

103^D CONGRESS
2^D SESSION

H. R. 4822

To make certain laws applicable to the legislative branch of the Federal Government.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 1994

Mr. SHAYS (for himself, Mr. SWETT, Mr. DICKEY, Mr. MANN, Mrs. FOWLER, Mr. McHALE, Mr. BARTLETT of Maryland, Mr. TORKILDSEN, Mr. McKEON, Ms. SHEPHERD, and Mr. FINGERHUT) introduced the following bill; which was referred jointly to the Committees on House Administration, Education and Labor, Government Operations, Rules, and the Judiciary

A BILL

To make certain laws applicable to the legislative branch of the Federal Government.

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 “Congressional Ac-
5 countability Act”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act:

1 (1) CONGRESSIONAL EMPLOYEE.—The term
2 “congressional employee” means—

3 (A) an individual on the payroll of an em-
4 ploying office of the House of Representatives;

5 (B) an individual on the payroll of an em-
6 ploying office of the Senate;

7 (C) an individual on the payroll of an em-
8 ploying office of the Architect of the Capitol;
9 and

10 (D) an individual on the payroll of an em-
11 ploying office of an instrumentality.

12 (2) EMPLOYEE IN THE HOUSE OF REPRESENT-
13 ATIVES.—The term “individual on the payroll of an
14 employing office in the House of Representatives”
15 means—

16 (A) an individual who is covered under
17 Rule LI of the House of Representatives, as in
18 effect on the day before the date of enactment
19 of this Act;

20 (B) any applicant for a position that is to
21 be occupied by an individual described in sub-
22 paragraph (A); or

23 (C) any individual who was formerly an
24 employee described in subparagraph (A) and

1 whose claim of a violation arises out of the indi-
2 vidual's employment.

3 (3) EMPLOYEE IN THE SENATE.—The term
4 “individual on the payroll of an employing office in
5 the Senate” means—

6 (A) any employee whose pay is disbursed
7 by the Secretary of the Senate;

8 (B) any applicant for a position that is to
9 be occupied by an individual described in sub-
10 paragraph (A)); or

11 (C) any individual who was formerly an
12 employee described in subparagraph (A) and
13 whose claim of a violation arises out of the indi-
14 vidual's employment.

15 (4) EMPLOYEE OF THE ARCHITECT OF THE
16 CAPITOL.—The term “individual on the payroll of an
17 employing office of the Architect of the Capitol”
18 means—

19 (A) an employee of the Architect of the
20 Capitol or an individual within the administra-
21 tive jurisdiction of the Architect of the Capitol
22 if such employee or individual is paid from
23 funds under a law providing appropriations for
24 the legislative branch;

1 (B) any applicant for a position that is to
2 be occupied by an employee or individual de-
3 scribed in subparagraph (A); or

4 (C) any individual who was formerly an
5 employee or individual described in subpara-
6 graph (A) and whose claim of a violation arises
7 out of the individual's employment.

8 (5) EMPLOYEE OF AN INSTRUMENTALITY.—
9 The term “individual on the payroll of an employing
10 office of an instrumentality” means—

11 (A) any individual on the payroll of an in-
12 strumentality of the legislative branch of the
13 Federal Government;

14 (B) any applicant for a position that is to
15 be occupied by an individual described in sub-
16 paragraph (A); or

17 (C) any individual who was formerly an
18 employee described in subparagraph (A) and
19 whose claim of a violation arises out of the indi-
20 vidual's instrumentality employment.

21 **SEC. 3. APPLICATION OF LAWS.**

22 (a) LAWS WHICH WILL APPLY.—On the date regula-
23 tions under section 5(b)(1) to implement the results of the
24 study under section 5(a)(1)(A) take effect, the following

1 laws shall apply, in accordance with section 5, to the legis-
2 lative branch of the Federal Government:

3 (1) The Fair Labor Standards Act of 1938 (29
4 U.S.C. 201 et seq.).

5 (2) Title VII of the Civil Rights Act of 1964
6 (42 U.S.C. 2000e et seq.).

7 (3) The Americans With Disabilities Act of
8 1990 (42 U.S.C. 12101 et seq.).

9 (4) The Age Discrimination in Employment Act
10 of 1967 (29 U.S.C. 621 et seq.).

11 (5) The Family and Medical Leave Act of 1993
12 (29 U.S.C. 2611 et seq.).

13 (6) The Occupational Safety and Health Act of
14 1970 (other than section 19) (29 U.S.C. 651 et
15 seq.).

16 (7) Chapter 71 (relating to Federal labor man-
17 agement relations) of title 5, United States Code.

18 (8) The Employee Polygraph Protection Act of
19 1988 (29 U.S.C. 2001 et seq.).

20 (9) The Worker Adjustment and Retraining
21 Notification Act (29 U.S.C. 2101 et seq.).

22 (10) The Rehabilitation Act of 1973 (29 U.S.C.
23 791).

24 (11) Section 552 (relating to public informa-
25 tion) of title 5, United States Code.

1 (12) Section 552a (relating to privacy) of title
2 5, United States Code.

3 The laws referred to in this subsection which apply now
4 to congressional employees shall continue to apply to such
5 employees until the effective date such laws are made ap-
6 plicable in accordance with section 5.

7 (b) LAWS WHICH MAY BE MADE APPLICABLE.—Any
8 provision of Federal law shall, to the extent that it relates
9 to—

10 (1) the terms and conditions of employment (in-
11 cluding hiring, promotion or demotion, salary and
12 wages, overtime compensation, benefits, work assign-
13 ments or reassignments, termination, and family and
14 medical leave) of employees,

15 (2) protection from discrimination in personnel
16 actions, including discrimination based on—

17 (A) race, color, religion, sex (including
18 marital and parental status), or national origin
19 within the meaning of section 717 of the Civil
20 Rights Act of 1964 (42 U.S.C. 20003-16),

21 (B) age within the meaning of section 13
22 of the Age Discrimination in Employment Act
23 of 1967 (29 U.S.C. 633a), or

24 (C) handicap or disability within the mean-
25 ing of section 501 of the Rehabilitation Act of

1 1973 (29 U.S.C. 791) and sections 102 through
2 104 of the Americans with Disabilities Act of
3 1990 (42 U.S.C. 12112–14), and
4 (3) the health and safety of employees,
5 apply to the legislative branch of the Federal Government
6 in accordance with section 5.

7 **SEC. 4. OFFICE OF COMPLIANCE.**

8 (a) ESTABLISHMENT.—There is established in the
9 legislative branch an Office of Compliance (hereinafter in
10 this Act referred to as the “Office”).

11 (b) COMPOSITION.—

12 (1) BOARD OF DIRECTORS.—The Office shall
13 have a Board of Directors. The Board of Directors
14 shall consist of 8 individuals appointed jointly by the
15 Speaker of the House of Representatives, the Major-
16 ity Leader of the Senate, and the Minority Leaders
17 of the House of Representatives and the Senate. Ap-
18 pointments of the first 8 members of the Board of
19 Directors shall be completed not later than 120 days
20 after the date of the enactment of this Act.

21 (2) EXECUTIVE DIRECTOR.—The Chairperson
22 of the Board of Directors shall—

- 23 (A) appoint,
24 (B) establish the compensation of, and
25 (C) terminate,

1 an executive director (referred to in this Act as the
2 “executive director”), subject to the approval of the
3 Board of Directors. The compensation of the execu-
4 tive director may not exceed the annual rate of basic
5 pay prescribed for level V of the Executive Schedule
6 under section 5316 of title 5, United States Code.

7 (c) BOARD OF DIRECTORS QUALIFICATIONS.—

8 (1) IN GENERAL.—The members of the Board
9 of Directors shall be individuals with training or ex-
10 pertise in—

11 (A) the application of the laws referred to
12 in section 3 to employment, and

13 (B) employment in the Congress.

14 (2) SPECIFIC QUALIFICATIONS.—

15 (A) LOBBYING.—No individual who en-
16 gages in, or is otherwise employed in, lobbying
17 of the Congress and who is required under the
18 Federal Regulation of Lobbying Act to register
19 with the Clerk of the House of Representatives
20 or the Secretary of the Senate shall be consid-
21 ered eligible for appointment to, or service on,
22 the Board of Directors.

23 (B) OFFICE.—No member of the Board of
24 Directors appointed under subsection (b)(1)
25 may hold or may have held the position of

1 Member of the House of Representatives, Sen-
2 ator, or employee of the House of Representa-
3 tives or the Senate.

4 (3) HOLDING OFFICE.—If during a term of of-
5 fice a member of the Board of Directors engages in
6 an activity described in paragraph (2)(A), such posi-
7 tion shall be declared vacant and a successor shall
8 be selected in accordance with subsection (b)(1).

9 (4) VACANCIES.—A vacancy in the Board of
10 Directors shall be filled in the manner in which the
11 original appointment was made.

12 (d) BOARD OF DIRECTORS TERM OF OFFICE.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), membership on the Board of Directors
15 shall be for 5 years. A member shall only be eligible
16 for appointment for a single term of office.

17 (2) FIRST APPOINTMENTS.—Of the members
18 first appointed to the Board of Directors—

19 (A) 2 shall have a term of office of 2
20 years,

21 (B) 2 shall have a term of office of 3
22 years,

23 (C) 2 shall have a term of office of 4
24 years, and

1 (D) 2 shall have a term of office of 5
2 years,
3 as designated at the time of appointment by the per-
4 sons specified in subsection (b)(1).

5 (e) CHAIRPERSON.—The Chairperson of the Board of
6 Directors shall be appointed from the members of the
7 Board of Directors by the members of the Board.

8 (f) COMPENSATION OF MEMBERS.—

9 (1) PER DIEM.—Each member of the Board of
10 Directors shall be compensated at a rate equal to
11 the daily equivalent of the annual rate of basic pay
12 prescribed for level V of the Executive Schedule
13 under section 5316 of title 5, United States Code,
14 for each day (including travel time) during which
15 such member is engaged in the performance of the
16 duties of the Board.

17 (2) TRAVEL EXPENSES.—Each member of the
18 Board of Directors shall receive travel expenses, in-
19 cluding per diem in lieu of subsistence, at rates au-
20 thorized for employees of agencies under subchapter
21 I of chapter 57 of title 5, United States Code, for
22 each day the member is engaged in the performance
23 of duties away from the home or regular place of
24 business of the member.

1 (g) OFFICE STAFF.—The executive director may ap-
2 point and fix the compensation of such staff, including
3 hearing officers, as are necessary to carry out this Act.

4 (h) DETAILEES.—The executive director may, with
5 the prior consent of the Government department or agency
6 concerned, use the services of any such department or
7 agency, including the services of members or personnel of
8 the General Accounting Office Personnel Appeals Board.

9 (i) CONSULTANTS.—In carrying out this Act, the ex-
10 ecutive director may procure the temporary (not to exceed
11 1 year) or intermittent services of individual consultants
12 or organizations thereof.

13 **SEC. 5. STUDY AND REGULATIONS.**

14 (a) INITIAL ACTION.—The Board of Directors shall
15 conduct a study of the manner in which the laws made
16 applicable to the legislative branch of the Federal Govern-
17 ment under section 3(a) should apply and include in the
18 study an examination of the procedures used by the in-
19 strumentalities to enforce the application of such laws and
20 a determination as to whether such procedures may be
21 used in lieu of sections 7 through 12. The Board of Direc-
22 tors shall complete such study and report the results to
23 Congress not later than 180 days after the date of the
24 first appointment of all the members of the Board of Di-
25 rectors.

1 (b) CONTINUING ACTION.—On an ongoing basis the
2 Board of Directors—

3 (1) shall determine which of the laws referred
4 to in section 3(b) should apply to the legislative
5 branch of the Federal Government and if it should,
6 the manner in which it should be made applicable;

7 (2) shall study the application to the legislative
8 branch of the Federal Government of provisions of
9 Federal law referred to in section 3 that are enacted
10 after the date of the enactment of this Act; and

11 (3) may propose regulations with respect to
12 such application in accordance with subsection (b).

13 (c) REGULATIONS.—

14 (1) LAWS MADE APPLICABLE.—

15 (A) GENERAL RULE.—Not later than 180
16 days after the date of the completion of the
17 study under subsection (a)(1), the Board of Di-
18 rectors shall, in accordance with section 553 of
19 title 5, United States Code, propose regulations
20 that specify the manner in which the laws made
21 applicable to the legislative branch of the Fed-
22 eral Government under section 3(a) shall apply.
23 The Board of Directors shall provide a period
24 of at least 30 days for comment on the pro-
25 posed regulations.

1 (B) CONGRESSIONAL NOTICE.— In addi-
2 tion to publishing a general notice of proposed
3 rulemaking under section 553(b) of title 5,
4 United States Code, the Board of Directors
5 shall concurrently submit such notice for publi-
6 cation in the Congressional Record.

7 (C) AMENDMENTS AND REPEALS.—When
8 proposing regulations under subparagraph (A)
9 specifying the manner in which a law referred
10 to in section 3(a) shall apply to the legislative
11 branch of the Federal Government, the Board
12 of Directors shall recommend to the Congress
13 changes in or repeals of existing law to accom-
14 modate the application of such law to the legis-
15 lative branch of the Federal Government.

16 (D) FINAL REGULATIONS.—The Board of
17 Directors shall, in accordance with such section
18 553, issue final regulations not later than 60
19 days after the end of the comment period on
20 the proposed regulations.

21 (2) CONTINUING ACTION.—

22 (A) GENERAL RULE.—Not later than 180
23 days after the date of the completion of the
24 study or a determination under subsection (b),
25 the Board of Directors shall, in accordance with

1 section 553 of title 5, United States Code, pro-
2 pose regulations that specify which of the provi-
3 sions of Federal law considered in such study
4 shall apply to the legislative branch of the Fed-
5 eral Government. The Board of Directors shall
6 provide a period of at least 30 days for com-
7 ment on the proposed regulations.

8 (B) CONGRESSIONAL NOTICE.— In addi-
9 tion to publishing a general notice of proposed
10 rulemaking under section 553(b) of title 5,
11 United States Code, the Board of Directors
12 shall concurrently submit such notice for publi-
13 cation in the Congressional Record.

14 (C) AMENDMENTS AND REPEALS.—When
15 proposing regulations under subparagraph (A)
16 specifying which of the provisions of Federal
17 law referred to in section 3(b) shall apply to the
18 legislative branch of the Federal Government,
19 the Board of Directors shall recommend to the
20 Congress changes in or repeals of existing law
21 to accommodate the application of such law to
22 the legislative branch of the Federal Govern-
23 ment.

24 (D) FINAL REGULATIONS.— The Board of
25 Directors shall, in accordance with such section

1 553, issue final regulations not later than 60
2 days after the end of the comment period on
3 the proposed regulations.

4 (3) REGULATION REQUIREMENTS.—Regulations
5 under paragraphs (1) and (2) shall be consistent
6 with the regulations issued by an agency of the execu-
7 tive branch of the Federal Government under the
8 provision of law made applicable to the legislative
9 branch of the Federal Government, including por-
10 tions relating to remedies.

11 (d) TRANSMITTAL.—A final regulation issued under
12 subsection (c) shall be transmitted to the Congress for
13 consideration under subsection (e).

14 (e) TAKING EFFECT OF REGULATIONS.—

15 (1) GENERAL RULE.—Subject to subsection (f),
16 a final regulation which is issued under subsection
17 (c) shall take effect upon the expiration of 60 days
18 from the date the final regulation is issued unless
19 disapproved by the Congress by concurrent resolu-
20 tion.

21 (2) CONCURRENT RESOLUTION.—A concurrent
22 resolution referred to in paragraph (1) shall be in-
23 troduced in the House of Representatives or the
24 Senate after the date on which the Board of Direc-
25 tors issues the final regulation to which the concur-

1 rent resolution applies. The matter after the resolv-
2 ing clause of the resolution shall be as follows:
3 “That Congress disapproves the issuance of final
4 regulations of the Office of Compliance as issued on
5 _____ (the blank space being appropriately
6 filled in).”.

7 (f) IMPLEMENTING BILLS.—When a regulation is-
8 sued under subsection (c)(1) or (c)(2) takes effect under
9 subsection (e), the majority leader of the House of Rep-
10 resentatives and the majority leader of the Senate shall
11 introduce implementing bills on the date such regulation
12 takes effect.

13 (g) PROCEDURE FOR ACTION BY CONGRESS.—

14 (1) DEFINITION.—For purposes of subsection
15 (f) and this subsection, the term “implementing bill”
16 means—

17 (A) in the case of a bill introduced after
18 the transmittal to Congress of a regulation
19 under subsection (c)(1) which prescribes the
20 manner in which a law made applicable to the
21 legislative branch of the Federal Government
22 under section 5 shall apply, a bill which pre-
23 scribes, consistent with such regulation and any
24 recommendation made under subsection

1 (c)(1)(C) and without substantive change, the
2 manner in which such law shall apply; and

3 (B) in the case of a bill introduced after
4 the transmittal to Congress of a regulation
5 under subsection (c)(2) which prescribes which
6 law shall apply to the legislative branch of the
7 Federal Government and which prescribes the
8 manner in which such law shall apply, a bill
9 which prescribes, consistent with such regula-
10 tion and any recommendation made under sub-
11 section (c)(1)(C) and without substantive
12 change, that such law shall apply to the legisla-
13 tive branch of the Federal Government and the
14 manner in which such law shall apply.

15 (2) REFERRAL.—When an implementing bill is
16 introduced it shall be referred to the committee with
17 jurisdiction over the law covered by the implement-
18 ing bill.

19 (3) AMENDMENTS PROHIBITED.—No amend-
20 ment to an implementing bill shall be in order in ei-
21 ther the House of Representatives or the Senate;
22 and no motion to suspend the application of this
23 subsection shall be in order in either House, nor
24 shall it be in order in either House for the Presiding

1 Officer to entertain a request to suspend the appli-
2 cation of this subsection by unanimous consent.

3 (4) PERIOD FOR COMMITTEE AND FLOOR CON-
4 sideration.—

5 (A) GENERAL RULE.—Except as provided
6 in subparagraph (B), if the committee or com-
7 mittees of either House to which an implement-
8 ing bill has been referred have not reported it
9 at the close of the 45th day after its introduc-
10 tion, such committee or committees shall be
11 automatically discharged from further consider-
12 ation of the bill and it shall be placed on the
13 appropriate calendar. A vote on final passage of
14 the bill shall be taken in each House on or be-
15 fore the close of the 15th day after the bill re-
16 ported by the committee or committees of that
17 House to which it was referred, or after such
18 committee or committees have been discharged
19 from further consideration of the bill. If prior
20 to the passage by one House of an implement-
21 ing bill of that House, that House receives the
22 same implementing bill from the other House,
23 then—

1 (i) the procedure in that House shall
2 be the same as if no implementing bill had
3 been received from the other House; but

4 (ii) the vote on final passage shall be
5 on the implementing bill of the other
6 House.

7 (B) SENATE.—The provisions of subpara-
8 graph (A) shall not apply in the Senate to an
9 implementing bill. An implementing bill received
10 from the House shall be referred to the appro-
11 priate committee or committees of the Senate.
12 If such committee or committees have not re-
13 ported such bill at the close of the 15th day
14 after its receipt by the Senate (or, if later, be-
15 fore the close of the 45th day after the cor-
16 responding implementing bill was introduced in
17 the Senate), such committee or committees
18 shall be automatically discharged from further
19 consideration of such bill and it shall be placed
20 on the calendar. A vote on final passage of such
21 bill shall be taken in the Senate on or before
22 the close of the 15th day after such bill is re-
23 ported by the committee or committees of the
24 Senate to which it was referred, or after such

1 committee or committees have been discharged
2 from further consideration of such bill.

3 (C) NUMBER OF DAYS.—For purposes of
4 subparagraphs (A) and (B), in computing a
5 number of days in either House, there shall be
6 excluded any day on which that House was not
7 in session.

8 (5) FLOOR CONSIDERATION IN THE HOUSE.—

9 (A) PRIVILEGES.—A motion in the House
10 of Representatives to proceed to the consider-
11 ation of an implementing bill shall be highly
12 privileged and not debatable. An amendment to
13 the motion shall not be in order, nor shall it be
14 in order to move to reconsider the vote by
15 which the motion is agreed to or disagreed to.

16 (B) TIME.—Debate in the House of Rep-
17 resentatives on an implementing bill shall be
18 limited to not more than 20 hours, which shall
19 be divided equally between those favoring and
20 those opposing the bill. A motion further to
21 limit debate shall not be debatable. It shall not
22 be in order to move to recommit an implement-
23 ing bill or to move to reconsider the vote by
24 which an implementing bill is agreed to or dis-
25 agreed to.

1 (C) POSTPONEMENT.—Motions to post-
2 pone, made in the House of Representatives
3 with respect to the consideration of an imple-
4 menting bill, and motions to proceed to the con-
5 sideration of other business, shall be decided
6 without debate.

7 (D) APPEALS.—All appeals from the deci-
8 sions of the Chair relating to the application of
9 the Rules of the House of Representatives to
10 the procedure relating to an implementing bill
11 shall be decided without debate.

12 (E) OTHER RULES.—Except to the extent
13 specifically provided in the preceding provisions
14 of this subsection, consideration of an imple-
15 menting bill shall be governed by the Rules of
16 the House of Representatives applicable to
17 other bills in similar circumstances.

18 (6) FLOOR CONSIDERATION IN THE SENATE.—

19 (A) PRIVILEGES.—A motion in the Senate
20 to proceed to the consideration of an imple-
21 menting bill shall be privileged and not debat-
22 able. An amendment to the motion shall not be
23 in order, nor shall it be in order to move to re-
24 consider the vote by which the motion is agreed
25 to or disagreed to.

1 (B) BILL TIME.—Debate in the Senate on
2 an implementing, and all debatable motions and
3 appeals in connection therewith, shall be limited
4 to not more than 20 hours. The time shall be
5 equally divided between, and controlled by, the
6 majority leader and the minority leader or their
7 designees.

8 (C) MOTION OR APPEAL TIME.—Debate in
9 the Senate on any debatable motion or appeal
10 in connection with the implementing bill shall
11 be limited to not more than 1 hour, to be equal-
12 ly divided between, and controlled by, the mover
13 and the manager of the bill, except that in the
14 event the manager of the bill is in favor of any
15 such motion or appeal, the time in opposition
16 thereto, shall be controlled by the minority lead-
17 er or his designee. Such leaders, or either of
18 them, may, from time to time under their con-
19 trol on the passage of an implementing bill or
20 approval resolution, allot additional time to any
21 Senator during the consideration of any debat-
22 able motion or appeal.

23 (D) OTHER MOTIONS.—A motion in the
24 Senate to further limit debate is not debatable.

1 A motion to recommit an implementing bill or
2 approval resolution is not in order.

3 **SEC. 6. OTHER FUNCTIONS.**

4 (a) RULES OF THE OFFICE.—The executive director
5 shall adopt rules governing the procedures of the Office,
6 including the procedures of hearing boards, which shall be
7 submitted for publication in the Congressional Record.
8 The rules may be amended in the same manner. The execu-
9 tive director may consult with the Chairman of the Ad-
10 ministrative Conference of the United States, the Legal
11 Counsel of the Senate, and the General Counsel of the
12 House of Representatives on the adoption of rules.

13 (b) INVESTIGATIVE AUTHORITY.—The executive di-
14 rector shall have authority to conduct such investigations
15 as the executive director requires to implement sections
16 8 through 10 and section 12.

17 (c) DUTIES.—The Office shall—

18 (1) carry out a program of education for Mem-
19 bers of Congress and other employing authorities of
20 the legislative branch of the Federal Government re-
21 specting the laws made applicable to them and a
22 program to inform individuals of their rights under
23 laws applicable to the legislative branch of the Fed-
24 eral Government and under sections 7 through 12,

1 (2) in carrying out the program under para-
2 graph (1), distribute the telephone number and ad-
3 dress of the Office, procedures for action under sec-
4 tions 7 through 12, and any other information the
5 executive director deems appropriate for distribution,
6 distribute such information to Members of Congress
7 and other employing authorities of the legislative
8 branch of the Federal Government in a manner suit-
9 able for posting, provide such information to new
10 employees of the legislative branch of the Federal
11 Government, distribute such information to the resi-
12 dences of congressional employees, and conduct sem-
13 inars and other activities designed to educate em-
14 ployers and employees in such information,

15 (3) compile and publish statistics on the use of
16 the Office by congressional employees, including the
17 number and type of contacts made with the Office,
18 on the reason for such contacts, on the number of
19 employees who initiated proceedings with the Office
20 under sections 7 through 12 and the result of such
21 proceedings, and on the number of employees who
22 filed a complaint under section 10, the basis for the
23 complaint, and the action taken on the complaint,
24 and

1 (4) within 180 days of the initial appointment
2 of the executive director and in conjunction with the
3 Clerk of the House of Representatives and the Sec-
4 retary of the Senate, develop a system for the collec-
5 tion of demographic data respecting the composition
6 of the congressional employees, including race, sex,
7 and wages, and a system for the collection of infor-
8 mation on employment practices, including family
9 leave and flexible work hours, in Congressional of-
10 fices.

11 **SEC. 7. PROCEDURE FOR CONSIDERATION OF ALLEGED**
12 **VIOLATIONS.**

13 The procedure for consideration of alleged violations
14 of laws made applicable to the legislative branch of the
15 Federal Government under the regulation promulgated
16 under section 5(b) applicable to such laws or under laws
17 enacted under section 5(f) applicable to such laws, which-
18 ever are in effect, consists of 4 steps as follows:

19 (1) Step I, counseling, as set forth in section 8.

20 (2) Step II, mediation, as set forth in section
21 9.

22 (3) Step III, formal complaint and hearing by
23 a hearing board, as set forth in section 10.

24 (4) Step IV, judicial review if a Congressional
25 employee is aggrieved by a dismissal under section

1 10(c), a final decision under section 10(g), or an
2 order under section 10(h) or if a Member of the
3 House of Representatives or a Senator is aggrieved
4 by a final decision under section 10(g) or would be
5 subject to an order issued under section 10(h).

6 **SEC. 8. STEP I: COUNSELING.**

7 (a) IN GENERAL.—A congressional employee alleging
8 a violation of a law made applicable to the legislative
9 branch of the Federal Government under section 5 may
10 request counseling through the Office. The Office shall
11 provide the employee with all relevant information with re-
12 spect to the rights of the employee. A request for counsel-
13 ing shall be made not later than 180 days after the alleged
14 violation forming the basis of the request for counseling
15 occurred.

16 (b) PERIOD OF COUNSELING.—The period for coun-
17 seling shall be 30 days unless the employee and the Office
18 agree to reduce the period. The period shall begin on the
19 date the request for counseling is received.

20 **SEC. 9. STEP II: MEDIATION.**

21 (a) IN GENERAL.—Not later than 15 days after the
22 end of the counseling period under section 8, the employee
23 who alleged a violation of a law made applicable to the
24 legislative branch of the Federal Government under sec-

1 tion 5 may file a request for mediation with the Office.

2 Mediation—

3 (1) may include the Office, the employee, the
4 employing office, and individuals who are rec-
5 ommended by organizations composed primarily of
6 individuals experienced in adjudicating or arbitrating
7 personnel matters, and

8 (2) shall be a process involving meetings with
9 the parties separately or jointly for the purpose of
10 resolving the dispute between the employee and the
11 employing office.

12 (b) **MEDIATION PERIOD.**—The mediation period shall
13 be 30 days beginning on the date the request for mediation
14 is received and may be extended for an additional 30 days
15 at the discretion of the Office. The Office shall notify the
16 employee and the head of the employing office when the
17 mediation period has ended. For purposes of this section,
18 the term “head of employing office” means the individual
19 who has final authority to appoint, hire, discharge, and
20 set the terms, conditions, or privileges of the Congres-
21 sional employment of an employee.

22 **SEC. 10. STEP III: FORMAL COMPLAINT AND HEARING.**

23 (a) **FORMAL COMPLAINT AND REQUEST FOR HEAR-**
24 **ING.**—Not later than 30 days after receipt by the congres-
25 sional employee of notice from the Office of the end of

1 the mediation period under section 9, the congressional
2 employee may file a formal complaint with the Office. No
3 complaint may be filed unless the employee has made a
4 timely request for counseling and has completed the proce-
5 dures set forth in sections 8 and 9.

6 (b) HEARING BOARD.—A board of 3 independent
7 hearing officers (hereinafter in this Act referred to as a
8 “hearing board”), who are not Members of the House of
9 Representatives, Senators, or officers or employees of the
10 House of Representatives or Senate, chosen by the execu-
11 tive director (one of whom shall be designated by the exec-
12 utive director as the presiding hearing officer) shall be as-
13 signed to consider each complaint filed under subsection
14 (a). The executive director shall appoint hearing officers
15 from candidates who are recommended by the Federal Me-
16 diation and Conciliation Service, the Administrative Con-
17 ference of the United States, or organizations composed
18 primarily of individuals experienced in adjudicating or ar-
19 bitrating personnel matters. A hearing board shall act by
20 majority vote.

21 (c) DISMISSAL OF FRIVOLOUS CLAIMS.—Prior to a
22 hearing under subsection (d), a hearing board may dismiss
23 any claim that it finds to be frivolous.

24 (d) HEARING.—A hearing shall be conducted—

1 (1) in closed session on the record by a hearing
2 board; and

3 (2) no later than 30 days after filing of the
4 complaint under subsection (a), except that the Of-
5 fice may, for good cause, extend up to an additional
6 60 days the time for conducting a hearing.

7 (e) DISCOVERY.—Reasonable prehearing discovery
8 may be permitted at the discretion of the hearing board.

9 (f) SUBPOENA POWER.—

10 (1) IN GENERAL.—A hearing board may au-
11 thorize subpoenas, which shall be issued by the pre-
12 siding hearing officer on behalf of the hearing board
13 under, in a matter involving the House of Rep-
14 resentatives, the seal of the House of Representa-
15 tives, for the attendance of witnesses at proceedings
16 of the hearing board and for the production of cor-
17 respondence, books, papers, documents, and other
18 records. The attendance of witnesses and the pro-
19 duction of evidence may be required from any place
20 within the United States.

21 (2) FAILURE TO OBEY A SUBPOENA.—If a per-
22 son refuses to obey a subpoena issued under para-
23 graph (1), the hearing board may apply to a United
24 States district court for an order requiring that per-
25 son to appear before the hearing board to give testi-

1 mony, produce evidence, or both, relating to the
2 matter under investigation. The application may be
3 made within the judicial district where the hearing
4 is conducted or where that person is found, resides,
5 or transacts business. Any failure to obey the order
6 of the court may be punished by the court as civil
7 contempt.

8 (3) SERVICE OF SUBPOENAS.—The subpoenas
9 of the hearing board shall be served in the manner
10 provided for subpoenas issued by a United States
11 district court under the Federal Rules of Civil Pro-
12 cedure for the United States district courts.

13 (4) SERVICE OF PROCESS.—All process of any
14 court to which application is to be made under para-
15 graph (2) may be served in the judicial district in
16 which the person required to be served resides or
17 may be found.

18 (5) IMMUNITY.—The hearing board is an agen-
19 cy of the United States for the purpose of part V
20 of title 18, United States Code (relating to immunity
21 of witnesses).

22 (g) HEARING BOARD DECISION.—As expeditiously as
23 possible, but in no case more than 45 days after the con-
24 clusion of the hearing, the hearing board shall make a de-
25 cision in the matter for which the hearing was held. The

1 decision of the hearing board shall be transmitted by the
2 Office to the employee and the employing office. The deci-
3 sion shall state the issues raised by the complaint, describe
4 the evidence in the record, and contain a determination
5 as to whether a violation of a law made applicable to the
6 legislative branch of the Federal Government under sec-
7 tion 5 has occurred. Any decision of the hearing board
8 shall contain a written statement of the reasons for the
9 hearing board's decision.

10 (h) REMEDY ORDER.—If the decision of the hearing
11 board under subsection (g) is that a violation of a law
12 made applicable to the legislative branch of the Federal
13 Government under section 5, it shall order the remedies
14 under such law as made applicable to the legislative
15 branch of the Federal Government under section 5, except
16 that no Member of the House of Representatives or Sen-
17 ator shall be personally liable for the payment of com-
18 pensation. The hearing board shall have no authority to
19 award punitive damages. The entry of an order under sub-
20 section shall constitute a final decision for purposes of ju-
21 dicial review under section 11.

22 (i) FUNDS.—There shall be established in the House
23 of Representatives and in the Senate a fund from which
24 compensation (including attorney's fees) may be paid in
25 accordance with an order under subsection (h) or as a re-

1 sult of judicial review under section 11. From the outset
2 of any proceeding in which compensation may be paid
3 from a fund of the House of Representatives, the General
4 Counsel of the House of Representatives may provide the
5 respondent with representation.

6 **SEC. 11. JUDICIAL REVIEW.**

7 (a) IN GENERAL.—

8 (1) TYPES OF REVIEW.—Following any hearing
9 under section 10 on a complaint relating to a provi-
10 sion of law described in section 3(a), any congres-
11 sional employee aggrieved by a dismissal of a claim
12 under section 10(c), a final decision under section
13 10(g), a final order under section 10(h), or any
14 Member of the House of Representatives or Senator
15 aggrieved by a final decision under section 10(g) or
16 a final order under section 10(h), may—

17 (A) bring a civil action in a district court
18 of the United States for a de novo review of
19 such dismissal or of the alleged violation of law
20 with respect to which such decision or order
21 was issued if the law applicable to such dismiss-
22 sal or violation authorizes such a review, or

23 (B) petition for review by the United
24 States Court of Appeals for the Federal Circuit.

1 If in an action brought under subparagraph (A) a
2 court determines that a dismissal was not authorized
3 or a violation of law occurred, the court may only
4 enter an order described in section 10(h).

5 (2) PROVISIONS APPLICABLE TO REVIEW BY
6 COURT OF APPEALS.—The following provisions apply
7 to a review under paragraph (1)(B):

8 (A) LAW APPLICABLE.—Chapter 158 of
9 title 28, United States Code, shall apply—

10 (i) with respect to section 2344 of
11 title 28, United States Code, service of the
12 petition shall be on the House or Senate
13 Legal Counsel, or the appropriate entity of
14 an instrumentality, as the case may be,
15 rather than on the Attorney General;

16 (ii) the provisions of section 2348 of
17 title 28, United States Code, on the au-
18 thority of the Attorney General, shall not
19 apply;

20 (iii) the petition for review shall be
21 filed not later than 90 days after the entry
22 in the Office of a final decision under sec-
23 tion 10(g), an order under section 10(h);

1 (iv) the Office shall be an “agency” as
2 that term is used in chapter 158 of title
3 28, United States Code; and

4 (v) the Office shall be the respondent
5 in any proceeding under subparagraph (A).

6 (B) STANDARD OF REVIEW.—To the ex-
7 tent necessary to decision and when presented,
8 the court shall decide all relevant questions of
9 law and interpret constitutional and statutory
10 provisions. The court shall set aside a dismissal
11 under section 10(c), a final decision under sec-
12 tion 10(g), or an order under section 10(h) if
13 it is determined that the dismissal, decision, or
14 order was—

15 (i) arbitrary, capricious, an abuse of
16 discretion, or otherwise not consistent with
17 law;

18 (ii) not made consistent with required
19 procedures; or

20 (iii) unsupported by substantial evi-
21 dence.

22 (C) RECORD.—In making determinations
23 under subparagraph (B), the court shall review
24 the whole record, or those parts of it cited by
25 a party, and due account shall be taken of the

1 rule of prejudicial error. The record on review
2 shall include the record before the hearing
3 board, the decision of the hearing board, and
4 the order of the hearing board.

5 (3) INFORMATION.—Any petitioner seeking in-
6 formation from an office of the legislative branch of
7 the Federal Government that is aggrieved by a final
8 decision of the Office under section 10(g), may peti-
9 tion for review of the decision by the District Court
10 of the United States for the District of Columbia.
11 Such review shall be conducted in accordance with
12 subparagraphs (B), (C), (E), (F), and (G) of section
13 552(a)(4) of title 5, United States Code.

14 (b) ATTORNEY'S FEES.—If a congressional employee
15 is the prevailing party in a proceeding under this section,
16 attorney's fees for the judicial proceeding may be allowed
17 by the court in accordance with the standards prescribed
18 under section 706(k) of the Civil Rights Act of 1964 (42
19 U.S.C. 2000e-5(k)).

20 **SEC. 12. RESOLUTION OF COMPLAINT.**

21 If, after a formal complaint is filed under section 10,
22 the employee and the head of the employing office resolve
23 the issues involved, the employee may withdraw the com-
24 plaint or the parties may enter into a written agreement,
25 subject to the approval of the executive director.

1 **SEC. 13. PROHIBITION OF INTIMIDATION.**

2 Any intimidation of, or reprisal against, any employee
3 by any Member of the House of Representatives, Senator,
4 or officer or employee of the House of Representatives or
5 Senate, by the Architect of the Capitol or anyone employed
6 by the Architect of the Capitol, or by an instrumentality
7 of the legislative branch of the Federal Government be-
8 cause of the exercise of a right under this Act constitutes
9 an unlawful employment practice, which may be remedied
10 in the same manner under this Act as is a violation of
11 a law made applicable to the legislative branch of the Fed-
12 eral Government under section 5.

13 **SEC. 14. CONFIDENTIALITY.**

14 (a) COUNSELING.—All counseling shall be strictly
15 confidential except that the Office and the employee may
16 agree to notify the head of the employing office of the
17 allegations.

18 (b) MEDIATION.—All mediation shall be strictly
19 confidential.

20 (c) HEARINGS.—Except as provided in subsections
21 (d) and (e), the hearings, deliberations, and decisions of
22 the hearing board shall be confidential.

23 (d) RELEASE OF RECORDS FOR JUDICIAL ACTION.—
24 The records and decisions of hearing boards may be made
25 public if required for the purpose of judicial action under
26 section 9.

1 (e) ACCESS BY COMMITTEES OF CONGRESS.—At the
2 discretion of the executive director, the executive director
3 may provide to the Committee on Standards of Official
4 Conduct of the House of Representatives and the Select
5 Committee on Ethics of the Senate access to the records
6 of the hearings and decisions of the hearing boards, in-
7 cluding all written and oral testimony in the possession
8 of the hearing boards, concerning a decision under section
9 10(g). The executive director shall not provide such access
10 until the executive director has consulted with the individ-
11 ual filing the complaint at issue in the hearing, and until
12 the hearing board has issued the decision.

13 (f) COORDINATION.—The executive director shall co-
14 ordinate the executive director’s proceedings with the
15 Committee on Standards and Official Conduct of the
16 House of Representatives and the Select Committee on
17 Ethics of the Senate to ensure effectiveness, to avoid du-
18 plication, and to prevent penalizing cooperation by re-
19 spondents in the respective proceedings.

20 **SEC. 15. POLITICAL AFFILIATION AND PLACE OF RESI-**
21 **DENCE.**

22 (a) IN GENERAL.—It shall not be a violation of a law
23 made applicable to the legislative branch of the Federal
24 Government under section 5 to consider the—

25 (1) party affiliation,

1 (2) domicile, or

2 (3) political compatibility with the employing
3 office,

4 of a congressional employee with respect to employment
5 decisions.

6 (b) DEFINITION.—For purposes of subsection (a),
7 the term “employee” means—

8 (1) an employee on the staff of the House of
9 Representatives or Senate leadership,

10 (2) an employee on the staff of a committee or
11 subcommittee,

12 (3) an employee on the staff of a Member of
13 the House of Representatives or Senate,

14 (4) an officer or employee of the House of Rep-
15 resentatives or Senate elected by the House of Rep-
16 resentatives or Senate or appointed by a Member of
17 the House of Representatives or Senate, other than
18 those described in paragraphs (1) through (3), or

19 (5) an applicant for a position that is to be oc-
20 cupied by an individual described in paragraphs (1)
21 through (4).

1 **SEC. 16. OTHER REVIEW PROHIBITED.**

2 No congressional employee may commence a judicial
3 proceeding to redress practices prohibited under section
4 5, except as provided in this Act.

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