

**Administrative Leave Act of 2016**  
(Tester, Grassley, Johnson, Carper)

The purpose of this bill is to define administrative leave in statute and limit the broad variation of its use (and abuse) by federal agencies, and encourages federal agencies to keep employees on regular duty or take other actions to keep the employee working, such as temporary reassignment or telework. Given the lack of uniformity of use of administrative leave across the federal government and the expense of its abuse by some agencies, this bill requires better accounting for the use of administrative leave and defines the rare cases in which an employee should not be working or at the workplace.

**Problems**

**Whistleblowers and Career Stagnation:** While some guidance has been issued by OPM and others, the lack of comprehensive regulation on the use of administrative leave has permitted overly broad application and allowed managers to place employees on leave for extended periods. This practice denies these employees the opportunity to challenge managerial decisions before the Merit Systems Protection Board and could be used as an avenue for managers to punish whistleblowers. Employees may wait years while their career remains in limbo because their agency has not proposed or determined whether to take an adverse personnel action.

**Costly to Taxpayers:** Employees placed on leave due to ongoing investigations for alleged misconduct have – in some cases – stayed on the federal government payroll for years. In FY2014, the Department of Homeland Security and the Department of Veterans Affairs alone spent more than \$40 million in estimated salaries for employees on administrative leave for one month or more.

**Employees Lack Recourse to Challenge Agency Decisions:** Currently, agencies do not have to justify the length of administrative leave or why their investigations last for long periods. Without statutory guidance, agencies have placed employees on administrative leave without providing adequate justification and record-keeping of agency use of administrative leave is in many instances vague and is left largely unchecked.

**What the Bill Does**

**Defines Administrative Leave:** The bill puts in statute a definition of administrative leave that is separate from other forms of paid leave or excused absence already legislatively authorized and limits the use of administrative leave to five consecutive days at a time. This will reduce the wide variation as to what is categorized as administrative leave throughout the federal government and reduce its potential for abuse.

**Recording and OPM Regulations:** Requires agencies to record other forms of legislatively authorized excused absence separately from administrative leave.

**Weather and Safety Leave:** As has been agency practice, allows agencies to use excused absence for an employee or group of employees who cannot safely travel to or work at an approved location.

**Investigative Leave & Notice Leave:** Creates new categories of leave separate from administrative leave for extended excused absences due to personnel matters. Allows agencies to use this leave through a multi-step process that includes escalating controls, should an agency lack alternative options.

**Forces Agencies to Consider All Options:** Before using investigative leave or notice leave, agencies must consider other options, including assigning the employee to duties in which the employee is no longer a threat, requiring the employee to telework, allowing the employee to voluntarily take another type of leave, and curtailing the notice period. Before placing an employee on leave, these options must first be considered by the agencies.