

116TH CONGRESS
1ST SESSION

S. 1753

To promote accountability and effective administration in the execution of laws by restoring the original understanding of the President’s constitutional power to remove subordinates from office.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2019

Mr. LEE (for himself and Mr. HAWLEY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To promote accountability and effective administration in the execution of laws by restoring the original understanding of the President’s constitutional power to remove subordinates from office.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Take Care Act”.

5 **SEC. 2. DEFINITIONS.**

6 As used in this Act:

1 (1) AT-WILL REMOVAL.—The term “at-will re-
2 moval” means the power to remove a Principal offi-
3 cer with or without cause.

4 (2) FOR-CAUSE REMOVAL PROTECTION.—The
5 term “for-cause removal protection” means any limi-
6 tation on the President’s power to remove a Prin-
7 cipal officer, without regard to whether the limita-
8 tion is derived or inferred from express statutory
9 text, the structure of an agency, the functions and
10 responsibilities assigned to an agency, historical
11 practice, judicial precedent, or regulation.

12 (3) PRINCIPAL OFFICER.—The term “Principal
13 officer” means an officer who is required by article
14 II, section 2, clause 2 of the Constitution of the
15 United States to be appointed by the President by
16 and with the advice and consent of the Senate.

17 **SEC. 3. ELIMINATING EXISTING FOR-CAUSE REMOVAL PRO-**
18 **TECTIONS.**

19 Notwithstanding any other provision of law, with re-
20 spect to any Principal officer for whom for-cause removal
21 protection is in effect immediately before this Act takes
22 effect—

23 (1) such for-cause removal protection shall
24 cease to have force or effect; and

1 (2) such officer shall be subject to at-will re-
2 moval by the President,
3 effective in accordance with section 7.

4 **SEC. 4. PROSPECTIVELY LIMITING FOR-CAUSE REMOVAL**
5 **PROTECTIONS.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, all Principal officers, whether the office was
8 established before this Act takes effect or is created or
9 otherwise authorized on or after this Act takes effect, shall
10 be subject to at-will removal by the President, unless an
11 Act of Congress enacted after this Act takes effect estab-
12 lishes for-cause removal protection in accordance with sub-
13 section (b).

14 (b) RULE OF CONSTRUCTION.—No Principal officer
15 shall have for-cause removal protection unless an Act of
16 Congress enacted after this Act takes effect—

17 (1) expressly establishes for-cause removal pro-
18 tection for such officer; and

19 (2) declares explicitly and with specificity that
20 its provisions supersede this Act.

21 **SEC. 5. DIRECTIVE AUTHORITY.**

22 Notwithstanding any other provision of law, an Act
23 of Congress that vests discretionary decision-making au-
24 thority in an executive branch officer other than the Presi-
25 dent, or that designates an agency to be an independent

1 agency or an independent establishment, shall not be con-
2 strued as a limitation on the President’s power to super-
3 vise and direct the exercise of such discretionary decision-
4 making authority.

5 **SEC. 6. REPEAL AND AMENDMENT OF CERTAIN OTHER**
6 **PROVISIONS OF LAW.**

7 (a) IN GENERAL.—

8 (1) Chapter 12 of title 5, United States Code,
9 is amended—

10 (A) in the table of sections, by striking the
11 item relating to section 1205;

12 (B) in section 1202, by striking subsection
13 (d);

14 (C) by striking section 1205; and

15 (D) in section 1211(b), by striking the
16 fifth sentence.

17 (2) Section 7104(b) of title 5, United States
18 Code, is amended in the first sentence by striking “,
19 and may be” and all that follows through “in of-
20 fice”.

21 (3) Section 2(a)(10)(B) of the Commodity Ex-
22 change Act (7 U.S.C. 2(a)(10)(B)) is amended by
23 striking the second and third sentences.

24 (4) The second undesignated paragraph of sec-
25 tion 10 of the Federal Reserve Act (12 U.S.C. 242)

1 is amended in the second sentence by striking “, un-
2 less sooner removed for cause by the President”.

3 (5) Section 111 of Public Law 93–495 (12
4 U.S.C. 250) is repealed.

5 (6) Section 1312(b)(2) of the Federal Housing
6 Enterprises Financial Safety and Soundness Act of
7 1992 (12 U.S.C. 4512(b)(2)) is amended by striking
8 “for cause”.

9 (7) The Consumer Financial Protection Act of
10 2010 (12 U.S.C. 5481 et seq.) is amended—

11 (A) in section 1011(c) (12 U.S.C.
12 5491(c)), by striking paragraph (3);

13 (B) in section 1012(c) (12 U.S.C.
14 5492(c))—

15 (i) by striking paragraph (4); and

16 (ii) by redesignating paragraph (5) as
17 paragraph (4); and

18 (C) in section 1017(a)(4) (12 U.S.C.
19 5497(a)(4))—

20 (i) by striking subparagraph (E); and

21 (ii) by redesignating subparagraph
22 (F) as subparagraph (E).

23 (8) The first section of the Federal Trade Com-
24 mission Act (15 U.S.C. 41) is amended by striking
25 the sixth sentence.

1 (9) The Consumer Product Safety Act (15
2 U.S.C. 2051 et seq.) is amended—

3 (A) in section 4(a) (15 U.S.C. 2053(a)), by
4 striking the last sentence; and

5 (B) in section 27(k)(2) (15 U.S.C.
6 2076(k)(2)), by striking the second sentence.

7 (10) The Tennessee Valley Authority Act of
8 1933 (16 U.S.C. 831 et seq.) is amended—

9 (A) in section 4 (16 U.S.C. 831c) in the
10 undesignated matter following subsection (f), by
11 striking “: *Provided*,” and all that follows
12 through “Representatives”; and

13 (B) in section 6 (16 U.S.C. 831e), by
14 striking the second sentence.

15 (11) Section 1706 of the United States Insti-
16 tute of Peace Act (22 U.S.C. 4605) is amended—

17 (A) by striking subsection (f); and

18 (B) by redesignating subsections (g)
19 through (j) as subsections (f) through (i), re-
20 spectively.

21 (12) Section 3(a) of the National Labor Rela-
22 tions Act (29 U.S.C. 153(a)) is amended by striking
23 the last sentence.

1 (13) Section 12(b) of the Occupational Safety
2 and Health Act of 1970 (29 U.S.C. 661(b)) is
3 amended by striking the second sentence.

4 (14) Section 113(b)(1) of the Federal Mine
5 Safety and Health Act of 1977 (30 U.S.C.
6 823(b)(1)) is amended by striking the matter fol-
7 lowing subparagraph (B).

8 (15) Section 202(a)(1) of title 39, United
9 States Code, is amended in the fifth sentence by
10 striking “, and may be removed only for cause”.

11 (16) Section 502(a) of title 39, United States
12 Code, is amended in the second sentence by striking
13 “, and may be removed by the President only for
14 cause”.

15 (17) Section 702(a)(3) of the Social Security
16 Act (42 U.S.C. 902(a)(3)) is amended by striking
17 the fourth sentence.

18 (18) Section 1004 of the Legal Services Cor-
19 poration Act (42 U.S.C. 2996c) is amended—

20 (A) by striking subsection (e); and

21 (B) by redesignating subsections (f), (g),
22 and (h) as subsections (e), (f), and (g), respec-
23 tively.

1 (19) Section 201(e) of the Energy Reorganiza-
2 tion Act of 1974 (42 U.S.C. 5841(e)) is amended by
3 striking the first sentence.

4 (20) Section 112(r)(6) of the Clean Air Act (42
5 U.S.C. 7412(r)(6)) is amended—

6 (A) in subparagraph (B), by striking the
7 fourth sentence; and

8 (B) in subparagraph (R), by striking “No
9 report” and all that follows through “malfea-
10 sance in office.”.

11 (21) Section 204 of the State Justice Institute
12 Act of 1984 (42 U.S.C. 10703) is amended—

13 (A) by striking subsection (h); and

14 (B) by redesignating subsections (i), (j),
15 and (k) as subsections (h), (i), and (j), respec-
16 tively.

17 (22) The first paragraph of section 4 of the
18 Railway Labor Act (45 U.S.C. 154) is amended by
19 striking the third undesignated subparagraph.

20 (23) Section 301(b) of title 46, United States
21 Code, is amended by striking paragraph (5).

22 (24) Section 1111(c) of title 49, United States
23 Code, is amended—

24 (A) in the subsection heading, by striking
25 “AND REMOVAL”; and

1 (B) by striking the fourth sentence.

2 (25) Section 1113(c) of title 49, United States
3 Code, is amended by striking the second sentence.

4 (b) RULE OF CONSTRUCTION.—The fact that a provi-
5 sion of law in effect immediately before this Act takes ef-
6 fect that provides for-cause removal protection for a Prin-
7 cipal officer is not repealed under the amendments made
8 by subsection (a) shall not be construed to—

9 (1) supersede section 3 of this Act; or

10 (2) continue the force or effect of such provi-
11 sion of law.

12 **SEC. 7. EFFECTIVE DATE.**

13 This Act and the amendments made by this Act shall
14 take effect at noon on January 20, 2021.

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