

104TH CONGRESS
2D SESSION

H. R. 3452

To make certain laws applicable to the Executive Office of the President,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1996

Mr. MICA (for himself, Mr. CLINGER, Mr. HORN, Mr. BACHUS, Mrs. SEASTRAND, Mr. SOLOMON, Mr. NORWOOD, Mr. WELDON of Florida, Mr. KINGSTON, Mr. HAYWORTH, Mr. BURR, Mr. ENSIGN, Mr. SAM JOHNSON of Texas, Mr. DUNCAN, Mr. GILMAN, Mr. BASS, Ms. GREENE of Utah, Mr. KOLBE, Mr. WAMP, Mr. ZELIFF, Mr. INGLIS of South Carolina, Mr. HOSTETTLER, Mr. LAHOOD, Mr. CHAMBLISS, Mrs. KELLY, Mr. ENGLISH of Pennsylvania, Mr. SCHIFF, Mr. MCCOLLUM, Mr. COX of California, Mr. CHRYSLER, Mr. CHRISTENSEN, Mr. LAZIO of New York, Mr. FORBES, Mr. LEWIS of Kentucky, Mr. COBLE, Mr. MILLER of Florida, Mr. SAXTON, Mr. BARTON of Texas, Ms. PRYCE, Mr. RIGGS, Mr. POMBO, Mr. COLLINS of Georgia, Mr. EVERETT, Mr. DOOLITTLE, Mr. LIGHT-FOOT, Mr. EHLERS, Mr. TALENT, Mr. SKEEN, Mr. WATTS of Oklahoma, Mr. CASTLE, Mr. DREIER, Mr. HASTERT, Mr. EMERSON, Mr. SMITH of Michigan, Mr. UPTON, Mr. DEAL of Georgia, Mr. CALVERT, Mr. LIVINGSTON, Mr. TORKILDSSEN, Mr. MCCRERY, Mr. TATE, Mr. HOKE, Mr. HAYES, Mr. FUNDERBURK, Mr. COOLEY of Oregon, Mr. BARTLETT of Maryland, Mr. CRAPO, Mr. CAMPBELL, Mr. MANZULLO, Mr. HASTINGS of Washington, Mr. DORNAN, Mr. JONES, Mr. PORTMAN, Mr. FAWELL, Mr. BURTON of Indiana, Mr. ROBERTS, Mr. SANFORD, Mr. TIAHRT, Mr. MCINTOSH, Mr. SHADEGG, Mr. HEINEMAN, Mr. BROWNBACK, Mr. ROHRABACHER, Mr. BRYANT of Tennessee, Mr. LARGENT, Mr. SOUDER, Mr. DAVIS, Mr. ROTH, Mr. TAUZIN, Mr. GRAHAM, Mr. BAKER of California, Mr. NETHERCUTT, Mr. MCDADE, Mrs. MEYERS of Kansas, Mr. FOX of Pennsylvania, Mrs. JOHNSON of Connecticut, Mr. NEUMANN, Mr. KIM, Mr. FOLEY, Mr. ALLARD, Mr. HERGER, Mr. STEARNS, Mr. LIPINSKI, Mr. SCHAEFER, Mr. DIAZ-BALART, Mr. SHAYS, and Mr. TAYLOR of North Carolina) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committees on Economic and Educational Opportunities, the Judiciary, and Veterans' Affairs, for a period to be subsequently determined by the

Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make certain laws applicable to the Executive Office
of the President, 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Presidential and Executive Office Accountability Act”.

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Extension of certain rights and protections to presidential offices.
- Sec. 3. Financial officers within the Executive Office of the President.
- Sec. 4. Amendment to definition of “special government employee”.
- Sec. 5. Applicability of future employment laws.
- Sec. 6. Amendments to the Congressional Accountability Act of 1995.
- Sec. 7. Repeal of section 320 of the Government Employee Rights Act of 1991.

8 **SEC. 2. EXTENSION OF CERTAIN RIGHTS AND PROTEC-**
9 **TIONS TO PRESIDENTIAL OFFICES.**

10 (a) IN GENERAL.—Title 3, United States Code, is
11 amended by adding at the end the following:

12 **“CHAPTER 5—EXTENSION OF CERTAIN**
13 **RIGHTS AND PROTECTIONS TO PRESI-**
14 **DENTIAL OFFICES**

“SUBCHAPTER I—GENERAL PROVISIONS

“Sec. 401. Definitions.

“Sec. 402. Application of laws.

“SUBCHAPTER II—EXTENSION OF RIGHTS AND PROTECTIONS

“PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

“Sec. 411. Rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans with Disabilities Act of 1990.

“Sec. 412. Rights and protections under the Family and Medical Leave Act of 1993.

“Sec. 413. Rights and protections under the Fair Labor Standards Act of 1938.

“Sec. 414. Rights and protections under the Employee Polygraph Protection Act of 1988.

“Sec. 415. Rights and protections under the Worker Adjustment and Retraining Notification Act.

“Sec. 416. Rights and protections relating to veterans’ employment and re-employment.

“Sec. 417. Prohibition of intimidation or reprisal.

“PART B—PUBLIC ACCESS PROVISIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

“Sec. 420. Rights and protections under the Americans with Disabilities Act of 1990.

“PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

“Sec. 425. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations.

“PART D—LABOR-MANAGEMENT RELATIONS

“Sec. 430. Application of chapter 71 of title 5, relating to Federal service labor-management relations; procedures for remedy of violations.

“PART E—GENERAL

“Sec. 435. Generally applicable remedies and limitations.

“SUBCHAPTER III—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

“Sec. 451. Procedure for consideration of alleged violations.

“Sec. 452. Counseling and mediation.

“Sec. 453. Election of proceeding.

“Sec. 454. Appropriate agencies.

“Sec. 455. Judicial review.

“Sec. 456. Civil action.

“Sec. 457. Judicial review of regulations.

“Sec. 458. Other judicial review prohibited.

“Sec. 459. Effect of failure to issue regulations.

“Sec. 460. Expedited review of certain appeals.

“Sec. 461. Payments.

“Sec. 462. Confidentiality.

“Sec. 463. Definitions.

“SUBCHAPTER IV—EFFECTIVE DATE

“Sec. 471. Effective date.

1 **“Subchapter I—General Provisions**

2 **“SEC. 401. DEFINITIONS.**

3 “Except as otherwise specifically provided in this
4 chapter, as used in this chapter:

5 “(1) BOARD.—The term ‘Board’ means the
6 Merit Systems Protection Board under chapter 12 of
7 title 5.

8 “(2) COVERED EMPLOYEE.—The term ‘covered
9 employee’ means any employee of an employing of-
10 fice.

11 “(3) EMPLOYEE.—The term ‘employee’ includes
12 an applicant for employment and a former employee.

13 “(4) EMPLOYING OFFICE.—The term ‘employ-
14 ing office’ means—

15 “(A) each office, agency, or other compo-
16 nent of the Executive Office of the President;

17 “(B) the Executive Residence at the White
18 House; and

19 “(C) the official residence (temporary or
20 otherwise) of the Vice President.

1 **“SEC. 402. APPLICATION OF LAWS.**

2 “The following laws shall apply, as prescribed by this
3 chapter, to all employing offices (including employing of-
4 fices within the meaning of section 411, to the extent pre-
5 scribed therein):

6 “(1) The Fair Labor Standards Act of 1938.

7 “(2) Title VII of the Civil Rights Act of 1964.

8 “(3) The Americans with Disabilities Act of
9 1990.

10 “(4) The Age Discrimination in Employment
11 Act of 1967.

12 “(5) The Family and Medical Leave Act of
13 1993.

14 “(6) The Occupational Safety and Health Act
15 of 1970.

16 “(7) Chapter 71 (relating to Federal service
17 labor-management relations) of title 5.

18 “(8) The Employee Polygraph Protection Act of
19 1988.

20 “(9) The Worker Adjustment and Retraining
21 Notification Act.

22 “(10) The Rehabilitation Act of 1973.

23 “(11) Chapter 43 (relating to veterans’ employ-
24 ment and reemployment) of title 38.

1 **“Subchapter II—Extension of Rights and**
2 **Protections**

3 **“PART A—EMPLOYMENT DISCRIMINATION, FAM-**
4 **ILY AND MEDICAL LEAVE, FAIR LABOR**
5 **STANDARDS, EMPLOYEE POLYGRAPH PRO-**
6 **TECTION, WORKER ADJUSTMENT AND RE-**
7 **TRAINING, EMPLOYMENT AND REEMPLOY-**
8 **MENT OF VETERANS, AND INTIMIDATION**

9 **“SEC. 411. RIGHTS AND PROTECTIONS UNDER TITLE VII OF**
10 **THE CIVIL RIGHTS ACT OF 1964, THE AGE DIS-**
11 **CRIMINATION IN EMPLOYMENT ACT OF 1967,**
12 **THE REHABILITATION ACT OF 1973, AND**
13 **TITLE I OF THE AMERICANS WITH DISABIL-**
14 **ITIES ACT OF 1990.**

15 “(a) DISCRIMINATORY PRACTICES PROHIBITED.—All
16 personnel actions affecting covered employees shall be
17 made free from any discrimination based on—

18 “(1) race, color, religion, sex, or national origin,
19 within the meaning of section 703 of the Civil
20 Rights Act of 1964;

21 “(2) age, within the meaning of section 15 of
22 the Age Discrimination in Employment Act of 1967;
23 or

24 “(3) disability, within the meaning of section
25 501 of the Rehabilitation Act of 1973 and sections

1 102 through 104 of the Americans with Disabilities
2 Act of 1990.

3 “(b) REMEDY.—

4 “(1) CIVIL RIGHTS.—The remedy for a viola-
5 tion of subsection (a)(1) shall be—

6 “(A) such remedy as would be appropriate
7 if awarded under section 706(g) of the Civil
8 Rights Act of 1964; and

9 “(B) such compensatory or punitive dam-
10 ages as would be appropriate if awarded under
11 section 1977 of the Revised Statutes, or as
12 would be appropriate if awarded under sections
13 1977A(a)(1), 1977A(b)(2), and, irrespective of
14 the size of the employing office,
15 1977A(b)(3)(D) of the Revised Statutes.

16 “(2) AGE DISCRIMINATION.—The remedy for a
17 violation of subsection (a)(2) shall be—

18 “(A) such remedy as would be appropriate
19 if awarded under section 15(c) of the Age Dis-
20 crimination in Employment Act of 1967; and

21 “(B) such liquidated damages as would be
22 appropriate if awarded under section 7(b) of
23 such Act.

24 In addition, the waiver provisions of section 7(f) of
25 such Act shall apply to covered employees.

1 “(3) DISABILITIES DISCRIMINATION.—The rem-
2 edy for a violation of subsection (a)(3) shall be—

3 “(A) such remedy as would be appropriate
4 if awarded under section 505(a)(1) of the Reha-
5 bilitation Act of 1973 or section 107(a) of the
6 Americans with Disabilities Act of 1990; and

7 “(B) such compensatory or punitive dam-
8 ages as would be appropriate if awarded under
9 sections 1977A(a)(2), 1977A(a)(3),
10 1977A(b)(2), and, irrespective of the size of the
11 employing office, 1977A(b)(3)(D) of the Re-
12 vised Statutes.

13 “(c) DEFINITIONS.—Except as otherwise specifically
14 provided in this section, as used in this section:

15 “(1) COVERED EMPLOYEE.—The term ‘covered
16 employee’ means any employee of a unit of the exec-
17 utive branch, including the Executive Office of the
18 President, whether appointed by the President or by
19 any other appointing authority in the executive
20 branch, who is not otherwise entitled to bring an ac-
21 tion under any of the statutes referred to in sub-
22 section (a), but does not include any individual—

23 “(A) whose appointment is made by and
24 with the advice and consent of the Senate;

1 “(B) who is appointed to an advisory com-
 2 mittee, as defined in section 3(2) of the Federal
 3 Advisory Committee Act; or

4 “(C) who is a member of the uniformed
 5 services.

6 “(2) EMPLOYING OFFICE.—The term ‘employ-
 7 ing office’, with respect to a covered employee,
 8 means the office, agency, or other entity in which
 9 the covered employee is employed (or sought employ-
 10 ment or was employed in the case of an applicant or
 11 former employee, respectively).

12 “(d) APPLICABILITY.—Subsections (a) through (c),
 13 and section 417 (to the extent that it relates to any matter
 14 under this section), shall apply with respect to violations
 15 occurring on or after the effective date of this chapter.

16 **“SEC. 412. RIGHTS AND PROTECTIONS UNDER THE FAMILY**
 17 **AND MEDICAL LEAVE ACT OF 1993.**

18 “(a) FAMILY AND MEDICAL LEAVE RIGHTS AND
 19 PROTECTIONS PROVIDED.—

20 “(1) IN GENERAL.—The rights and protections
 21 established by sections 101 through 105 of the Fam-
 22 ily and Medical Leave Act of 1993 shall apply to
 23 covered employees.

24 “(2) DEFINITIONS.—For purposes of the appli-
 25 cation described in paragraph (1)—

1 “(A) the term ‘employer’ as used in the
2 Family and Medical Leave Act of 1993 means
3 any employing office; and

4 “(B) the term ‘eligible employee’ as used
5 in the Family and Medical Leave Act of 1993
6 means a covered employee who has been em-
7 ployed in any employing office for 12 months
8 and for at least 1,250 hours of employment
9 during the previous 12 months.

10 “(b) REMEDY.—The remedy for a violation of sub-
11 section (a) shall be such remedy, including liquidated dam-
12 ages, as would be appropriate if awarded under paragraph
13 (1) of section 107(a) of the Family and Medical Leave
14 Act of 1993.

15 **“SEC. 413. RIGHTS AND PROTECTIONS UNDER THE FAIR**
16 **LABOR STANDARDS ACT OF 1938.**

17 “(a) FAIR LABOR STANDARDS.—

18 “(1) IN GENERAL.—The rights and protections
19 established by subsections (a)(1) and (d) of section
20 6, section 7, and section 12(c) of the Fair Labor
21 Standards Act of 1938 shall apply to covered em-
22 ployees.

23 “(2) INTERNS.—For the purposes of this sec-
24 tion, the term ‘covered employee’ does not include an
25 intern as defined in regulations under subsection (c).

1 “(3) COMPENSATORY TIME.—Except as pro-
2 vided in regulations under subsection (c)(3), covered
3 employees may not receive compensatory time in lieu
4 of overtime compensation.

5 “(b) REMEDY.—The remedy for a violation of sub-
6 section (a) shall be such remedy, including liquidated dam-
7 ages, as would be appropriate if awarded under section
8 16(b) of the Fair Labor Standards Act of 1938.

9 “(c) REGULATIONS TO IMPLEMENT SECTION.—

10 “(1) IN GENERAL.—The President shall issue
11 regulations to implement this section.

12 “(2) AGENCY REGULATIONS.—Except as pro-
13 vided in paragraph (3), the regulations issued under
14 paragraph (1) shall be the same as substantive regu-
15 lations promulgated by the Secretary of Labor to
16 implement the statutory provisions referred to in
17 subsection (a) except insofar as the President may
18 determine, for good cause shown and stated together
19 with the regulation, that a modification of such reg-
20 ulations would be more effective for the implementa-
21 tion of the rights and protections under this section.

22 “(3) IRREGULAR WORK SCHEDULES.—The
23 President shall issue regulations for covered employ-
24 ees whose work schedules directly depend on the
25 schedule of the President or the Vice President that

1 shall be comparable to the provisions in the Fair
2 Labor Standards Act of 1938 that apply to employ-
3 ees who have irregular work schedules.

4 **“SEC. 414. RIGHTS AND PROTECTIONS UNDER THE EM-**
5 **PLOYEE POLYGRAPH PROTECTION ACT OF**
6 **1988.**

7 “(a) POLYGRAPH PRACTICES PROHIBITED.—No em-
8 ploying office may require a covered employee to take a
9 lie detector test where such a test would be prohibited if
10 required by an employer under paragraph (1), (2), or (3)
11 of section 3 of the Employee Polygraph Protection Act of
12 1988. In addition, the waiver provisions of section 6(d)
13 of such Act shall apply to covered employees.

14 “(b) REMEDY.—The remedy for a violation of sub-
15 section (a) shall be such remedy as would be appropriate
16 if awarded under section 6(c)(1) of the Employee Poly-
17 graph Protection Act of 1988.

18 “(c) REGULATIONS TO IMPLEMENT SECTION.—

19 “(1) IN GENERAL.—The President shall issue
20 regulations to implement this section.

21 “(2) AGENCY REGULATIONS.—The regulations
22 issued under paragraph (1) shall be the same as
23 substantive regulations promulgated by the Sec-
24 retary of Labor to implement the statutory provi-
25 sions referred to in subsections (a) and (b) except

1 insofar as the President may determine, for good
2 cause shown and stated together with the regulation,
3 that a modification of such regulations would be
4 more effective for the implementation of the rights
5 and protections under this section.

6 **“SEC. 415. RIGHTS AND PROTECTIONS UNDER THE WORK-**
7 **ER ADJUSTMENT AND RETRAINING NOTIFI-**
8 **CATION ACT.**

9 “(a) WORKER ADJUSTMENT AND RETRAINING NOTI-
10 FICATION RIGHTS.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), no employing office shall be closed or
13 mass layoff ordered within the meaning of section 3
14 of the Worker Adjustment and Retraining Notifica-
15 tion Act until the end of a 60-day period after the
16 employing office serves written notice of such pro-
17 spective closing or layoff to representatives of cov-
18 ered employees or, if there are no representatives, to
19 covered employees.

20 “(2) EXCEPTION.—

21 “(A) IN GENERAL.—In the event that a
22 President (hereinafter in this paragraph re-
23 ferred to as the ‘previous President’) does not
24 succeed himself in office as a result of the elec-
25 tion of a new President, no notice or waiting

1 period shall be required under paragraph (1)
2 with respect to the separation of any individual
3 described in subparagraph (B), if such separa-
4 tion occurs pursuant to a closure or mass layoff
5 ordered after the term of the new President
6 commences.

7 “(B) DESCRIPTION OF INDIVIDUALS.—An
8 individual described in this subparagraph is any
9 covered employee serving pursuant to an ap-
10 pointment made during—

11 “(i) the term of office of the previous
12 President; or

13 “(ii) any term, earlier than the term
14 referred to in clause (i), during which such
15 previous President served as President or
16 Vice President.

17 “(b) REMEDY.—The remedy for a violation of sub-
18 section (a) shall be such remedy as would be appropriate
19 if awarded under paragraphs (1), (2), and (4) of section
20 5(a) of the Worker Adjustment and Retraining Notifica-
21 tion Act.

22 “(c) REGULATIONS TO IMPLEMENT SECTION.—

23 “(1) IN GENERAL.—The President shall issue
24 regulations to implement this section.

1 “(2) AGENCY REGULATIONS.—The regulations
2 issued under paragraph (1) shall be the same as
3 substantive regulations promulgated by the Sec-
4 retary of Labor to implement the statutory provi-
5 sions referred to in subsection (a) except insofar as
6 the President may determine, for good cause shown
7 and stated together with the regulation, that a modi-
8 fication of such regulations would be more effective
9 for the implementation of the rights and protections
10 under this section.

11 **“SEC. 416. RIGHTS AND PROTECTIONS RELATING TO VET-**
12 **ERANS’ EMPLOYMENT AND REEMPLOYMENT.**

13 “(a) EMPLOYMENT AND REEMPLOYMENT RIGHTS OF
14 MEMBERS OF THE UNIFORMED SERVICES.—

15 “(1) IN GENERAL.—It shall be unlawful for an
16 employing office to—

17 “(A) discriminate, within the meaning of
18 subsections (a) and (b) of section 4311 of title
19 38, against an eligible employee;

20 “(B) deny to an eligible employee reem-
21 ployment rights within the meaning of sections
22 4312 and 4313 of title 38; or

23 “(C) deny to an eligible employee benefits
24 within the meaning of sections 4316, 4317, and
25 4318 of title 38.

1 “(2) DEFINITION.—For purposes of this sec-
2 tion, the term ‘eligible employee’ means a covered
3 employee performing service in the uniformed serv-
4 ices, within the meaning of section 4303(13) of title
5 38, whose service has not been terminated upon the
6 occurrence of any of the events enumerated in sec-
7 tion 4304 of such title.

8 “(b) REMEDY.—The remedy for a violation of sub-
9 section (a) shall be such remedy as would be appropriate
10 if awarded under paragraphs (1), (2)(A), and (3) of sec-
11 tion 4323(c) of title 38.

12 “(c) REGULATIONS TO IMPLEMENT SECTION.—

13 “(1) IN GENERAL.—The President shall issue
14 regulations to implement this section.

15 “(2) AGENCY REGULATIONS.—The regulations
16 issued under paragraph (1) shall be the same as
17 substantive regulations promulgated by the Sec-
18 retary of Labor to implement the statutory provi-
19 sions referred to in subsection (a) except to the ex-
20 tent that the President may determine, for good
21 cause shown and stated together with the regulation,
22 that a modification of such regulations would be
23 more effective for the implementation of the rights
24 and protections under this section.

1 **“SEC. 417. PROHIBITION OF INTIMIDATION OR REPRISAL.**

2 “(a) IN GENERAL.—It shall be unlawful for an em-
3 ploying office to intimidate, take reprisal against, or other-
4 wise discriminate against, any covered employee because
5 the covered employee has opposed any practice made un-
6 lawful by this chapter, or because the covered employee
7 has initiated proceedings, made a charge, or testified, as-
8 sisted, or participated in any manner in a hearing or other
9 proceeding under this chapter.

10 “(b) REMEDY.—A violation of subsection (a) may be
11 remedied by any legal or equitable remedy available to re-
12 dress the practice opposed by the covered employee or
13 other violation of law as to which the covered employee
14 initiated proceedings, made a charge, or engaged in other
15 conduct protected under subsection (a).

16 “(c) DEFINITIONS.—For purposes of applying this
17 section with respect to any practice or other matter to
18 which section 411 relates, the terms ‘employing office’ and
19 ‘covered employee’ shall each be considered to have the
20 meaning given to it by such section.

21 **“PART B—PUBLIC ACCESS PROVISIONS UNDER**
22 **THE AMERICANS WITH DISABILITIES ACT OF 1990**

23 **“SEC. 420. RIGHTS AND PROTECTIONS UNDER THE AMERI-**
24 **CANS WITH DISABILITIES ACT OF 1990.**

25 “(a) RIGHTS AND PROTECTIONS.—The rights and
26 protections against discrimination in the provision of pub-

1 lie services and accommodations established by sections
2 201, 202, and 204, and sections 302, 303, and 309, of
3 the Americans with Disabilities Act of 1990 shall apply,
4 to the extent that public services, programs, or activities
5 are provided, with respect to the White House and its ap-
6 purtenant grounds and gardens, the Old Executive Office
7 Building, the New Executive Office Buildings, and any
8 other facility to the extent that offices are provided for
9 employees of the Executive Office of the President.

10 “(b) REMEDY.—The remedy for a violation of sub-
11 section (a) shall be such remedy as would be appropriate
12 if awarded under section 203 or 308 of the Americans
13 with Disabilities Act of 1990, as the case may be, except
14 that, with respect to any claim of employment discrimina-
15 tion, the exclusive remedy shall be under section 411 of
16 this title. A remedy under the preceding sentence shall be
17 enforced in accordance with applicable provisions of such
18 section 203 or 308, as the case may be.

19 “(c) DEFINITION.—For purposes of the application
20 under this section of the Americans with Disabilities Act
21 of 1990, the term ‘public entity’ as used in such Act,
22 means, to the extent that public services, programs, or ac-
23 tivities are provided, the White House and its appurtenant
24 grounds and gardens, the Old Executive Office Building,
25 the New Executive Office Buildings, and any other facility

1 to the extent that offices are provided for employees of
 2 the Executive Office of the President.

3 **“PART C—OCCUPATIONAL SAFETY AND HEALTH**

4 **ACT OF 1970**

5 **“SEC. 425. RIGHTS AND PROTECTIONS UNDER THE OCCU-**

6 **PATIONAL SAFETY AND HEALTH ACT OF 1970;**

7 **PROCEDURES FOR REMEDY OF VIOLATIONS.**

8 “(a) OCCUPATIONAL SAFETY AND HEALTH PROTEC-
 9 TIONS.—

10 “(1) IN GENERAL.—Each employing office and
 11 each covered employee shall comply with the provi-
 12 sions of section 5 of the Occupational Safety and
 13 Health Act of 1970.

14 “(2) DEFINITIONS.—For purposes of the appli-
 15 cation under this section of the Occupational Safety
 16 and Health Act of 1970—

17 “(A) the term ‘employer’ as used in such
 18 Act means an employing office; and

19 “(B) the term ‘employee’ as used in such
 20 Act means a covered employee.

21 “(b) REMEDY.—The remedy for a violation of sub-
 22 section (a) shall be an order to correct the violation, in-
 23 cluding such order as would be appropriate if issued under
 24 section 13(a) of the Occupational Safety and Health Act
 25 of 1970.

1 “(c) PROCEDURES.—

2 “(1) REQUESTS FOR INSPECTIONS.—Upon writ-
3 ten request of any employing office or covered em-
4 ployee, the Secretary of Labor shall have the author-
5 ity to inspect and investigate places of employment
6 under the jurisdiction of employing offices in accord-
7 ance with subsections (a), (d), (e), and (f) of section
8 8 of the Occupational Safety and Health Act of
9 1970.

10 “(2) CITATIONS, NOTICES, AND NOTIFICA-
11 TIONS.—The Secretary of Labor shall have the au-
12 thority, in accordance with sections 9 and 10 of the
13 Occupational Safety and Health Act of 1970, to
14 issue—

15 “(A) a citation or notice to any employing
16 office responsible for correcting a violation of
17 subsection (a); or

18 “(B) a notification to any employing office
19 that the Secretary of Labor believes has failed
20 to correct a violation for which a citation has
21 been issued within the period permitted for its
22 correction.

23 “(3) HEARINGS AND REVIEW.—If after issuing
24 a citation or notification, the Secretary of Labor de-
25 termines that a violation has not been corrected—

1 “(A) the citation and notification shall be
2 deemed a final order (within the meaning of
3 section 10(b) of the Occupational Safety and
4 Health Act of 1970, if the employer fails to no-
5 tify the Secretary of Labor within 15 days (ex-
6 cluding Saturdays, Sundays, and Federal holi-
7 days) after receipt of the notice that he intends
8 to contest the citation or notification; or

9 “(B) opportunity for a hearing before the
10 Occupational Safety and Health Review Com-
11 mission shall be afforded in accordance with
12 section 10(c) of the Occupational Safety and
13 Health Act of 1970, if the employer gives time-
14 ly notice to the Secretary that he intends to
15 contest the citation or notification.

16 “(4) VARIANCE PROCEDURES.—An employing
17 office may request from the Secretary of Labor an
18 order granting a variance from a standard made ap-
19 plicable by this section, in accordance with sections
20 6(b)(6) and 6(d) of the Occupational Safety and
21 Health Act of 1970.

22 “(5) JUDICIAL REVIEW.—Any person or em-
23 ploying office aggrieved by a final decision of the Oc-
24 cupational Safety and Health Review Commission
25 under paragraph (3) or the Secretary of Labor

1 under (4) may file a petition for review with the
2 United States Court of Appeals for the Federal Cir-
3 cuit pursuant to section 455.

4 “(6) COMPLIANCE DATE.—If new appropriated
5 funds are necessary to correct a violation of sub-
6 section (a) for which a citation is issued, or to com-
7 ply with an order requiring correction of such a vio-
8 lation, correction or compliance shall take place as
9 soon as possible, but not later than the end of the
10 fiscal year following the fiscal year in which the cita-
11 tion is issued or the order requiring correction be-
12 comes final and not subject to further review.

13 “(d) REGULATIONS TO IMPLEMENT SECTION.—

14 “(1) IN GENERAL.—The President shall issue
15 regulations to implement this section.

16 “(2) AGENCY REGULATIONS.—The regulations
17 issued under paragraph (1) shall be the same as
18 substantive regulations promulgated by the Sec-
19 retary of Labor to implement the statutory provi-
20 sions referred to in subsection (a) except to the ex-
21 tent that the President may determine, for good
22 cause shown and stated together with the regulation,
23 that a modification of such regulations would be
24 more effective for the implementation of the rights
25 and protections under this section.

1 “(3) EMPLOYING OFFICE RESPONSIBLE FOR
 2 CORRECTION.—The regulations issued under para-
 3 graph (1) shall include a method of identifying, for
 4 purposes of this section and for different categories
 5 of violations of subsection (a), the employing office
 6 responsible for correction of a particular violation.

7 **“PART D—LABOR-MANAGEMENT RELATIONS**

8 **“SEC. 430. APPLICATION OF CHAPTER 71 OF TITLE 5, RE-**
 9 **LATING TO FEDERAL SERVICE LABOR-MAN-**
 10 **AGEMENT RELATIONS; PROCEDURES FOR**
 11 **REMEDY OF VIOLATIONS.**

12 “(a) LABOR-MANAGEMENT RIGHTS.—Chapter 71 of
 13 title 5 shall apply to employing offices and to covered em-
 14 ployees and representatives of those employees.

15 “(b) DEFINITION.—For purposes of the application
 16 under this section of chapter 71 of title 5, the term ‘agen-
 17 cy’ as used in such chapter means an employing office.

18 **“PART E—GENERAL**

19 **“SEC. 435. GENERALLY APPLICABLE REMEDIES AND LIM-**
 20 **TATIONS.**

21 “(a) ATTORNEY’S FEES.—If a covered employee,
 22 with respect to any claim under this chapter, or a qualified
 23 person with a disability, with respect to any claim under
 24 section 420, is a prevailing party in any proceeding under
 25 section 453(1), 455, or 456, the administrative agency or

1 court, as the case may be, may award attorney’s fees, ex-
2 pert fees, and any other costs as would be appropriate if
3 awarded under section 706(k) of the Civil Rights Act of
4 1964.

5 “(b) INTEREST.—In any proceeding under section
6 453(1), 455, or 456, the same interest to compensate for
7 delay in payment shall be made available as would be ap-
8 propriate if awarded under section 717(d) of the Civil
9 Rights Act of 1964.

10 “(c) CIVIL PENALTIES AND PUNITIVE DAMAGES.—
11 Except as otherwise provided in this chapter, no civil pen-
12 alty or punitive damages may be awarded with respect to
13 any claim under this chapter.

14 “(d) EXCLUSIVE PROCEDURE.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), no person may commence an administra-
17 tive or judicial proceeding to seek a remedy for the
18 rights and protections afforded by this chapter ex-
19 cept as provided in this chapter.

20 “(2) VETERANS.—A covered employee under
21 section 416 may also utilize any provisions of chap-
22 ter 43 of title 38 that are applicable to that em-
23 ployee.

24 “(e) SCOPE OF REMEDY.—Only a covered employee
25 who has undertaken and completed the procedures de-

1 scribed in section 452 may be granted a remedy under
2 part A of this subchapter.

3 “(f) CONSTRUCTION.—

4 “(1) DEFINITIONS AND EXEMPTIONS.—Except
5 where inconsistent with definitions and exemptions
6 provided in this chapter, the definitions and exemp-
7 tions in the laws made applicable by this chapter
8 shall apply under this chapter.

9 “(2) SIZE LIMITATIONS.—Notwithstanding
10 paragraph (1), provisions in the laws made applica-
11 ble under this chapter (other than paragraphs (2)
12 and (3) of section 2(a) of the Worker Adjustment
13 and Retraining Notification Act) determining cov-
14 erage based on size, whether expressed in terms of
15 numbers of employees, amount of business trans-
16 acted, or other measure, shall not apply in determin-
17 ing coverage under this chapter.

18 “(g) DEFINITIONS RELATING TO SECTION 411.—For
19 purposes of applying this section with respect to any prac-
20 tice or other matter to which section 411 relates, the terms
21 ‘employing office’ and ‘covered employee’ shall each be
22 considered to have the meaning given to it by such section.

1 **“Subchapter III—Administrative and Judicial**
2 **Dispute-Resolution Procedures**

3 **“SEC. 451. PROCEDURE FOR CONSIDERATION OF ALLEGED**
4 **VIOLATIONS.**

5 “The procedure for consideration of alleged violations
6 of part A of subchapter II consists of—

7 “(1) counseling and mediation as provided in
8 section 452; and

9 “(2) election, as provided in section 453, of ei-
10 ther—

11 “(A) an administrative proceeding as pro-
12 vided in section 453(1) and judicial review as
13 provided in section 455; or

14 “(B) a civil action in a district court of the
15 United States as provided in section 456.

16 **“SEC. 452. COUNSELING AND MEDIATION.**

17 “(a) IN GENERAL.—The President shall by regula-
18 tion establish procedures substantially similar to those
19 under sections 402 and 403 of the Congressional Account-
20 ability Act of 1995 for the counseling and mediation of
21 alleged violations of a law made applicable under part A
22 of subchapter II.

23 “(b) EXHAUSTION REQUIREMENT.—A covered em-
24 ployee who has not exhausted counseling and mediation
25 under subsection (a) shall be ineligible to make any elec-

1 tion under section 453 or otherwise pursue any further
 2 form of relief under this subchapter.

3 **“SEC. 453. ELECTION OF PROCEEDING.**

4 “Not later than 90 days after a covered employee re-
 5 ceives notice of the end of the period of mediation, but
 6 no sooner than 30 days after receipt of such notification,
 7 such covered employee may either—

8 “(1) file a complaint with the appropriate ad-
 9 ministrative agency, as determined under section
 10 454; or

11 “(2) file a civil action in accordance with sec-
 12 tion 456 in the United States district court for the
 13 district in which the employee is employed or for the
 14 District of Columbia.

15 **“SEC. 454. APPROPRIATE AGENCIES.**

16 “(a) IN GENERAL.—Except as provided in subsection
 17 (b), the appropriate agency under this section with respect
 18 to an alleged violation of part A of subchapter II shall
 19 be the Board.

20 “(b) EXCEPTIONS.—

21 “(1) DISCRIMINATION.—For purposes of any
 22 action arising under section 411 (or any action al-
 23 leging intimidation, reprisal, or discrimination under
 24 section 417 relating to any practice made unlawful
 25 under section 411), the appropriate agency shall be

1 the Equal Employment Opportunity Commission,
2 and the complaint in any such action shall be proc-
3 essed under the same administrative procedures as
4 any such complaint filed by any other Federal em-
5 ployee.

6 “(2) MIXED CASES.—However, in the case of
7 any covered employee (within the meaning of section
8 411(c)(1)) who has been affected by an action which
9 an employee of an executive agency may appeal to
10 the Board and who alleges that a basis for the ac-
11 tion was discrimination prohibited by section 411 (or
12 any action alleging intimidation, reprisal, or dis-
13 crimination under section 417 relating to any prac-
14 tice made unlawful under section 411), the initial
15 appropriate agency shall be the Board, and such
16 matter shall thereafter be processed in accordance
17 with section 7702 (a)–(d) (disregarding paragraph
18 (2) of such subsection (a)) and (f) of title 5.

19 “(3) JUDICIAL REVIEW.—Notwithstanding any
20 other provision of law (including any provision of
21 law referenced in paragraph (1) or (2)), judicial re-
22 view of any administrative decision under this sub-
23 section shall be by the court specified in section 455.

1 **“SEC. 455. JUDICIAL REVIEW.**

2 “(a) IN GENERAL.—The United States Court of Ap-
3 peals for the Federal Circuit shall have jurisdiction over
4 a petition for review of a final decision under this chapter
5 of—

6 “(1) an appropriate agency (as determined
7 under section 454);

8 “(2) the Federal Labor Relations Authority
9 under chapter 71 of title 5, notwithstanding section
10 7123 of such title; or

11 “(3) the Secretary of Labor or the Occupational
12 Safety and Health Review Commission, made under
13 part C of subchapter II.

14 “(b) FILING DEADLINE.—Any petition for review
15 under this section must be filed within 30 days after the
16 date the petitioner receives notice of the final decision.

17 **“SEC. 456. CIVIL ACTION.**

18 “(a) JURISDICTION.—The district courts of the
19 United States shall have jurisdiction over any civil action
20 commenced under section 453(2) and this section by a
21 covered employee.

22 “(b) PARTIES.—The defendant shall be the employ-
23 ing office alleged to have committed the violation, or in
24 which the violation is alleged to have occurred.

25 “(c) JURY TRIAL.—Any party may demand a jury
26 trial where a jury trial would be available in an action

1 against a private defendant under the relevant law made
2 applicable by this chapter. In any case in which a violation
3 of section 411 is alleged, the court shall not inform the
4 jury of the maximum amount of compensatory damages
5 available under section 411(b)(1) or 411(b)(3).

6 **“SEC. 457. JUDICIAL REVIEW OF REGULATIONS.**

7 “In any proceeding brought under section 455 or 456
8 in which the application of a regulation issued under this
9 chapter is at issue, the court may review the validity of
10 the regulation in accordance with the provisions of sub-
11 paragraphs (A) through (D) of section 706(2) of title 5.
12 If the court determines that the regulation is invalid, the
13 court shall apply, to the extent necessary and appropriate,
14 the most relevant substantive executive agency regulation
15 promulgated to implement the statutory provisions with
16 respect to which the invalid regulation was issued. Except
17 as provided in this section, the validity of regulations is-
18 sued under this chapter is not subject to judicial review.

19 **“SEC. 458. OTHER JUDICIAL REVIEW PROHIBITED.**

20 “Except as expressly authorized by this chapter, the
21 compliance or noncompliance with the provisions of this
22 chapter and any action taken pursuant to this chapter
23 shall not be subject to judicial review.

1 **“SEC. 459. EFFECT OF FAILURE TO ISSUE REGULATIONS.**

2 “In any proceeding under section 453(1), 455, or
3 456, if the President has not issued a regulation on a mat-
4 ter for which this chapter requires a regulation to be is-
5 sued, the administrative agency or court, as the case may
6 be, shall apply, to the extent necessary and appropriate,
7 the most relevant substantive executive agency regulation
8 promulgated to implement the statutory provision at issue
9 in the proceeding.

10 **“SEC. 460. EXPEDITED REVIEW OF CERTAIN APPEALS.**

11 “(a) IN GENERAL.—An appeal may be taken directly
12 to the Supreme Court of the United States from any inter-
13 locutory or final judgment, decree, or order of a court
14 upon the constitutionality of any provision of this chapter.

15 “(b) JURISDICTION.—The Supreme Court shall, if it
16 has not previously ruled on the question, accept jurisdic-
17 tion over the appeal referred to in subsection (a), advance
18 the appeal on the docket, and expedite the appeal to the
19 greatest extent possible.

20 **“SEC. 461. PAYMENTS.**

21 “A judgment, award, or compromise settlement
22 against the United States under this chapter (including
23 any interest and costs) shall be paid—

24 “(1) under section 1304 of title 31, if it arises
25 out of an action commenced in a district court of the
26 United States (or any appeal therefrom); or

1 “(2) out of amounts otherwise appropriated or
 2 available to such office, if it arises out of an admin-
 3 istrative proceeding under this chapter (or any ap-
 4 peal therefrom).

5 **“SEC. 462. CONFIDENTIALITY.**

6 “(a) COUNSELING.—All counseling under section 452
 7 shall be strictly confidential, except that, with the consent
 8 of the covered employee, the employing office may be noti-
 9 fied.

10 “(b) MEDIATION.—All mediation under section 452
 11 shall be strictly confidential.

12 **“SEC. 463. DEFINITIONS.**

13 “For purposes of applying this subchapter, the terms
 14 ‘employing office’ and ‘covered employee’ shall each, to the
 15 extent that section 411 is involved, be considered to have
 16 the meaning given to it by such section.

17 **“Subchapter IV—Effective Date**

18 **“SEC. 471. EFFECTIVE DATE.**

19 “‘This chapter shall take effect 1 year after the date
 20 of the enactment of the Presidential and Executive Office
 21 Accountability Act.’”.

22 (b) REGULATIONS.—Appropriate measures shall be
 23 taken to ensure that any regulations needed to implement
 24 chapter 5 of title 3, United States Code, as amended by

1 this section, shall be in effect by the effective date of such
2 chapter.

3 (c) TECHNICAL AMENDMENT.—The table of chapters
4 for title 3, United States Code, is amended by adding at
5 the end the following:

“5. Extension of Certain Rights and Protections to Presidential Offices.”.

6 **SEC. 3. FINANCIAL OFFICERS WITHIN THE EXECUTIVE OF-**
7 **FICE OF THE PRESIDENT.**

8 (a) CHIEF FINANCIAL OFFICER.—Section 901 of
9 title 31, United States Code, is amended by adding at the
10 end the following:

11 “(c)(1) There shall be within the Executive Office of
12 the President a Chief Financial Officer, who shall be ap-
13 pointed by the President from among individuals meeting
14 the standards described in subsection (a)(3).

15 “(2) The Chief Financial Officer under this sub-
16 section shall have the same authority and shall perform
17 the same functions as apply in the case of a Chief Finan-
18 cial Officer under section 902.

19 “(3) The Director of the Office of Management and
20 Budget shall prescribe any regulations which may be nec-
21 essary to ensure that, for purposes of implementing para-
22 graph (2), the Executive Office of the President shall, to
23 the extent practicable and appropriate, be treated (includ-
24 ing for purposes of financial statements under section

1 3515) in the same way as an agency described in sub-
 2 section (b).”.

3 (b) DEPUTY CHIEF FINANCIAL OFFICER.—Section
 4 903 of title 31, United States Code, is amended by adding
 5 at the end the following:

6 “(c)(1) There shall be within the Executive Office of
 7 the President a Deputy Chief Financial Officer, who, not-
 8 withstanding any provision of subsection (b), shall be ap-
 9 pointed by the President from among individuals meeting
 10 the standards described in section 901(a)(3).

11 “(2) The Deputy Chief Financial Officer under this
 12 subsection shall have the same authority and shall perform
 13 the same functions as apply in the case of the Deputy
 14 Chief Financial Officer of an agency described in sub-
 15 section (b).”.

16 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

17 (1) TITLE 31, UNITED STATES CODE.—Section
 18 503(a) of title 31, United States Code, is amend-
 19 ed—

20 (A) in paragraph (7) by striking “respec-
 21 tively.” and inserting “respectively (excluding
 22 any officer appointed under section 901(c) or
 23 903(c)).”; and

24 (B) in paragraph (8) by striking “Offi-
 25 cers.” and inserting “Officers (excluding any

1 officer appointed under section 901(c) or
2 903(c)).”.

3 (2) DESIGNATION OF AGENCY HEAD.—The
4 President shall designate an employee of the Execu-
5 tive Office of the President (other than the Chief Fi-
6 nancial Officer or Deputy Chief Financial Officer
7 appointed under the amendments made by sub-
8 sections (a) and (b), respectively), who shall be
9 deemed “the head of the agency” for purposes of
10 carrying out section 902 of title 31, United States
11 Code, with respect to the Executive Office of the
12 President.

13 **SEC. 4. AMENDMENT TO DEFINITION OF “SPECIAL GOV-**
14 **ERNMENT EMPLOYEE”.**

15 (a) IN GENERAL.—Section 202 of title 18, United
16 States Code, is amended by adding at the end the follow-
17 ing:

18 “(e) For purposes of the first sentence of subsection
19 (a), an individual shall be considered ‘retained, designated,
20 appointed, or employed’ by the Executive Office of the
21 President if such individual—

22 “(1) is retained, designated, appointed, or em-
23 ployed by the President or the Vice President, or
24 any other authorized individual (including the spouse
25 of the President or the Vice President), to provide

1 advice, counsel, or recommendations to employees of
2 the Executive Office of the President; and

3 “(2)(A) is furnished the use (exclusive or other-
4 wise) of an office or equipment at Government ex-
5 pense;

6 “(B) owns at least 10 percent of the outstand-
7 ing capital stock of a corporation, or an equivalent
8 interest in any other entity, that such individual
9 knows or reasonably should know is doing business
10 or attempting to do business with the United States
11 Government;

12 “(C) is a lobbyist, within the meaning of section
13 3(10) of the Lobbying Disclosure Act of 1995; or

14 “(D) provides advice, counsel, or recommenda-
15 tions on any of the following:

16 “(i) Personnel, organization, or reorganiza-
17 tion of the Executive Office of the President.

18 “(ii) The contracting or privatization of
19 any function of the United States Government.

20 “(iii) Contracts to provide goods or serv-
21 ices to the United States Government.

22 “(iv) Congressional hearings or proceed-
23 ings.”.

1 **SEC. 5. APPLICABILITY OF FUTURE EMPLOYMENT LAWS.**

2 Each Federal law governing employment in the pri-
3 vate sector, enacted later than 12 months after the date
4 of the enactment of this Act, shall be deemed to apply
5 with respect to “employing offices” and “covered employ-
6 ees” (within the meaning of section 401 of title 3, United
7 States Code, as amended by this Act), unless such law
8 specifically provides otherwise and expressly cites this sec-
9 tion.

10 **SEC. 6. AMENDMENTS TO THE CONGRESSIONAL ACCOUNT-**
11 **ABILITY ACT OF 1995.**

12 (a) IN GENERAL.—The Congressional Accountability
13 Act of 1995 (Public Law 104–1; 2 U.S.C. 1301 et seq.)
14 is amended—

15 (1) in paragraphs (1)(B) and (3)(B) of section
16 201(b) by inserting “or punitive” after “compen-
17 satory”; and

18 (2) in section 225(c) by striking “No” and in-
19 serting “Except as expressly provided in this Act,
20 no”.

21 (b) EFFECTIVE DATE.—This section shall take effect
22 1 year after the date of the enactment of this Act, and
23 the amendments made by this section shall apply with re-
24 spect to actions brought on or after the effective date of
25 this section.

1 **SEC. 7. REPEAL OF SECTION 320 OF THE GOVERNMENT EM-**
2 **PLOYEE RIGHTS ACT OF 1991.**

3 (a) IN GENERAL.—Section 320 of the Government
4 Employee Rights Act of 1991 is repealed.

5 (b) EFFECTIVE DATE.—This section shall take effect
6 1 year after the date of the enactment of this Act.

7 (c) SAVINGS PROVISION.—The repeal under this sec-
8 tion shall not affect proceedings in which the complaint
9 was filed before the effective date of this section, and or-
10 ders shall be issued in such proceedings and appeals shall
11 be taken therefrom as if this section had not been enacted.

○