction**

15 “(a)(1) An individual appointed to the service who  
16 is not subject to the requirements of section 2 of the Pro-  
17 mote Accountability and Government Efficiency Act may  
18 not be paid an annuity or retired pay on the basis of the  
19 service of the individual which is creditable toward the an-  
20 nuity if the individual was finally convicted of a felony of-  
21 fense.

22 “(2) For purposes of paragraph (1), the term ‘felony  
23 offense’ means any felony offense committed by the indi-  
24 vidual that is related to the performance of any position  
25 within the service occupied by such individual.



1           (2) by inserting after section 3396 the fol-  
2           lowing:

3   **“§ 3397. Transfer to General Schedule positions**

4           “(a) Notwithstanding any other provision of law, the  
5           head of any agency may transfer a covered individual to  
6           a position within the General Schedule (subchapter III of  
7           chapter 53).

8           “(b) Notwithstanding any other provision of law, in-  
9           cluding the requirements of section 3594, any covered in-  
10          dividual transferred to a General Schedule position under  
11          subsection (a) shall, beginning on the date of such trans-  
12          fer, receive the annual rate of pay applicable to such posi-  
13          tion.

14          “(c) In this section, the term ‘covered individual’  
15          means an individual occupying a senior executive service  
16          position who is not an at-will employee (as determined  
17          under section 2 of the promote accountability and govern-  
18          ment Efficiency Act).”.

19          (b) CLERICAL AMENDMENT.—The table of sections  
20          of subchapter VIII of chapter 33 of title 5, United States  
21          Code, is amended by striking the item relating to section  
22          3397 and inserting the following new items:

“3397. Transfer to General Schedule positions.”.

1 **SEC. 8. LIMITATION ON OFFICIAL TIME AND USE OF GOV-**  
2 **ERNMENT RESOURCES IN CARRYING OUT**  
3 **UNION ACTIVITIES.**

4 (a) IN GENERAL.—Section 7131 of title 5, United  
5 States Code, is amended to read as follows:

6 **“§ 7131. Limitation on official time**

7 “(a) In carrying out any activities relating to the in-  
8 ternal business of a labor organization (including the solici-  
9 tation of membership, elections of labor organization offi-  
10 cials, and collection of dues), an employee may not—

11 “(1) perform such activities unless such em-  
12 ployee is in a non-duty status; or

13 “(2) use any Government property (including  
14 office space or computers).

15 “(b) Employees engaging in such activities must  
16 truthfully and accurately account for their time spent in  
17 carrying out such activities, and may not engage in any  
18 political activities that may impact such employee’s Agen-  
19 cy.

20 “(c) Documents, communications and things pre-  
21 pared by or in the possession of employees engaged in any  
22 activity relating to a labor organization that is engaged  
23 in collective bargaining activities with said employee’s  
24 Agency shall maintain the records of such activities for  
25 a period of at least two years or the term of the collective  
26 bargaining agreement, plus six months, and produce cop-

1 ies of such records in response to Freedom of Information  
2 Act requests.”.

3 (b) CLERICAL AMENDMENT.—The table of sections  
4 for chapter 71 of title 5, United States Code, is amended  
5 by striking the item relating to section 7131 and inserting  
6 the following new item:

“7131. Limitation on official time.”.

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