

104TH CONGRESS
2D SESSION

H. R. 3452

[Report No. 104–820, Part I]

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. TORKILDSEN, 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

SEPTEMBER 24, 1996

Additional sponsors: Mrs. FOWLER, Mr. BLILEY, and Mr. PETERSON of Minnesota

SEPTEMBER 24, 1996

Reported from the Committee on Government Reform and Oversight with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 24, 1996

Referral to the Committees on Economic and Educational Opportunities, the Judiciary, and Veterans' Affairs extended for a period ending not later than September 24, 1996

SEPTEMBER 24, 1996

The Committees on Economic and Educational Opportunities, the Judiciary, and Veterans' Affairs discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 14, 1996]

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. Repeal of section 320 of the Government Employee Rights Act of 1991.

Sec. 7. Political affiliation.

Sec. 8. Establishment of Inspector General for Executive Office of the President.

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

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

5 **“CHAPTER 5—EXTENSION OF CERTAIN**
 6 **RIGHTS AND PROTECTIONS TO PRESI-**
 7 **DENTIAL OFFICES**

“SUBCHAPTER I—GENERAL PROVISIONS

“Sec.

“401. Definitions.

“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 ADJUST-
 MENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS,
 AND INTIMIDATION

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

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

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

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

“415. Rights and protections under the Worker Adjustment and Retraining Noti-
 fication Act.

“416. Rights and protections relating to veterans’ employment and reemployment.

“417. Prohibition of intimidation or reprisal.

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

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

“PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

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

“PART D—LABOR-MANAGEMENT RELATIONS

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

“PART E—GENERAL

“435. *Generally applicable remedies and limitations.*

“SUBCHAPTER III—ADMINISTRATIVE AND JUDICIAL DISPUTE-
RESOLUTION PROCEDURES

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

“452. *Counseling and mediation.*

“453. *Election of proceeding.*

“454. *Appropriate agencies.*

“455. *Judicial review.*

“456. *Civil action.*

“457. *Judicial review of regulations.*

“458. *Other judicial review prohibited.*

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

“460. *Expedited review of certain appeals.*

“461. *Payments.*

“462. *Confidentiality.*

“463. *Definitions.*

“SUBCHAPTER IV—EFFECTIVE DATE

“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 Merit*
6 *Systems Protection Board under chapter 12 of title 5.*

7 *“(2) COVERED EMPLOYEE.—The term ‘covered*
8 *employee’ means any employee of an employing office.*

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

11 *“(4) EMPLOYING OFFICE.—The term ‘employing*
12 *office’ means—*

1 “(A) each office, agency, or other component
2 of the Executive Office of the President;

3 “(B) the Executive Residence at the White
4 House; and

5 “(C) the official residence (temporary or
6 otherwise) of the Vice President.

7 **“SEC. 402. APPLICATION OF LAWS.**

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

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

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

14 “(3) The Americans with Disabilities Act of
15 1990.

16 “(4) The Age Discrimination in Employment
17 Act of 1967.

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

19 “(6) The Occupational Safety and Health Act of
20 1970.

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

23 “(8) The Employee Polygraph Protection Act of
24 1988.

1 “(9) *The Worker Adjustment and Retraining No-*
2 *tification Act.*

3 “(10) *The Rehabilitation Act of 1973.*

4 “(11) *Chapter 43 (relating to veterans’ employ-*
5 *ment and reemployment) of title 38.*

6 **“Subchapter II—Extension of Rights and**
7 ***Protections***

8 **“PART A—EMPLOYMENT DISCRIMINATION, FAM-**
9 ***ILY AND MEDICAL LEAVE, FAIR LABOR***
10 ***STANDARDS, EMPLOYEE POLYGRAPH PRO-***
11 ***TECTION, WORKER ADJUSTMENT AND RE-***
12 ***TRAINING, EMPLOYMENT AND REEMPLOY-***
13 ***MENT OF VETERANS, AND INTIMIDATION***

14 **“SEC. 411. RIGHTS AND PROTECTIONS UNDER TITLE VII OF**
15 ***THE CIVIL RIGHTS ACT OF 1964, THE AGE DIS-***
16 ***CRIMINATION IN EMPLOYMENT ACT OF 1967,***
17 ***THE REHABILITATION ACT OF 1973, AND***
18 ***TITLE I OF THE AMERICANS WITH DISABIL-***
19 ***ITIES ACT OF 1990.***

20 “(a) *DISCRIMINATORY PRACTICES PROHIBITED.—All*
21 *personnel actions affecting covered employees shall be made*
22 *free from any discrimination based on—*

23 “(1) *race, color, religion, sex, or national origin,*
24 *within the meaning of section 703 of the Civil Rights*
25 *Act of 1964;*

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

3 “(3) disability, within the meaning of section
4 501 of the *Rehabilitation Act of 1973* and sections
5 102 through 104 of the *Americans with Disabilities*
6 *Act of 1990*.

7 “(b) *REMEDY*.—

8 “(1) *CIVIL RIGHTS*.—*The remedy for a violation*
9 *of subsection (a)(1) shall be—*

10 “(A) *such damages as would be appropriate*
11 *if awarded under section 706(g) of the Civil*
12 *Rights Act of 1964; and*

13 “(B) *such compensatory damages as would*
14 *be appropriate if awarded under section 1977 of*
15 *the Revised Statutes, or as would be appropriate*
16 *if awarded under sections 1977A(a)(1),*
17 *1977A(b)(2), and, irrespective of the size of the*
18 *employing office, 1977A(b)(3)(D) of the Revised*
19 *Statutes.*

20 “(2) *AGE DISCRIMINATION*.—*The remedy for a*
21 *violation of subsection (a)(2) shall be—*

22 “(A) *such damages as would be appropriate*
23 *if awarded under section 15(c) of the Age Dis-*
24 *crimination in Employment Act of 1967; and*

1 “(B) *such liquidated damages as would be*
 2 *appropriate if awarded under section 7(b) of*
 3 *such Act.*

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

6 “(3) *DISABILITIES DISCRIMINATION.*—*The rem-*
 7 *edy for a violation of subsection (a)(3) shall be—*

8 “(A) *such damages as would be appropriate*
 9 *if awarded under section 505(a)(1) of the Reha-*
 10 *bilitation Act of 1973 or section 107(a) of the*
 11 *Americans with Disabilities Act of 1990; and*

12 “(B) *such compensatory damages as would*
 13 *be appropriate if awarded under sections*
 14 *1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, ir-*
 15 *respective of the size of the employing office,*
 16 *1977A(b)(3)(D) of the Revised Statutes.*

17 “(c) *DEFINITIONS.*—*Except as otherwise specifically*
 18 *provided in this section, as used in this section:*

19 “(1) *COVERED EMPLOYEE.*—*The term ‘covered*
 20 *employee’ means any employee of a unit of the execu-*
 21 *tive branch, including the Executive Office of the*
 22 *President, whether appointed by the President or by*
 23 *any other appointing authority in the executive*
 24 *branch, who is not otherwise entitled to bring an ac-*

1 *tion under any of the statutes referred to in sub-*
 2 *section (a), but does not include any individual—*

3 *“(A) whose appointment is made by and*
 4 *with the advice and consent of the Senate;*

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

8 *“(C) who is a member of the uniformed*
 9 *services.*

10 *“(2) EMPLOYING OFFICE.—The term ‘employing*
 11 *office’, with respect to a covered employee, means the*
 12 *office, agency, or other entity in which the covered*
 13 *employee is employed (or sought employment or was*
 14 *employed in the case of an applicant or former em-*
 15 *ployee, respectively).*

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

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

22 *“(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PRO-*
 23 *TECTIONS PROVIDED.—*

24 *“(1) IN GENERAL.—The rights and protections*
 25 *established by sections 101 through 105 of the Family*

1 *and Medical Leave Act of 1993 shall apply to covered*
 2 *employees.*

3 “(2) *DEFINITIONS.—For purposes of the applica-*
 4 *tion described in paragraph (1)—*

5 “(A) *the term ‘employer’ as used in the*
 6 *Family and Medical Leave Act of 1993 means*
 7 *any employing office; and*

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

14 “(b) *REMEDY.—The remedy for a violation of sub-*
 15 *section (a) shall be such damages, including liquidated*
 16 *damages, as would be appropriate if awarded under para-*
 17 *graph (1) of section 107(a) of the Family and Medical*
 18 *Leave Act of 1993.*

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

21 “(a) *FAIR LABOR STANDARDS.—*

22 “(1) *IN GENERAL.—The rights and protections*
 23 *established by subsections (a)(1) and (d) of section 6,*
 24 *section 7, and section 12(c) of the Fair Labor Stand-*
 25 *ards Act of 1938 shall apply to covered employees.*

1 “(2) *INTERNS AND VOLUNTEERS.*—*For the pur-*
2 *poses of this section, the term ‘covered employee’ does*
3 *not include an intern or a volunteer as defined in*
4 *regulations under subsection (c).*

5 “(3) *COMPENSATORY TIME.*—*Except as provided*
6 *in regulations under subsection (c)(3), covered em-*
7 *ployees may not receive compensatory time in lieu of*
8 *overtime compensation.*

9 “(b) *REMEDY.*—*The remedy for a violation of sub-*
10 *section (a) shall be such damages, including liquidated*
11 *damages, as would be appropriate if awarded under section*
12 *16(b) of the Fair Labor Standards Act of 1938.*

13 “(c) *REGULATIONS TO IMPLEMENT SECTION.*—

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

16 “(2) *AGENCY REGULATIONS.*—*Except as pro-*
17 *vided in paragraph (3), the regulations issued under*
18 *paragraph (1) shall be the same as substantive regu-*
19 *lations promulgated by the Secretary of Labor to im-*
20 *plement the statutory provisions referred to in sub-*
21 *section (a) except insofar as the President may deter-*
22 *mine, for good cause shown and stated together with*
23 *the regulation, that a modification of such regulations*
24 *would be more effective for the implementation of the*
25 *rights and protections under this section.*

1 “(3) *IRREGULAR WORK SCHEDULES.*—*The Presi-*
 2 *dent shall issue regulations for covered employees*
 3 *whose work schedules directly depend on the schedule*
 4 *of the President or the Vice President that shall be*
 5 *comparable to the provisions in the Fair Labor*
 6 *Standards Act of 1938 that apply to employees who*
 7 *have irregular work schedules.*

8 **“SEC. 414. RIGHTS AND PROTECTIONS UNDER THE EM-**
 9 **PLOYEE POLYGRAPH PROTECTION ACT OF**
 10 **1988.**

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

18 “(b) *REMEDY.*—*The remedy for a violation of sub-*
 19 *section (a) shall be such damages as would be appropriate*
 20 *if awarded under section 6(c)(1) of the Employee Polygraph*
 21 *Protection Act of 1988.*

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 is-*
 2 *sued under paragraph (1) shall be the same as sub-*
 3 *stantive regulations promulgated by the Secretary of*
 4 *Labor to implement the statutory provisions referred*
 5 *to in subsections (a) and (b) except insofar as the*
 6 *President may determine, for good cause shown and*
 7 *stated together with the regulation, that a modifica-*
 8 *tion of such regulations would be more effective for*
 9 *the implementation of the rights and protections*
 10 *under this section.*

11 **“SEC. 415. RIGHTS AND PROTECTIONS UNDER THE WORKER**
 12 **ADJUSTMENT AND RETRAINING NOTIFICA-**
 13 **TION ACT.**

14 “(a) *WORKER ADJUSTMENT AND RETRAINING NOTIFI-*
 15 *CATION RIGHTS.*—

16 “(1) *IN GENERAL.*—*Except as provided in para-*
 17 *graph (2), no employing office shall be closed or mass*
 18 *layoff ordered within the meaning of section 3 of the*
 19 *Worker Adjustment and Retraining Notification Act*
 20 *until the end of a 60-day period after the employing*
 21 *office serves written notice of such prospective closing*
 22 *or layoff to representatives of covered employees or, if*
 23 *there are no representatives, to covered employees.*

24 “(2) *EXCEPTION.*—

1 “(A) *IN GENERAL.*—*In the event that a*
 2 *President (hereinafter in this paragraph referred*
 3 *to as the ‘previous President’)* *does not succeed*
 4 *himself in office as a result of the election of a*
 5 *new President, no notice or waiting period shall*
 6 *be required under paragraph (1) with respect to*
 7 *the separation of any individual described in*
 8 *subparagraph (B), if such separation occurs pur-*
 9 *suant to a closure or mass layoff ordered after*
 10 *the term of the new President commences.*

11 “(B) *DESCRIPTION OF INDIVIDUALS.*—*An*
 12 *individual described in this subparagraph is any*
 13 *covered employee serving pursuant to an ap-*
 14 *pointment made during—*

15 “(i) *the term of office of the previous*
 16 *President; or*

17 “(ii) *any term, earlier than the term*
 18 *referred to in clause (i), during which such*
 19 *previous President served as President or*
 20 *Vice President.*

21 “(b) *REMEDY.*—*The remedy for a violation of sub-*
 22 *section (a) shall be such damages as would be appropriate*
 23 *if awarded under paragraphs (1), (2), and (4) of section*
 24 *5(a) of the Worker Adjustment and Retraining Notification*
 25 *Act.*

1 “(c) *REGULATIONS TO IMPLEMENT SECTION.*—

2 “(1) *IN GENERAL.*—*The President shall issue*
3 *regulations to implement this section.*

4 “(2) *AGENCY REGULATIONS.*—*The regulations is-*
5 *sued under paragraph (1) shall be the same as sub-*
6 *stantive regulations promulgated by the Secretary of*
7 *Labor to implement the statutory provisions referred*
8 *to in subsection (a) except insofar as the President*
9 *may determine, for good cause shown and stated to-*
10 *gether with the regulation, that a modification of such*
11 *regulations would be more effective for the implemen-*
12 *tation of the rights and protections under this section.*

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

15 “(a) *EMPLOYMENT AND REEMPLOYMENT RIGHTS OF*
16 *MEMBERS OF THE UNIFORMED SERVICES.*—

17 “(1) *IN GENERAL.*—*It shall be unlawful for an*
18 *employing office to—*

19 “(A) *discriminate, within the meaning of*
20 *subsections (a) and (b) of section 4311 of title*
21 *38, against an eligible employee;*

22 “(B) *deny to an eligible employee reemploy-*
23 *ment rights within the meaning of sections 4312*
24 *and 4313 of title 38; or*

1 “(C) *deny to an eligible employee benefits*
2 *within the meaning of sections 4316, 4317, and*
3 *4318 of title 38.*

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

11 “(b) *REMEDY.—The remedy for a violation of sub-*
12 *section (a) shall be such damages as would be appropriate*
13 *if awarded under paragraphs (1) and (2)(A) of section*
14 *4323(c) of title 38.*

15 “(c) *REGULATIONS TO IMPLEMENT SECTION.—*

16 “(1) *IN GENERAL.—The President shall issue*
17 *regulations to implement this section.*

18 “(2) *AGENCY REGULATIONS.—The regulations is-*
19 *sued under paragraph (1) shall be the same as sub-*
20 *stantive regulations promulgated by the Secretary of*
21 *Labor to implement the statutory provisions referred*
22 *to in subsection (a) except to the extent that the Presi-*
23 *dent may determine, for good cause shown and stated*
24 *together with the regulation, that a modification of*
25 *such regulations would be more effective for the imple-*

1 *mentation of the rights and protections under this*
2 *section.*

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

4 *“(a) IN GENERAL.—It shall be unlawful for an em-*
5 *ploying office to intimidate, take reprisal against, or other-*
6 *wise discriminate against, any covered employee because*
7 *the covered employee has opposed any practice made unlaw-*
8 *ful by this chapter, or because the covered employee has ini-*
9 *tiated proceedings, made a charge, or testified, assisted, or*
10 *participated in any manner in a hearing or other proceed-*
11 *ing under this chapter.*

12 *“(b) REMEDY.—A violation of subsection (a) may be*
13 *remedied by any legal remedy available to redress the prac-*
14 *tice opposed by the covered employee or other violation of*
15 *law as to which the covered employee initiated proceedings,*
16 *made a charge, or engaged in other conduct protected under*
17 *subsection (a).*

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

1 **“PART B—PUBLIC ACCESS PROVISIONS UNDER**
 2 **THE AMERICANS WITH DISABILITIES ACT OF 1990**
 3 **“SEC. 420. RIGHTS AND PROTECTIONS UNDER THE AMERI-**
 4 **CANS WITH DISABILITIES ACT OF 1990.**

5 “(a) *RIGHTS AND PROTECTIONS.*—*The rights and pro-*
 6 *tections against discrimination in the provision of public*
 7 *services and accommodations established by sections 201,*
 8 *202, and 204, and sections 302, 303, and 309, of the Ameri-*
 9 *cans with Disabilities Act of 1990 shall apply, to the extent*
 10 *that public services, programs, or activities are provided,*
 11 *with respect to the White House and its appurtenant*
 12 *grounds and gardens, the Old Executive Office Building,*
 13 *the New Executive Office Buildings, and any other facility*
 14 *to the extent that offices are provided for employees of the*
 15 *Executive Office of the President.*

16 “(b) *REMEDY.*—*The remedy for a violation of sub-*
 17 *section (a) shall be such remedy as would be appropriate*
 18 *if awarded under section 203 or 308 of the Americans with*
 19 *Disabilities Act of 1990, as the case may be, except that,*
 20 *with respect to any claim of employment discrimination,*
 21 *the exclusive remedy shall be under section 411 of this title.*
 22 *A remedy under the preceding sentence shall be enforced in*
 23 *accordance with applicable provisions of such section 203*
 24 *or 308, as the case may be.*

25 “(c) *DEFINITION.*—*For purposes of the application*
 26 *under this section of the Americans with Disabilities Act*

1 of 1990, the term ‘public entity’ as used in such Act, means,
 2 to the extent that public services, programs, or activities
 3 are provided, the White House and its appurtenant grounds
 4 and gardens, the Old Executive Office Building, the New
 5 Executive Office Buildings, and any other facility to the
 6 extent that offices are provided for employees of the Execu-
 7 tive Office of the President.

8 **“PART C—OCCUPATIONAL SAFETY AND HEALTH**
 9 **ACT OF 1970**

10 **“SEC. 425. RIGHTS AND PROTECTIONS UNDER THE OCCUPA-**
 11 **TIONAL SAFETY AND HEALTH ACT OF 1970;**
 12 **PROCEDURES FOR REMEDY OF VIOLATIONS.**

13 **“(a) OCCUPATIONAL SAFETY AND HEALTH PROTEC-**
 14 **TIONS.—**

15 **“(1) IN GENERAL.—***Each employing office and*
 16 *each covered employee shall comply with the provi-*
 17 *sions of section 5 of the Occupational Safety and*
 18 *Health Act of 1970.*

19 **“(2) DEFINITIONS.—***For purposes of the applica-*
 20 *tion under this section of the Occupational Safety*
 21 *and Health Act of 1970—*

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

24 **“(B) the term ‘employee’ as used in such**
 25 **Act means a covered employee.**

1 “(b) *REMEDY.*—*The remedy for a violation of sub-*
 2 *section (a) shall be an order to correct the violation, includ-*
 3 *ing such order as would be appropriate if issued under sec-*
 4 *tion 13(a) of the Occupational Safety and Health Act of*
 5 *1970.*

6 “(c) *PROCEDURES.*—

7 “(1) *REQUESTS FOR INSPECTIONS.*—*Upon writ-*
 8 *ten request of any employing office or covered em-*
 9 *ployee, the Secretary of Labor shall have the authority*
 10 *to inspect and investigate places of employment under*
 11 *the jurisdiction of employing offices in accordance*
 12 *with subsections (a), (d), (e), and (f) of section 8 of*
 13 *the Occupational Safety and Health Act of 1970.*

14 “(2) *CITATIONS, NOTICES, AND NOTIFICATIONS.*—
 15 *The Secretary of Labor shall have the authority, in*
 16 *accordance with sections 9 and 10 of the Occupa-*
 17 *tional Safety and Health Act of 1970, to issue—*

18 “(A) *a citation or notice to any employing*
 19 *office responsible for correcting a violation of*
 20 *subsection (a); or*

21 “(B) *a notification to any employing office*
 22 *that the Secretary of Labor believes has failed to*
 23 *correct a violation for which a citation has been*
 24 *issued within the period permitted for its correc-*
 25 *tion.*

1 “(3) *HEARINGS AND REVIEW.*—If after issuing a
2 *citation or notification, the Secretary of Labor deter-*
3 *mines that a violation has not been corrected—*

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

12 “(B) *opportunity for a hearing before the*
13 *Occupational Safety and Health Review Com-*
14 *mission shall be afforded in accordance with sec-*
15 *tion 10(c) of the Occupational Safety and Health*
16 *Act of 1970, if the employer gives timely notice*
17 *to the Secretary that he intends to contest the ci-*
18 *tation or notification.*

19 “(4) *VARIANCE PROCEDURES.*—An employing of-
20 *fice may request from the Secretary of Labor an order*
21 *granting a variance from a standard made applicable*
22 *by this section, in accordance with sections 6(b)(6)*
23 *and 6(d) of the Occupational Safety and Health Act*
24 *of 1970.*

1 “(5) *JUDICIAL REVIEW.*—Any person or employ-
2 ing office aggrieved by a final decision of the Occupa-
3 tional Safety and Health Review Commission under
4 paragraph (3) or the Secretary of Labor under para-
5 graph (4) may file a petition for review with the
6 United States Court of Appeals for the Federal Cir-
7 cuit pursuant to section 455.

8 “(6) *COMPLIANCE DATE.*—If new appropriated
9 funds are necessary to correct a violation of sub-
10 section (a) for which a citation is issued, or to comply
11 with an order requiring correction of such a violation,
12 correction or compliance shall take place as soon as
13 possible, but not later than the end of the fiscal year
14 following the fiscal year in which the citation is is-
15 sued or the order requiring correction becomes final
16 and not subject to further review.

17 “(d) *REGULATIONS TO IMPLEMENT SECTION.*—

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

20 “(2) *AGENCY REGULATIONS.*—The regulations is-
21 sued under paragraph (1) shall be the same as sub-
22 stantive regulations promulgated by the Secretary of
23 Labor to implement the statutory provisions referred
24 to in subsection (a) except to the extent that the Presi-
25 dent may determine, for good cause shown and stated

1 together with the regulation, that a modification of
 2 such regulations would be more effective for the imple-
 3 mentation of the rights and protections under this
 4 section.

5 “(3) *EMPLOYING OFFICE RESPONSIBLE FOR COR-*
 6 *RECTION.*—The regulations issued under paragraph
 7 (1) shall include a method of identifying, for purposes
 8 of this section and for different categories of violations
 9 of subsection (a), the employing office responsible for
 10 correction of a particular violation.

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

12 **“SEC. 430. APPLICATION OF CHAPTER 71 OF TITLE 5, RELAT-**
 13 **ING TO FEDERAL SERVICE LABOR-MANAGE-**
 14 **MENT RELATIONS; PROCEDURES FOR REM-**
 15 **EDY OF VIOLATIONS.**

16 “(a) *LABOR-MANAGEMENT RIGHTS.*—Chapter 71 of
 17 title 5 shall apply to employing offices and to covered em-
 18 ployees and representatives of those employees, except that
 19 covered employees shall not have a right to reinstatement
 20 pursuant to section 7118(a)(7)(C) or 7123 of title 5.

21 “(b) *DEFINITION.*—For purposes of the application
 22 under this section of chapter 71 of title 5, the term ‘agency’
 23 as used in such chapter means an employing office.

“PART E—GENERAL

“SEC. 435. GENERALLY APPLICABLE REMEDIES AND LIMITATIONS.

“(a) *ATTORNEY’S FEES.*—If a covered employee, with respect to any claim under this chapter, or a qualified person with a disability, with respect to any claim under section 420, is a prevailing party in any proceeding under section 453(1), 455, or 456, the administrative agency or court, as the case may be, may award attorney’s fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

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

“(c) *CIVIL PENALTIES AND PUNITIVE DAMAGES.*—Except as otherwise provided in this chapter, no civil penalty or punitive damages may be awarded with respect to any claim under this chapter.

“(d) *EXCLUSIVE PROCEDURE.*—

“(1) *IN GENERAL.*—Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this chapter except as provided in this chapter.

1 “(2) *VETERANS.*—A covered employee under sec-
2 tion 416 may also utilize any provisions of chapter
3 43 of title 38 that are applicable to that employee.

4 “(e) *SCOPE OF REMEDY.*—Only a covered employee
5 who has undertaken and completed the procedures described
6 in section 452 may be granted a remedy under part A of
7 this subchapter.

8 “(f) *CONSTRUCTION.*—

9 “(1) *DEFINITIONS AND EXEMPTIONS.*—Except
10 where inconsistent with definitions and exemptions
11 provided in this chapter, the definitions and exemp-
12 tions in the laws made applicable by this chapter
13 shall apply under this chapter.

14 “(2) *SIZE LIMITATIONS.*—Notwithstanding para-
15 graph (1), provisions in the laws made applicable
16 under this chapter (other than paragraphs (2) and
17 (3) of section 2(a) of the Worker Adjustment and Re-
18 training Notification Act) determining coverage based
19 on size, whether expressed in terms of numbers of em-
20 ployees, amount of business transacted, or other meas-
21 ure, shall not apply in determining coverage under
22 this chapter.

23 “(g) *DEFINITIONS RELATING TO SECTION 411.*—For
24 purposes of applying this section with respect to any prac-
25 tice or other matter to which section 411 relates, the terms

1 ‘employing office’ and ‘covered employee’ shall each be con-
 2 sidered to have the meaning given to it by such section.

3 **“Subchapter III—Administrative and Judicial**
 4 **Dispute-Resolution Procedures**

5 **“SEC. 451. PROCEDURE FOR CONSIDERATION OF ALLEGED**
 6 **VIOLATIONS.**

7 “The procedure for consideration of alleged violations
 8 of part A of subchapter II consists of—

9 “(1) counseling and mediation as provided in
 10 section 452; and

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

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

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

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

19 “(a) *IN GENERAL.*—The President shall by regulation
 20 establish procedures substantially similar to those under
 21 sections 402 and 403 of the Congressional Accountability
 22 Act of 1995 for the counseling and mediation of alleged vio-
 23 lations of a law made applicable under part A of subchapter
 24 II.

1 “(b) *EXHAUSTION REQUIREMENT.*—A covered em-
 2 ployee who has not exhausted counseling and mediation
 3 under subsection (a) shall be ineligible to make any election
 4 under section 453 or otherwise pursue any further form of
 5 relief under this subchapter.

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

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

11 “(1) file a complaint with the appropriate ad-
 12 ministrative agency, as determined under section 454;
 13 or

14 “(2) file a civil action in accordance with section
 15 456 in the United States district court for the district
 16 in which the employee is employed or for the District
 17 of Columbia.

18 **“SEC. 454. APPROPRIATE AGENCIES.**

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

23 “(b) *EXCEPTIONS.*—

24 “(1) *DISCRIMINATION.*—For purposes of any ac-
 25 tion arising under section 411 (or any action alleging

1 *intimidation, reprisal, or discrimination under sec-*
2 *tion 417 relating to any practice made unlawful*
3 *under section 411), the appropriate agency shall be*
4 *the Equal Employment Opportunity Commission,*
5 *and the complaint in any such action shall be proc-*
6 *essed under the same administrative procedures as*
7 *any such complaint filed by any other Federal em-*
8 *ployee.*

9 “(2) *MIXED CASES.*—*However, in the case of any*
10 *covered employee (within the meaning of section*
11 *411(c)(1)) who has been affected by an action which*
12 *an employee of an executive agency may appeal to the*
13 *Board and who alleges that a basis for the action was*
14 *discrimination prohibited by section 411 (or any ac-*
15 *tion alleging intimidation, reprisal, or discrimina-*
16 *tion under section 417 relating to any practice made*
17 *unlawful under section 411), the initial appropriate*
18 *agency shall be the Board, and such matter shall*
19 *thereafter be processed in accordance with section*
20 *7702 (a)–(d) (disregarding paragraph (2) of such*
21 *subsection (a)) and (f) of title 5.*

22 “(3) *JUDICIAL REVIEW.*—*Notwithstanding any*
23 *other provision of law (including any provision of*
24 *law referenced in paragraph (1) or (2)), judicial re-*

1 *view of any administrative decision under this sub-*
2 *section shall be by the court specified in section 455.*

3 **“SEC. 455. JUDICIAL REVIEW.**

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

8 *“(1) an appropriate agency (as determined*
9 *under section 454);*

10 *“(2) the Federal Labor Relations Authority*
11 *under chapter 71 of title 5, notwithstanding section*
12 *7123 of such title; or*

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

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

19 **“SEC. 456. CIVIL ACTION.**

20 *“(a) JURISDICTION.—The district courts of the United*
21 *States shall have jurisdiction over any civil action com-*
22 *menced under section 453(2) and this section by a covered*
23 *employee.*

1 “(b) *PARTIES.*—*The defendant shall be the employing*
 2 *office alleged to have committed the violation, or in which*
 3 *the violation is alleged to have occurred.*

4 “(c) *JURY TRIAL.*—*Any party may demand a jury*
 5 *trial where a jury trial would be available in an action*
 6 *against a private defendant under the relevant law made*
 7 *applicable by this chapter. In any case in which a violation*
 8 *of section 411 is alleged, the court shall not inform the jury*
 9 *of the maximum amount of compensatory damages avail-*
 10 *able under section 411(b)(1) or 411(b)(3).*

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

12 *“In any proceeding brought under section 455 or 456*
 13 *in which the application of a regulation issued under this*
 14 *chapter is at issue, the court may review the validity of*
 15 *the regulation in accordance with the provisions of subpara-*
 16 *graphs (A) through (D) of section 706(2) of title 5. If the*
 17 *court determines that the regulation is invalid, the court*
 18 *shall apply, to the extent necessary and appropriate, the*
 19 *most relevant substantive executive agency regulation pro-*
 20 *mulgated to implement the statutory provisions with re-*
 21 *spect to which the invalid regulation was issued. Except*
 22 *as provided in this section, the validity of regulations issued*
 23 *under this chapter is not subject to judicial review.*

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

2 *“Except as expressly authorized by this chapter, the*
3 *compliance or noncompliance with the provisions of this*
4 *chapter and any action taken pursuant to this chapter shall*
5 *not be subject to judicial review.*

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

7 *“In any proceeding under section 453(1), 455, or 456,*
8 *if the President has not issued a regulation on a matter*
9 *for which this chapter requires a regulation to be issued,*
10 *the administrative agency or court, as the case may be, shall*
11 *apply, to the extent necessary and appropriate, the most*
12 *relevant substantive executive agency regulation promul-*
13 *gated to implement the statutory provision at issue in the*
14 *proceeding.*

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

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

20 *“(b) JURISDICTION.—The Supreme Court shall, if it*
21 *has not previously ruled on the question, accept jurisdiction*
22 *over the appeal referred to in subsection (a), advance the*
23 *appeal on the docket, and expedite the appeal to the greatest*
24 *extent possible.*

1 **“SEC. 461. PAYMENTS.**

2 *“A judgment, award, or compromise settlement*
3 *against the United States under this chapter (including any*
4 *interest and costs) shall be paid—*

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

8 *“(2) out of amounts otherwise appropriated or*
9 *available to such office, if it arises out of an adminis-*
10 *trative proceeding under this chapter (or any appeal*
11 *therefrom).*

12 **“SEC. 462. CONFIDENTIALITY.**

13 *“(a) COUNSELING.—All counseling under section 452*
14 *shall be strictly confidential, except that, with the consent*
15 *of the covered employee, the employing office may be noti-*
16 *fied.*

17 *“(b) MEDIATION.—All mediation under section 452*
18 *shall be strictly confidential.*

19 **“SEC. 463. DEFINITIONS.**

20 *“For purposes of applying this subchapter, the terms*
21 *‘employing office’ and ‘covered employee’ shall each, to the*
22 *extent that section 411 is involved, be considered to have*
23 *the meaning given to it by such section.*

1 **“Subchapter IV—Effective Date**

2 **“SEC. 471. EFFECTIVE DATE.**

3 *“This chapter shall take effect 1 year after the date*
 4 *of the enactment of the Presidential and Executive Office*
 5 *Accountability Act.”.*

6 (b) *REGULATIONS.*—Appropriate measures shall be
 7 taken to ensure that any regulations needed to implement
 8 chapter 5 of title 3, United States Code, as amended by
 9 this section, shall be in effect by the effective date of such
 10 chapter.

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

**“5. Extension of Certain Rights and Protections to Presi-
 dential Offices 401”.**

14 **SEC. 3. FINANCIAL OFFICERS WITHIN THE EXECUTIVE OF-**
 15 ****FICE OF THE PRESIDENT.****

16 (a) *CHIEF FINANCIAL OFFICER.*—Section 901 of title
 17 31, United States Code, is amended by adding at the end
 18 the following:

19 “(c)(1) *There shall be within the Executive Office of*
 20 *the President a Chief Financial Officer, who shall be ap-*
 21 *pointed by the President from among individuals meeting*
 22 *the standards described in subsection (a)(3).*

23 “(2) *The Chief Financial Officer under this subsection*
 24 *shall have the same authority and shall perform the same*

1 *functions as apply in the case of a Chief Financial Officer*
 2 *under section 902.*

3 “(3) *The Director of the Office of Management and*
 4 *Budget shall prescribe any regulations which may be nec-*
 5 *essary to ensure that, for purposes of implementing para-*
 6 *graph (2), the Executive Office of the President shall, to*
 7 *the extent practicable and appropriate, be treated (includ-*
 8 *ing for purposes of financial statements under section 3515)*
 9 *in the same way as an agency described in subsection (b).”.*

10 ***(b) DEPUTY CHIEF FINANCIAL OFFICER.—****Section 903*
 11 *of title 31, United States Code, is amended by adding at*
 12 *the end the following:*

13 “(c)(1) *There shall be within the Executive Office of*
 14 *the President a Deputy Chief Financial Officer, who, not-*
 15 *withstanding any provision of subsection (b), shall be ap-*
 16 *pointed by the President from among individuals meeting*
 17 *the standards described in section 901(a)(3).*

18 “(2) *The Deputy Chief Financial Officer under this*
 19 *subsection shall have the same authority and shall perform*
 20 *the same functions as apply in the case of the Deputy Chief*
 21 *Financial Officer of an agency described in subsection (b).”.*

22 ***(c) TECHNICAL AND CONFORMING AMENDMENTS.—***

23 ***(1) TITLE 31, UNITED STATES CODE.—****Section*
 24 *503(a) of title 31, United States Code, is amended—*

1 (A) in paragraph (7) by striking “respec-
 2 tively.” and inserting “respectively (excluding
 3 any officer appointed under section 901(c) or
 4 903(c)).”; and

5 (B) in paragraph (8) by striking “Officers.”
 6 and inserting “Officers (excluding any officer
 7 appointed under section 901(c) or 903(c)).”.

8 (2) *DESIGNATION OF AGENCY HEAD.*—*The Presi-*
 9 *dent shall designate an employee of the Executive Of-*
 10 *fice of the President (other than the Chief Financial*
 11 *Officer or Deputy Chief Financial Officer appointed*
 12 *under the amendments made by subsections (a) and*
 13 *(b), respectively), who shall be deemed “the head of*
 14 *the agency” for purposes of carrying out section 902*
 15 *of title 31, United States Code, with respect to the Ex-*
 16 *ecutive Office of the President.*

17 **SEC. 4. AMENDMENT TO DEFINITION OF “SPECIAL GOVERN-**
 18 **MENT EMPLOYEE”.**

19 (a) *AMENDMENT TO SECTION 202(a).*—*Subsection (a)*
 20 *of section 202 of title 18, United States Code, is amended*
 21 *to read as follows:*

22 “(a) *For the purpose of sections 203, 205, 207, 208,*
 23 *and 209 of this title the term ‘special Government employee’*
 24 *shall mean—*

1 “(1) an officer or employee as defined in sub-
2 section (c) who is retained, designated, appointed, or
3 employed in the legislative or executive branch of the
4 United States Government, in any independent agen-
5 cy of the United States, or in the government of the
6 District of Columbia, and who, at the time of reten-
7 tion, designation, appointment or employment, is ex-
8 pected to perform temporary duties on a full-time or
9 intermittent basis for not to exceed one hundred and
10 thirty days during any period of three hundred and
11 sixty five consecutive days;

12 “(2) a part-time United States commissioner;

13 “(3) a part-time United States magistrate;

14 “(4) an independent counsel appointed under
15 chapter 40 of title 28 and any person appointed by
16 that independent counsel under section 594(c) of title
17 28;

18 “(5) a person serving as a part-time local rep-
19 resentative of a Member of Congress in the Member’s
20 home district or State; and

21 “(6) a Reserve officer of the Armed Forces, or an
22 officer of the National Guard of the United States,
23 who is not otherwise an officer or employee as defined
24 in subsection (c) who is—

1 “(A) on active duty solely for training (not-
2 withstanding section 2105(d) of title 5);

3 “(B) serving voluntarily for not to exceed
4 one hundred and thirty days during any period
5 of three hundred and sixty five consecutive days;
6 or

7 “(C) serving involuntarily.”.

8 (b) *AMENDMENT TO SECTION 202(c).*—Subsection (c)
9 of 202 of title 18, United States Code, is amended to read
10 as follows:

11 “(c) The terms ‘officer’ and ‘employee’ in sections 203,
12 205, 207 through 209, and 218 of this title shall include—

13 “(1) an individual who is retained, designated,
14 appointed or employed in the United States Govern-
15 ment or in the government of the District of Colum-
16 bia, to perform, with or without compensation and
17 subject to the supervision of the President, the Vice
18 President, a Member of Congress, a Federal judge or
19 an officer or employee of the United States or of the
20 government of the District of Columbia, a Federal or
21 District of Columbia function under authority of law
22 or an Executive act. As used in this section, a Federal
23 or District of Columbia function shall include, but
24 not be limited to—

1 “(A) supervising, managing, directing or
2 overseeing a Federal or District of Columbia offi-
3 cer or employee in the performance of such offi-
4 cer’s or employee’s official duties;

5 “(B) providing regular advice, counsel, or
6 recommendations to the President, the Vice
7 President, a Member of Congress, or any Federal
8 or District of Columbia officer or employee, or
9 conducting meetings involving any of those indi-
10 viduals, as part of the Federal or District of Co-
11 lumbia government’s internal deliberative proc-
12 ess; or

13 “(C) obligating funds of the United States
14 or the District of Columbia;

15 “(2) a Reserve officer or officer of the National
16 Guard of the United States who is voluntarily serving
17 a period of extended active duty in excess of 130 days;
18 and

19 “(3) the President, the Vice President, a Member
20 of Congress or a Federal judge only if specified in the
21 section.”.

22 (c) NEW SECTION 202(f).—Section 202 of title 18,
23 United States Code, is amended by adding at the end the
24 following:

1 “(f) The terms ‘officer or employee’ and ‘special Gov-
 2 ernment employee’ as used in sections 203, 205, 207 through
 3 209, and 218, shall not include enlisted members of the
 4 Armed Forces, nor shall they include an individual who
 5 is retained, designated or appointed without compensation
 6 specifically to act as a representative of a non-Federal (or
 7 non-District of Columbia) interest on an advisory commit-
 8 tee established pursuant to the Federal Advisory Committee
 9 Act or any similarly established committee whose meetings
 10 are generally open to the public. The non-Federal interest
 11 to be represented must be specifically set forth in the statute,
 12 charter, or Executive act establishing the committee.”.

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

14 Each Federal law governing employment in the pri-
 15 vate sector, enacted later than 12 months after the date of
 16 the enactment of this Act, shall be deemed to apply with
 17 respect to “employing offices” and “covered employees”
 18 (within the meaning of section 401 of title 3, United States
 19 Code, as amended by this Act), unless such law specifically
 20 provides otherwise and expressly cites this section.

21 **SEC. 6. REPEAL OF SECTION 320 OF THE GOVERNMENT EM-**
 22 **PLOYEE RIGHTS ACT OF 1991.**

23 (a) *IN GENERAL.*—Section 320 of the Government Em-
 24 ployee Rights Act of 1991 is repealed.

1 (b) *EFFECTIVE DATE.*—*This section shall take effect*
 2 *1 year after the date of the enactment of this Act.*

3 (c) *SAVINGS PROVISION.*—*The repeal under this sec-*
 4 *tion shall not affect proceedings in which the complaint was*
 5 *filed before the effective date of this section, and orders shall*
 6 *be issued in such proceedings and appeals shall be taken*
 7 *therefrom as if this section had not been enacted.*

8 **SEC. 7. POLITICAL AFFILIATION.**

9 *It shall not be a violation of any provision of section*
 10 *411 of title 3, United States Code, as amended by this Act,*
 11 *to consider the party affiliation, or political compatibility*
 12 *with the employing office, of an employee who is a “covered*
 13 *employee” for purposes of such section 411 with respect to*
 14 *employment decisions.*

15 **SEC. 8. ESTABLISHMENT OF INSPECTOR GENERAL FOR EX-**
 16 **ECUTIVE OFFICE OF THE PRESIDENT.**

17 (a) *ESTABLISHMENT OF OFFICE.*—*Section 11 of the*
 18 *Inspector General Act of 1978 (5 U.S.C. App.) is amend-*
 19 *ed—*

20 (1) *in paragraph (1) by inserting “the President*
 21 *(with respect only to the Executive Office of the Presi-*
 22 *dent),” after “means”; and*

23 (2) *in paragraph (2) by inserting “the Executive*
 24 *Office of the President,” after “means”.*

1 (b) *APPOINTMENT OF INSPECTOR GENERAL.*—Not
 2 later than 120 days after the effective date of this section,
 3 the President shall nominate an individual as the Inspector
 4 General of the Executive Office of the President pursuant
 5 to the amendments made by subsection (a).

6 (c) *SPECIAL PROVISIONS CONCERNING INSPECTOR*
 7 *GENERAL OF THE EXECUTIVE OFFICE OF THE PRESI-*
 8 *DENT.*—The Inspector General Act of 1978 (5 U.S.C. App.)
 9 is amended—

10 (1) by redesignating the second section 8G (re-
 11 garding a rule of construction) as section 8I; and

12 (2) by inserting after the first section 8G (re-
 13 garding requirements for Federal entities and des-
 14 ignated Federal entities) the following:

15 **“SEC. 8H. SPECIAL PROVISIONS CONCERNING INSPECTOR**
 16 **GENERAL OF THE EXECUTIVE OFFICE OF THE**
 17 **PRESIDENT.**

18 “(a) *AUTHORITY, DIRECTION, AND CONTROL OF*
 19 *PRESIDENT.*—Notwithstanding the last 2 sentences of sec-
 20 tion 3(a), the Inspector General of the Executive Office of
 21 the President shall be under the authority, direction, and
 22 control of the President with respect to audits or investiga-
 23 tions, or the issuance of subpoenas, which require access to
 24 information concerning—

1 “(1) ongoing criminal investigations or proceed-
2 ings;

3 “(2) undercover operations;

4 “(3) the identity of confidential sources, includ-
5 ing protected witnesses;

6 “(4) deliberations and decisions on policy mat-
7 ters, including documented information used as a
8 basis for making policy decisions;

9 “(5) intelligence or counterintelligence matters;
10 or

11 “(6) other matters the disclosure of which would
12 constitute a serious threat to the national security, or
13 would cause significant impairment to the national
14 interests (including interests in foreign trade negotia-
15 tions), of the United States.

16 “(b) *PROHIBITING ACTIVITIES OF INSPECTOR GEN-*
17 *ERAL.*—With respect to information described in subsection
18 (a), the President may prohibit the Inspector General of the
19 Executive Office of the President from carrying out or com-
20 pleting any audit or investigation, or issuing any sub-
21 poena, after the Inspector General has decided to initiate,
22 carry out, or complete such audit or investigation or to
23 issue such subpoena, if the President determines that—

1 “(1) the disclosure of that information would
2 interfere with the core functions of the constitutional
3 responsibilities of the President; and

4 “(2) the prohibition is necessary to prevent the
5 disclosure of that information.

6 “(c) NOTICE.—

7 “(1) NOTICE TO INSPECTOR GENERAL.—If the
8 President makes a determination referred to in sub-
9 section (b) (1) or (2), the President shall within 30
10 days notify the Inspector General in writing stating
11 the reasons for that determination.

12 “(2) NOTICE TO CONGRESS.—Within 30 days
13 after receiving a notice under paragraph (1), the In-
14 spector General shall transmit a copy of the notice to
15 each of the Chairman and the ranking minority
16 party member of the Committee on Government Re-
17 form and Oversight of the House of Representatives,
18 the Committee on Governmental Affairs of the Senate,
19 and other appropriate committees or subcommittees of
20 the Congress.

21 “(d) SEMIANNUAL REPORTS.—

22 “(1) INFORMATION TO BE INCLUDED.—The In-
23 spector General of the Executive Office of the Presi-
24 dent shall include in each semiannual report to the
25 President under section 5, at a minimum—

1 “(A) a list of the title or subject of each in-
2 spection, investigation, or audit conducted dur-
3 ing the reporting period;

4 “(B) a statement of whether corrective ac-
5 tion has been completed on each significant rec-
6 ommendation described in previous semiannual
7 reports, and, in a case where corrective action
8 has been completed, a description of such correc-
9 tive action;

10 “(C) a certification that the Inspector Gen-
11 eral has had full and direct access to all infor-
12 mation relevant to the performance of functions
13 of the Inspector General;

14 “(D) a description of all cases occurring
15 during the reporting period in which the Inspec-
16 tor General could not obtain documentary evi-
17 dence relevant to any inspection, audit, or inves-
18 tigation due to a determination of the President
19 under subsection (b); and

20 “(E) such recommendations as the Inspector
21 General considers appropriate concerning legis-
22 lation to promote economy and efficiency in the
23 administration of programs and operations un-
24 dertaken by the Executive Office of the President,

1 *and to detect and eliminate fraud, waste, and*
2 *abuse in such programs and operations.*

3 “(2) *TRANSMISSION TO CONGRESS.*—*Within 30*
4 *days after receiving a semiannual report under sec-*
5 *tion 5 from the Inspector General of the Executive Of-*
6 *fice of the President, the President shall transmit the*
7 *report to each of the Chairman and the ranking mi-*
8 *nority party member of the Committee on Govern-*
9 *ment Reform and Oversight of the House of Rep-*
10 *resentatives and the Committee on Governmental Af-*
11 *fairs of the Senate with any comments the President*
12 *considers appropriate.”.*

13 “(d) *EFFECTIVE DATE.*—*This section shall take effect*
14 *on January 21, 1997.*

○