

117TH CONGRESS
1ST SESSION

S. 2921

To protect our democracy by preventing abuses of presidential power, restoring checks and balances and accountability and transparency in government, and defending elections against foreign interference, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 2021

Ms. KLOBUCHAR (for herself, Mr. BLUMENTHAL, Mr. COONS, Mrs. FEINSTEIN, Ms. HIRONO, Mr. MERKLEY, Mr. SANDERS, Ms. WARREN, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To protect our democracy by preventing abuses of presidential power, restoring checks and balances and accountability and transparency in government, and defending elections against foreign interference, 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.**

4 This Act may be cited as the “Protecting Our Democ-
5 racy Act”.

1 **SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF**
 2 **CONTENTS.**

3 (a) DIVISIONS.—This Act is organized into divisions
 4 as follows:

5 (1) Division A—Preventing Abuses of Presi-
 6 dential Power.

7 (2) Division B—Restoring Checks and Bal-
 8 ances, Accountability, and Transparency.

9 (3) Division C—Defending Elections Against
 10 Foreign Interference.

11 (4) Division D—Severability.

12 (b) TABLE OF CONTENTS.—The table of contents of
 13 this Act is as follows:

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—PREVENTING ABUSES OF PRESIDENTIAL POWER

TITLE I—ABUSE OF THE PARDON POWER PREVENTION

Sec. 101. Short title.

Sec. 102. Congressional oversight relating to certain pardons.

Sec. 103. Bribery in connection with pardons and commutations.

Sec. 104. Prohibition on presidential self-pardon.

TITLE II—ENSURING NO PRESIDENT IS ABOVE THE LAW

Sec. 201. Short title.

Sec. 202. Tolling of statute of limitations.

TITLE III—ENFORCEMENT OF THE FOREIGN AND DOMESTIC
 EMOLUMENTS CLAUSES OF THE CONSTITUTION

Sec. 301. Short title.

Sec. 302. Definitions.

Sec. 303. Prohibition on acceptance of foreign and domestic emoluments.

Sec. 304. Civil actions by Congress concerning foreign emoluments.

Sec. 305. Disclosures concerning foreign and domestic emoluments.

Sec. 306. Enforcement authority of the Director of the Office of Government
 Ethics.

Sec. 307. Jurisdiction of the Office of Special Counsel.

DIVISION B—RESTORING CHECKS AND BALANCES,
ACCOUNTABILITY, AND TRANSPARENCY

TITLE IV—ENFORCEMENT OF CONGRESSIONAL SUBPOENAS

- Sec. 401. Short title.
- Sec. 402. Findings.
- Sec. 403. Enforcement of congressional subpoenas.
- Sec. 404. Compliance with congressional subpoenas.
- Sec. 405. Rule of construction.

TITLE V—REASSERTING CONGRESSIONAL POWER OF THE PURSE

- Sec. 500. Short title.

Subtitle A—Strengthening Congressional Control and Review To Prevent
Impoundment

- Sec. 501. Strengthening congressional control.
- Sec. 502. Strengthening congressional review.
- Sec. 503. Updated authorities for and reporting by the Comptroller General.
- Sec. 504. Advance congressional notification and litigation.
- Sec. 505. Penalties for failure to comply with the Impoundment Control Act of 1974.

Subtitle B—Strengthening Transparency and Reporting

PART 1—FUNDS MANAGEMENT AND REPORTING TO THE CONGRESS

- Sec. 511. Expired balance reporting in the President's budget.
- Sec. 512. Cancelled balance reporting in the President's budget.
- Sec. 513. Lapse in appropriations; Reporting in the President's budget.
- Sec. 514. Transfer and other repurposing authority reporting in the President's budget.
- Sec. 515. Authorizing cancellations in indefinite accounts by appropriation.

PART 2—EMPOWERING CONGRESSIONAL REVIEW THROUGH NONPARTISAN
CONGRESSIONAL AGENCIES AND TRANSPARENCY INITIATIVES

- Sec. 521. Requirement to respond to requests for information from the Government Accountability Office for budget and appropriations law decisions.
- Sec. 522. Reporting requirements for Antideficiency Act violations.
- Sec. 523. Department of Justice reporting to Congress for Antideficiency Act violations.
- Sec. 524. Publication of budget or appropriations law opinions of the Department of Justice Office of Legal Counsel.

Subtitle C—Strengthening Congressional Role in and Oversight of Emergency
Declarations and Designations

- Sec. 531. Improving checks and balances on the use of the National Emergencies Act.
- Sec. 532. National Emergencies Act declaration spending reporting in the President's budget.
- Sec. 533. Disclosure to Congress of presidential emergency action documents.
- Sec. 534. Emergency and overseas contingency operations designations by Congress in statute.

TITLE VI—SECURITY FROM POLITICAL INTERFERENCE IN
JUSTICE

- Sec. 601. Short title.
- Sec. 602. Definitions.
- Sec. 603. Communications logs.
- Sec. 604. Rule of construction.

TITLE VII—PROTECTING INSPECTOR GENERAL INDEPENDENCE

Subtitle A—Requiring Cause for Removal

- Sec. 701. Short title.
- Sec. 702. Amendment.
- Sec. 703. Removal or transfer requirements.

Subtitle B—Inspectors General of Intelligence Community

- Sec. 711. Independence of Inspectors General of the Intelligence Community.
- Sec. 712. Authority of Inspectors General of the Intelligence Community to determine matters of urgent concern.
- Sec. 713. Conforming amendments and coordination with other provisions of law.

Subtitle C—Congressional Notification

- Sec. 721. Short title.
- Sec. 722. Change in status of Inspector General offices.
- Sec. 723. Presidential explanation of failure to nominate an Inspector General.

TITLE VIII—PROTECTING WHISTLEBLOWERS

- Sec. 801. Short title.

Subtitle A—Whistleblower Protection Improvement

- Sec. 811. Additional whistleblower protections.
- Sec. 812. Enhancement of whistleblower protections.
- Sec. 813. Classifying certain furloughs as adverse personnel actions.
- Sec. 814. Codification of protections for disclosures of censorship related to research, analysis, or technical information.
- Sec. 815. Title 5 technical and conforming amendments.

Subtitle B—Whistleblowers of the Intelligence Community

- Sec. 821. Limitation on sharing of intelligence community whistleblower complaints with persons named in such complaints.
- Sec. 822. Disclosures to Congress.
- Sec. 823. Prohibition against disclosure of whistleblower identity as reprisal against whistleblower disclosure by employees and contractors in intelligence community.

TITLE IX—ACCOUNTABILITY FOR ACTING OFFICIALS

- Sec. 901. Short title.
- Sec. 902. Clarification of Federal Vacancies Reform Act of 1998.

TITLE X—STRENGTHENING HATCH ACT ENFORCEMENT AND
PENALTIES

- Sec. 1001. Short title.
 Sec. 1002. Strengthening Hatch Act enforcement and penalties against political appointees.

TITLE XI—PROMOTING EFFICIENT PRESIDENTIAL TRANSITIONS

- Sec. 1101. Short title.
 Sec. 1102. Ascertainment of successful candidates in general elections for purposes of presidential transition.

TITLE XII—PRESIDENTIAL AND VICE PRESIDENTIAL TAX TRANSPARENCY

- Sec. 1201. Presidential and Vice Presidential tax transparency.

DIVISION C—DEFENDING ELECTIONS AGAINST FOREIGN INTERFERENCE

TITLE XIII—REPORTING FOREIGN INTERFERENCE IN ELECTIONS

- Sec. 1301. Federal campaign reporting of foreign contacts.
 Sec. 1302. Federal campaign foreign contact reporting compliance system.
 Sec. 1303. Criminal penalties.
 Sec. 1304. Report to congressional intelligence committees.
 Sec. 1305. Rule of construction.

TITLE XIV—ELIMINATING FOREIGN INTERFERENCE IN ELECTIONS

- Sec. 1401. Clarification of application of foreign money ban.
 Sec. 1402. Requiring acknowledgment of foreign money ban by political committees.

DIVISION D—SEVERABILITY

TITLE XV—SEVERABILITY

- Sec. 1501. Severability.

1 **DIVISION A—PREVENTING**
 2 **ABUSES OF PRESIDENTIAL**
 3 **POWER**
 4 **TITLE I—ABUSE OF THE PARDON**
 5 **POWER PREVENTION**

6 **SEC. 101. SHORT TITLE.**

- 7 This title may be cited as the “Abuse of the Pardon
 8 Power Prevention Act”.

1 **SEC. 102. CONGRESSIONAL OVERSIGHT RELATING TO CER-**
2 **TAIN PARDONS.**

3 (a) DEFINITIONS.—In this section:

4 (1) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—The term “appropriate congressional com-
6 mittees” means—

7 (A) the Committee on the Judiciary of the
8 Senate and the Committee on the Judiciary of
9 the House of Representatives; and

10 (B) if an investigation relates to intel-
11 ligence or counterintelligence matters, the Se-
12 lect Committee on Intelligence of the Senate
13 and the Permanent Select Committee on Intel-
14 ligence of the House of Representatives.

15 (2) COVERED OFFENSE.—The term “covered
16 offense” means—

17 (A) an offense against the United States
18 that arises from an investigation in which the
19 President, or a relative of the President, is a
20 target or subject;

21 (B) an offense under section 102 of the
22 Revised Statutes of the United States (2 U.S.C.
23 192); or

24 (C) an offense under section 1001, 1505,
25 1512, or 1621 of title 18, United States Code,

1 if the offense occurred in relation to a Congres-
2 sional proceeding or investigation.

3 (3) PARDON.—The term “pardon” includes a
4 commutation of sentence.

5 (4) RELATIVE.—The term “relative” has the
6 meaning given that term in section 3110 of title 5,
7 United States Code.

8 (b) SUBMISSION OF INFORMATION.—If the President
9 grants an individual a pardon for a covered offense, not
10 later than 30 days after the date of such pardon the Attor-
11 ney General shall submit to the chairpersons and ranking
12 members of the appropriate congressional committees—

13 (1) all materials obtained or produced by the
14 prosecution team, including the Attorney General
15 and any United States Attorney, and all materials
16 obtained or prepared by any investigative agency of
17 the United States government, relating to the of-
18 fense for which the individual was so pardoned; and

19 (2) all materials obtained or produced by the
20 Department of Justice in relation to the pardon.

21 (c) TREATMENT OF INFORMATION.—Rule 6(e) of the
22 Federal Rules of Criminal Procedure shall not be con-
23 strued to prohibit the disclosure of information required
24 by subsection (b).

1 **SEC. 103. BRIBERY IN CONNECTION WITH PARDONS AND**
2 **COMMUTATIONS.**

3 Section 201 of title 18, United States Code, is
4 amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1), by inserting “, in-
7 cluding the President and the Vice President of
8 the United States,” after “or an officer or em-
9 ployee or person”; and

10 (B) in paragraph (3), by inserting before
11 the period at the end the following: “, including
12 any pardon, commutation, or reprieve, or an
13 offer of any such pardon, commutation, or re-
14 prieve”; and

15 (2) in subsection (b)(3), by inserting “(includ-
16 ing, for purposes of this paragraph, any pardon,
17 commutation, or reprieve, or an offer of any such
18 pardon, commutation, or reprieve)” after “corruptly
19 gives, offers, or promises anything of value”.

20 **SEC. 104. PROHIBITION ON PRESIDENTIAL SELF-PARDON.**

21 If the President grants a pardon to himself or herself,
22 the pardon—

23 (1) shall be void and of no effect; and

24 (2) shall not—

25 (A) deprive the courts of jurisdiction; or

1 (B) operate to confer on the President any
2 legal immunity from investigation or prosecu-
3 tion.

4 **TITLE II—ENSURING NO** 5 **PRESIDENT IS ABOVE THE LAW**

6 **SEC. 201. SHORT TITLE.**

7 This title may be cited as the “No President is Above
8 the Law Act”.

9 **SEC. 202. TOLLING OF STATUTE OF LIMITATIONS.**

10 (a) OFFENSES COMMITTED BY THE PRESIDENT OR
11 VICE PRESIDENT DURING OR PRIOR TO TENURE IN OF-
12 FICE.—Section 3282 of title 18, United States Code, is
13 amended by adding at the end the following:

14 “(c) OFFENSES COMMITTED BY THE PRESIDENT OR
15 VICE PRESIDENT DURING OR PRIOR TO TENURE IN OF-
16 FICE.—In the case of any person serving as President or
17 Vice President of the United States, the duration of that
18 person’s tenure in office shall not be considered for pur-
19 poses of any statute of limitations applicable to any Fed-
20 eral criminal offense committed by that person (including
21 any offenses committed during any period of time pre-
22 ceding such tenure in office).”.

23 (b) APPLICABILITY.—The amendments made by sub-
24 section (a) shall apply to any offense committed before the
25 date of enactment of this section, if the statute of limita-

1 tions applicable to that offense had not run as of such
2 date.

3 **TITLE III—ENFORCEMENT OF**
4 **THE FOREIGN AND DOMESTIC**
5 **EMOLUMENTS CLAUSES OF**
6 **THE CONSTITUTION**

7 **SEC. 301. SHORT TITLE.**

8 This title may be cited as the “Foreign and Domestic
9 Emoluments Enforcement Act”.

10 **SEC. 302. DEFINITIONS.**

11 In this title:

12 (1) The term “emolument” means any profit,
13 gain, or advantage that is received directly or indi-
14 rectly from any government of a foreign country, the
15 Federal Government, or any State or local govern-
16 ment, or from any instrumentality thereof, including
17 payments arising from commercial transactions at
18 fair market value.

19 (2) The term “person holding any office of
20 profit or trust under the United States” includes the
21 President of the United States and the Vice-Presi-
22 dent of the United States.

23 (3) The term “government of a foreign coun-
24 try” has the meaning given such term in section 1(e)

1 of the Foreign Agents Registration Act of 1938, as
2 amended (22 U.S.C. 611(e)).

3 **SEC. 303. PROHIBITION ON ACCEPTANCE OF FOREIGN AND**
4 **DOMESTIC EMOLUMENTS.**

5 (a) FOREIGN.—Except as otherwise provided in sec-
6 tion 7342 of title 5, United States Code, it shall be unlaw-
7 ful for any person holding an office of profit or trust under
8 the United States to accept from a government of a for-
9 eign country, without first obtaining the consent of Con-
10 gress, any present or emolument, or any office or title.
11 The prohibition under this subsection applies without re-
12 gard to whether the present, emolument, office, or title
13 is—

14 (1) provided directly or indirectly by that gov-
15 ernment of a foreign country; or

16 (2) provided to that person or to any private
17 business interest of that person.

18 (b) DOMESTIC.—It shall be unlawful for the Presi-
19 dent to accept from the United States, or any of them,
20 any emolument other than the compensation for his or her
21 services as President provided for by Federal law. The
22 prohibition under this subsection applies without regard
23 to whether the emolument is provided directly or indi-
24 rectly, and without regard to whether the emolument is

1 provided to the President or to any private business inter-
2 est of the President.

3 **SEC. 304. CIVIL ACTIONS BY CONGRESS CONCERNING FOR-**
4 **EIGN EMOLUMENTS.**

5 (a) CAUSE OF ACTION.—The Senate or the House
6 of Representatives may bring a civil action against any
7 person for a violation of subsection (a) of section 303.

8 (b) SPECIAL RULES.—In any civil action described
9 in subsection (a), the following rules shall apply:

10 (1) The action shall be filed before the United
11 States District Court for the District of Columbia.

12 (2) The action shall be heard by a three-judge
13 court convened pursuant to section 2284 of title 28,
14 United States Code. It shall be the duty of such
15 court to advance on the docket and to expedite to
16 the greatest possible extent the disposition of any
17 such action. Such action shall be reviewable only by
18 appeal directly to the Supreme Court of the United
19 States. Such appeal shall be taken by the filing of
20 a notice of appeal within 10 days, and the filing of
21 a jurisdictional statement within 30 days, of the
22 entry of the final decision.

23 (3) It shall be the duty of the Supreme Court
24 of the United States to advance on the docket and

1 to expedite to the greatest possible extent the dis-
2 position of any such action and appeal.

3 (c) REMEDY.—If the court determines that a viola-
4 tion of subsection (a) of section 303 has occurred, the
5 court shall issue an order enjoining the course of conduct
6 found to constitute the violation, and such of the following
7 as are appropriate:

8 (1) The disgorgement of the value of any for-
9 eign present or emolument.

10 (2) The surrender of the physical present or
11 emolument to the Department of State, which shall,
12 if practicable, dispose of the present or emolument
13 and deposit the proceeds into the United States
14 Treasury.

15 (3) The renunciation of any office or title ac-
16 cepted in violation of such subsection.

17 (4) A prohibition on the use or holding of such
18 an office or title.

19 (5) Such other relief as the court determines
20 appropriate.

21 (d) USE OF GOVERNMENT FUNDS PROHIBITED.—No
22 appropriated funds, funds provided from any accounts in
23 the United States Treasury, funds derived from the collec-
24 tion of fees, or any other Government funds shall be used

1 to pay any disgorgement imposed by the court pursuant
2 to this section.

3 **SEC. 305. DISCLOSURES CONCERNING FOREIGN AND DO-**
4 **MESTIC EMOLUMENTS.**

5 (a) DISCLOSURES.—Section 102(a) of the Ethics in
6 Government Act of 1978 (5 U.S.C. App.) is amended by
7 adding at the end the following:

8 “(9) Any present, emolument, office, or title re-
9 ceived from a government of a foreign country, in-
10 cluding the source, date, type, and amount or value
11 of each present or emolument accepted on or before
12 the date of filing during the preceding calendar year.

13 “(10) Each business interest that is reasonably
14 expected to result in the receipt of any present or
15 emolument from a government of a foreign country
16 during the current calendar year.

17 “(11) In addition, the President shall report—

18 “(A) any emolument received from the
19 United States, or any of them, other than the
20 compensation for his or her services as Presi-
21 dent provided for by Federal law; and

22 “(B) any business interest that is reason-
23 ably expected to result in the receipt of any
24 emolument from the United States, or any of
25 them.”.

1 (b) RULE OF CONSTRUCTION.—Nothing in the
2 amendments made by this section shall be construed to
3 affect the prohibition against the acceptance of presents
4 and emoluments under section 303.

5 **SEC. 306. ENFORCEMENT AUTHORITY OF THE DIRECTOR**
6 **OF THE OFFICE OF GOVERNMENT ETHICS.**

7 (a) GENERAL AUTHORITY.—Section 402(a) of the
8 Ethics in Government Act of 1978 (5 U.S.C. App.) is
9 amended—

10 (1) by striking “(a) The Director” and insert-
11 ing “(a)(1) The Director”; and

12 (2) by adding at the end the following new
13 paragraph:

14 “(2) The Director shall provide overall direction of
15 executive branch policies related to compliance with the
16 Foreign and Domestic Emoluments Enforcement Act and
17 the amendments made by such Act and shall have the au-
18 thority to—

19 “(A) issue administrative fines to individuals
20 for violations;

21 “(B) order individuals to take corrective action,
22 including disgorgement, divestiture, and recusal, as
23 the Director deems necessary; and

24 “(C) bring civil actions to enforce such fines
25 and orders.”.

1 (b) SPECIFIC AUTHORITIES.—Section 402(b) of such
2 Act (5 U.S.C. App.) is amended—

3 (1) by striking “and” at the end of paragraph
4 (14);

5 (2) by striking the period at the end of para-
6 graph (15) and inserting “; and”; and

7 (3) by adding at the end the following new
8 paragraph:

9 “(16) developing and promulgating rules and
10 regulations to ensure compliance with the Foreign
11 and Domestic Emoluments Enforcement Act and the
12 amendments made by such Act, including estab-
13 lishing—

14 “(A) requirements for reporting and disclo-
15 sure;

16 “(B) a schedule of administrative fines
17 that may be imposed by the Director for viola-
18 tions; and

19 “(C) a process for referral of matters to
20 the Office of Special Counsel for investigation
21 in compliance with section 1216(d) of title 5,
22 United States Code.”.

1 **SEC. 307. JURISDICTION OF THE OFFICE OF SPECIAL**
2 **COUNSEL.**

3 Section 1216 of title 5, United States Code, is
4 amended—

5 (1) in subsection (a)—

6 (A) in paragraph (4), by striking “and” at
7 the end;

8 (B) in paragraph (5) by striking the period
9 and inserting “; and”; and

10 (C) by adding at the end the following:

11 “(6) any violation of section 303 of the Foreign
12 and Domestic Emoluments Enforcement Act or of
13 the amendments made by section 305 of such Act.”;
14 and

15 (2) by adding at the end the following:

16 “(d) If the Director of the Office of Government Eth-
17 ics refers a matter for investigation pursuant to section
18 402 of the Ethics in Government Act of 1978, or if the
19 Special Counsel receives a credible complaint of a violation
20 referred to in subsection (a)(6), the Special Counsel shall
21 complete an investigation not later than 120 days there-
22 after. If the Special Counsel investigates any violation pur-
23 suant to subsection (a)(6), the Special Counsel shall re-
24 port not later than 7 days after the completion of such
25 investigation to the Director of the Office of Government

1 Ethics and to Congress on the results of such investiga-
2 tion.”.

3 **DIVISION** **B—RESTORING**
4 **CHECKS AND BALANCES, AC-**
5 **COUNTABILITY, AND TRANS-**
6 **PARENCY**

7 **TITLE IV—ENFORCEMENT OF**
8 **CONGRESSIONAL SUBPOENAS**

9 **SEC. 401. SHORT TITLE.**

10 This title may be cited as the “Congressional Sub-
11 poena Compliance and Enforcement Act”.

12 **SEC. 402. FINDINGS.**

13 The Congress finds as follows:

14 (1) As the Supreme Court of the United States
15 has repeatedly affirmed, including in its July 9,
16 2020, holding in *Trump v. Mazars*, Congress’s
17 “power of inquiry—with process to enforce it—is an
18 essential and appropriate auxiliary to the legislative
19 function”. Congress’s power to obtain information,
20 including through the issuance of subpoenas and the
21 enforcement of such subpoenas, is “broad and indis-
22 pensable”.

23 (2) Congress “suffers a concrete and particular-
24 ized injury when denied the opportunity to obtain in-
25 formation necessary” to the exercise of its constitu-

1 tional functions, as the United States Court of Ap-
2 peals for the District of Columbia Circuit correctly
3 recognized in its August 7, 2020, en banc decision
4 in Committee on the Judiciary of the U.S. House of
5 Representatives v. McGahn.

6 (3) Accordingly, the Constitution of the United
7 States secures to each House of Congress an inher-
8 ent right to enforce its subpoenas in court. Explicit
9 statutory authorization is not required to secure
10 such a right of action, and the contrary holding by
11 a divided panel of the United States Court of Ap-
12 peals for the District of Columbia Circuit in
13 McGahn, entered on August 31, 2020, was in error.

14 **SEC. 403. ENFORCEMENT OF CONGRESSIONAL SUBPOENAS.**

15 (a) IN GENERAL.—Chapter 85 of title 28, United
16 States Code, is amended by inserting after section 1365
17 the following:

18 **“§ 1365a. Congressional actions against subpoena re-**
19 **cipients**

20 “(a) CAUSE OF ACTION.—The Senate, the House of
21 Representatives, or a committee or subcommittee thereof,
22 may bring a civil action against the recipient of a sub-
23 poena issued by a congressional committee or sub-
24 committee to enforce compliance with the subpoena.

1 “(b) SPECIAL RULES.—In any civil action described
2 in subsection (a), the following rules shall apply:

3 “(1) The action may be filed in a United States
4 district court of competent jurisdiction.

5 “(2) Notwithstanding section 1657(a), it shall
6 be the duty of every court of the United States to
7 expedite to the greatest possible extent the disposi-
8 tion of any such action and appeal. Upon a showing
9 by the plaintiff of undue delay, other irreparable
10 harm, or good cause, a court to which an appeal of
11 the action may be taken shall issue any necessary
12 and appropriate writs and orders to ensure compli-
13 ance with this paragraph.

14 “(3) If a three-judge court is expressly re-
15 quested by the plaintiff in the initial pleading, the
16 action shall be heard by a three-judge court con-
17 vened pursuant to section 2284, and shall be review-
18 able only by appeal directly to the Supreme Court of
19 the United States. Such appeal shall be taken by the
20 filing of a notice of appeal within 10 days, and the
21 filing of a jurisdictional statement within 30 days, of
22 the entry of the final decision.

23 “(4) The initial pleading shall be accompanied
24 by certification that the party bringing the action
25 has in good faith conferred or attempted to confer

1 with the recipient of the subpoena to secure compli-
2 ance with the subpoena without court action.

3 “(c) PENALTIES.—

4 “(1) CASES INVOLVING GOVERNMENT AGEN-
5 CIES.—

6 “(A) IN GENERAL.—The court may impose
7 monetary penalties directly against each head of
8 a Government agency and the head of each
9 component thereof held to have knowingly failed
10 to comply with any part of a congressional sub-
11 poena, unless—

12 “(i) the President instructed the offi-
13 cial not to comply; and

14 “(ii) the President, or the head of the
15 agency or component thereof, submits to
16 the court a letter confirming such instruc-
17 tion and the basis for such instruction.

18 “(B) PROHIBITION ON USE OF GOVERN-
19 MENT FUNDS.—No appropriated funds, funds
20 provided from any accounts in the Treasury,
21 funds derived from the collection of fees, or
22 other Government funds shall be used to pay
23 any monetary penalty imposed by the court
24 pursuant to this paragraph.

1 “(2) LEGAL FEES.—In addition to any other
2 penalties or sanctions, the court shall require that
3 any defendant, other than a Government agency,
4 held to have willfully failed to comply with any part
5 of a congressional subpoena, pay a penalty in an
6 amount equal to that party’s legal fees, including at-
7 torney’s fees, litigation expenses, and other costs. If
8 such defendant is an officer or employee of a Gov-
9 ernment agency, such legal fees may be paid from
10 funds appropriated to pay the salary of the defend-
11 ant.

12 “(d) WAIVER.—Any ground for noncompliance as-
13 serted by the recipient of a congressional subpoena shall
14 be deemed to have been waived as to any particular infor-
15 mation withheld from production if the court finds that
16 the recipient failed in a timely manner to comply with the
17 applicable requirements of section 105(b) of the Revised
18 Statutes of the United States with respect to such infor-
19 mation.

20 “(e) RULES OF PROCEDURE.—The Supreme Court of
21 the United States and the Judicial Conference of the
22 United States shall prescribe rules of procedure to ensure
23 the expeditious treatment of actions described in sub-
24 section (a). Such rules shall be prescribed and submitted
25 to the Congress pursuant to sections 2072, 2073, and

1 2074. This shall include procedures for expeditiously con-
 2 sidering any assertion of constitutional or Federal statu-
 3 tory privilege made in connection with testimony by any
 4 recipient of a subpoena from a congressional committee
 5 or subcommittee. The Supreme Court shall transmit such
 6 rules to Congress within 6 months after the effective date
 7 of this section and then pursuant to section 2074 there-
 8 after.

9 “(f) DEFINITION.—For purposes of this section, the
 10 term ‘Government agency’ means any office or entity de-
 11 scribed in sections 105 and 106 of title 3, an Executive
 12 department listed in section 101 of title 5, an independent
 13 establishment, commission, board, bureau, division, or of-
 14 fice in the executive branch, or other agency or instrumen-
 15 tality of the Federal Government, including wholly or part-
 16 ly owned Government corporations.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
 18 for chapter 85 of title 28, United States Code, is amended
 19 by inserting after the item relating to section 1365 the
 20 following:

“1365a. Congressional actions against subpoena recipients.”.

21 **SEC. 404. COMPLIANCE WITH CONGRESSIONAL SUB-**
 22 **POENAS.**

23 (a) IN GENERAL.—Chapter 7 of title II of the Re-
 24 vised Statutes of the United States (2 U.S.C. 191 et seq.)
 25 is amended by adding at the end the following:

1 **“SEC. 105. RESPONSE TO CONGRESSIONAL SUBPOENAS.**

2 “(a) SUBPOENA BY CONGRESSIONAL COMMITTEE.—

3 Any recipient of any subpoena from a congressional com-
4 mittee or subcommittee shall appear and testify, produce,
5 or otherwise disclose information in a manner consistent
6 with the subpoena and this section.

7 “(b) FAILURE TO PRODUCE INFORMATION.—

8 “(1) GROUNDS FOR WITHHOLDING INFORMA-
9 TION.—Unless required by the Constitution of the
10 United States or by Federal statute, no claim of
11 privilege or protection from disclosure shall be a
12 ground for withholding information responsive to the
13 subpoena or required by this section.

14 “(2) IDENTIFICATION OF INFORMATION WITH-
15 HELD.—In the case of information that is withheld,
16 in whole or in part, by the subpoena recipient, the
17 subpoena recipient shall without delay provide a log
18 containing the following:

19 “(A) An express assertion and description
20 of the ground asserted for withholding the in-
21 formation.

22 “(B) The type of information.

23 “(C) The general subject matter.

24 “(D) The date, author, and addressee.

25 “(E) The relationship of the author and
26 addressee to each other.

1 “(F) The custodian of the information.

2 “(G) Any other descriptive information
3 that may be produced or disclosed regarding
4 the information that will enable the congress-
5 sional committee or subcommittee issuing the
6 subpoena to assess the ground asserted for
7 withholding the information.

8 “(c) DEFINITION.—For purposes of this section, the
9 term ‘information’ includes any books, papers, documents,
10 data, or other objects requested in a subpoena issued by
11 a congressional committee or subcommittee.”.

12 (b) CLERICAL AMENDMENT.—The table of contents
13 for chapter 7 of title II of the Revised Statutes of the
14 United States is amended by adding at the end the fol-
15 lowing:

 “105. Response to congressional subpoenas.”.

16 **SEC. 405. RULE OF CONSTRUCTION.**

17 Nothing in this title may be interpreted to limit or
18 constrain Congress’s inherent authority or foreclose any
19 other means for enforcing compliance with congressional
20 subpoenas, nor may anything in this title be interpreted
21 to establish or recognize any ground for noncompliance
22 with a congressional subpoena.

1 **TITLE V—REASSERTING CON-**
 2 **GRESSIONAL POWER OF THE**
 3 **PURSE**

4 **SEC. 500. SHORT TITLE.**

5 This title may be cited as the “Foreign and Domestic
 6 Emoluments Enforcement Act”.

7 **Subtitle A—Strengthening Con-**
 8 **gressional Control and Review**
 9 **To Prevent Impoundment**

10 **SEC. 501. STRENGTHENING CONGRESSIONAL CONTROL.**

11 (a) IN GENERAL.—Part B of the Impoundment Con-
 12 trol Act of 1974 (2 U.S.C. 682 et seq.) is amended by
 13 adding at the end the following:

14 “PRUDENT OBLIGATION OF BUDGET AUTHORITY AND
 15 SPECIFIC REQUIREMENTS FOR EXPIRING BUDGET
 16 AUTHORITY

17 “SEC. 1018. (a) SPECIAL MESSAGE REQUIRE-
 18 MENT.—With respect to budget authority proposed to be
 19 rescinded or that is set to be reserved or proposed to be
 20 deferred in a special message transmitted under section
 21 1012 or 1013, such budget authority—

22 “(1) shall be made available for obligation in
 23 sufficient time to be prudently obligated as required
 24 under section 1012(b) or 1013; and

1 “(2) may not be deferred or otherwise withheld
2 from obligation during the 90-day period before the
3 expiration of the period of availability of such budget
4 authority, including, if applicable, the 90-day period
5 before the expiration of an initial period of avail-
6 ability for which such budget authority was pro-
7 vided.

8 “(b) ADMINISTRATIVE REQUIREMENT.—With respect
9 to an apportionment of an appropriation (as that term is
10 defined in section 1511 of title 31, United States Code)
11 made pursuant to section 1512 of such title, an appropria-
12 tion shall be apportioned—

13 “(1) to make available all amounts for obliga-
14 tion in sufficient time to be prudently obligated; and

15 “(2) to make available all amounts for obliga-
16 tion, without precondition (including footnotes) that
17 shall be met prior to obligation, not later than 90
18 days before the expiration of the period of avail-
19 ability of such appropriation, including, if applicable,
20 90 days before the expiration of an initial period of
21 availability for which such appropriation was pro-
22 vided.”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 of the Congressional Budget and Impoundment Control
25 Act of 1974 set forth in section 1(b) of such Act is amend-

1 ed by inserting after the item relating to section 1017 the
 2 following:

“1018. Prudent obligation of budget authority and specific requirements for ex-
 piring budget authority.”.

3 **SEC. 502. STRENGTHENING CONGRESSIONAL REVIEW.**

4 (a) IN GENERAL.—Part B of the Impoundment Con-
 5 trol Act of 1974 (2 U.S.C. 682 et seq.), as amended by
 6 section 501(a), is further amended by adding at the end
 7 the following:

8 “REPORTING

9 “SEC. 1019. (a) APPORTIONMENT OF APPROPRIA-
 10 TIONS.—

11 “(1) IN GENERAL.—Not later than 90 days
 12 after the date of enactment of this section, the Of-
 13 fice of Management and Budget shall—

14 “(A) complete implementation of a publicly
 15 available website with an automated system to
 16 post each document apportioning an appropria-
 17 tion, pursuant to section 1513(b) of title 31,
 18 United States Code, including any associated
 19 footnotes, in a format that qualifies each such
 20 document as an Open Government Data Asset
 21 (as defined in section 3502 of title 44, United
 22 States Code), not later than 2 business days
 23 after the date of approval of such apportion-
 24 ment;

1 “(B) place on such website each document
2 apportioning an appropriation, pursuant to
3 such section 1513(b), including any associated
4 footnotes, already approved for the fiscal year;
5 and

6 “(C) submit to the Committee on the
7 Budget and the Committee on Appropriations
8 of the Senate and the Committee on the Budget
9 and the Committee on Appropriations of the
10 House of Representatives a report indicating
11 the date of completion of the requirements
12 under subparagraphs (A) and (B).

13 “(2) EXPLANATORY STATEMENT.—Each docu-
14 ment apportioning an appropriation posted on a
15 publicly accessible website under paragraph (1) shall
16 also include a written explanation by the officer ap-
17 proving each such apportionment (pursuant to sec-
18 tion 1513(b) of title 31, United States Code) of the
19 rationale for the apportionment schedule and for any
20 footnotes for apportioned amounts.

21 “(3) SPECIAL PROCESS FOR TRANSMITTING
22 CLASSIFIED DOCUMENTATION TO THE CONGRESS.—
23 The Office of Management and Budget or the appli-
24 cable department or agency shall make available
25 classified documentation referenced in any appor-

1 tionment at the request of the chair or ranking
2 member of any appropriate congressional committee
3 or subcommittee.

4 “(4) DEPARTMENT AND AGENCY REPORT.—

5 Each department or agency shall—

6 “(A) notify the Committee on the Budget
7 and the Committee on Appropriations of the
8 Senate, the Committee on the Budget and the
9 Committee on Appropriations of the House of
10 Representatives, and any other appropriate con-
11 gressional committees if—

12 “(i) an apportionment is not made in
13 the required time period provided in sec-
14 tion 1513(b) of title 31, United States
15 Code;

16 “(ii) an approved apportionment re-
17 ceived by the department or agency condi-
18 tions the availability of an appropriation
19 on further action; or

20 “(iii) an approved apportionment re-
21 ceived by the department or agency may
22 hinder the prudent obligation of such ap-
23 propriation or the execution of a program,
24 project, or activity by such department or
25 agency; and

1 “(B) include in each notification under
2 subparagraph (A) information identifying the
3 bureau, account name, appropriation name, and
4 Treasury Appropriation Fund Symbol or fund
5 account.

6 “(b) APPROVING OFFICIALS.—

7 “(1) DELEGATION OF AUTHORITY.—Not later
8 than 15 days after the date of enactment of this sec-
9 tion, any delegation of apportionment authority pur-
10 suant to section 1513(b) of title 31, United States
11 Code, that is in effect as of such date shall be sub-
12 mitted for publication in the Federal Register. Any
13 delegation of such apportionment authority after the
14 date of enactment of this section shall, on the date
15 of such delegation, be submitted for publication in
16 the Federal Register. The Office of Management
17 and Budget shall publish such delegations in a for-
18 mat that qualifies such publications as an Open
19 Government Data Asset (as defined in section 3502
20 of title 44, United States Code) on a public internet
21 website, which shall be continuously updated with
22 the position of each Federal officer or employee to
23 whom apportionment authority has been delegated.

24 “(2) REPORT TO CONGRESS.—Not later than 5
25 days after any change in the position of the approv-

1 “(B) submit to the Committee on the
2 Budget, the Committee on Appropriations, and
3 the Committee on Homeland Security and Gov-
4 ernmental Affairs of the Senate, the Committee
5 on the Budget, the Committee on Appropria-
6 tions, and the Committee on Oversight and Re-
7 form of the House of Representatives, and any
8 other appropriate congressional committee of
9 the Senate or the House of Representatives a
10 report, and any relevant information related to
11 the report, on any noncompliance with this
12 part.

13 “(2) INFORMATION, DOCUMENTATION, AND
14 VIEWS.—The President or the head of the relevant
15 department or agency of the United States shall pro-
16 vide information, documentation, and views to the
17 Comptroller General, as is determined by the Comp-
18 troller General to be necessary to determine such
19 compliance, not later than 20 days after the date on
20 which the request from the Comptroller General is
21 received, or if the Comptroller General determines
22 that a shorter or longer period is appropriate based
23 on the specific circumstances, within such shorter or
24 longer period.

1 “(3) ACCESS.—To carry out the responsibilities
2 of this part, the Comptroller General shall have ac-
3 cess to interview the officers, employees, contractors,
4 and other agents and representatives of a depart-
5 ment, agency, or office of the United States at any
6 reasonable time as the Comptroller General may re-
7 quest.”.

8 (b) RULE OF CONSTRUCTION.—Section 1001 of the
9 Impoundment Control Act of 1974 (2 U.S.C. 681) is
10 amended—

11 (1) in paragraph (3), by striking the “or” at
12 the end of the paragraph;

13 (2) in paragraph (4), by striking the period at
14 the end and inserting “; or”; and

15 (3) by adding at the end the following:

16 “(5) affecting or limiting in any way the au-
17 thorities provided to the Comptroller General under
18 chapter 7 of title 31, United States Code.”.

19 **SEC. 504. ADVANCE CONGRESSIONAL NOTIFICATION AND**
20 **LITIGATION.**

21 Section 1016 of the Impoundment Control Act of
22 1974 (2 U.S.C. 687) is amended to read as follows:

23 “SUITS BY COMPTROLLER GENERAL

24 “SEC. 1016. (a) IN GENERAL.—If, under this title,
25 budget authority is required to be made available for obli-
26 gation and such budget authority is not made available

1 for obligation or information, documentation, views, or ac-
2 cess are required to be produced and such information,
3 documentation, views, or access are not produced, the
4 Comptroller General is expressly empowered, through at-
5 torneys selected by the Comptroller General, to bring a
6 civil action in the United States District Court for the Dis-
7 trict of Columbia to require such budget authority to be
8 made available for obligation or such information, docu-
9 mentation, views, or access to be produced.

10 “(b) COURT AUTHORITY.—In a civil action under
11 subsection (a), the court is expressly empowered to enter,
12 against any department, agency, officer, or employee of
13 the United States, any decree, judgment, or order which
14 may be necessary or appropriate to make such budget au-
15 thority available for obligation or compel production of
16 such information, documentation, views, or access.

17 “(c) NOTICE.—No civil action shall be brought by the
18 Comptroller General to require budget authority be made
19 available under this section until the expiration of 15 cal-
20 endar days following the date on which an explanatory
21 statement by the Comptroller General of the cir-
22 cumstances giving rise to the action contemplated is filed
23 with the Speaker of the House of Representatives and the
24 President of the Senate, except that expiration of such pe-
25 riod shall not be required if the Comptroller General finds

1 (and incorporates the finding in the explanatory statement
2 filed) that such delay would be contrary to the public in-
3 terest.”.

4 **SEC. 505. PENALTIES FOR FAILURE TO COMPLY WITH THE**
5 **IMPOUNDMENT CONTROL ACT OF 1974.**

6 (a) IN GENERAL.—Part B of the Impoundment Con-
7 trol Act of 1974 (2 U.S.C. 682 et seq.), as amended by
8 section 502(a), is further amended by adding at the end
9 the following:

10 “PENALTIES FOR FAILURE TO COMPLY

11 “SEC. 1020. (a) ADMINISTRATIVE DISCIPLINE.—An
12 officer or employee of the Executive Branch of the United
13 States Government violating this part shall be subject to
14 appropriate administrative discipline, including, when cir-
15 cumstances warrant, suspension from duty without pay or
16 removal from office.

17 “(b) REPORTING VIOLATIONS.—

18 “(1) IN GENERAL.—In the event of a violation
19 of section 1001, 1012, 1013, or 1018 of this part,
20 or in the case that the Government Accountability
21 Office issues a legal decision concluding that a de-
22 partment, agency, or office of the United States vio-
23 lated this part, the President or the head of the rel-
24 evant department or agency as the case may be,
25 shall report immediately to Congress all relevant
26 facts and a statement of actions taken. A copy of

1 each report shall also be transmitted to the Comp-
2 troller General and the relevant inspector general on
3 the same date the report is transmitted to Congress.

4 “(2) CONTENTS.—

5 “(A) IN GENERAL.—Any such report shall
6 include a summary of the facts pertaining to
7 the violation, the title and Treasury Appropria-
8 tion Fund Symbol of the appropriation or fund
9 account, the amount involved for each violation,
10 the date on which the violation occurred, the
11 position of any individuals responsible for the
12 violation, a statement of the administrative dis-
13 cipline imposed and any further action taken
14 with respect to any officer or employee involved
15 in the violation, a statement of any additional
16 action taken to prevent recurrence of the same
17 type of violation, and any written response by
18 any officer or employee identified by position as
19 involved in the violation.

20 “(B) DISAGREEMENT.—If the Government
21 Accountability Office issues a legal decision
22 concluding that a department, agency, or office
23 of the United States violated this part and the
24 relevant department, agency, or office does not
25 agree that a violation has occurred, the report

1 provided to Congress, the Comptroller General,
 2 and relevant inspector general will explain the
 3 position of the department, agency, or office.

4 “(3) OPPORTUNITY TO RESPOND.—If any such
 5 report identifies the position of any officer or em-
 6 ployee as involved in the violation, such officer or
 7 employee shall be provided a reasonable opportunity
 8 to respond in writing, and any such response shall
 9 be appended to the report.”.

10 (b) CLERICAL AMENDMENT.—The table of contents
 11 of the Congressional Budget and Impoundment Control
 12 Act of 1974 set forth in section 1(b) of such Act, as
 13 amended by section 502(b), is further amended by insert-
 14 ing after the item relating to section 1019 the following:
 “1020. Penalties for failure to comply.”.

15 **Subtitle B—Strengthening**
 16 **Transparency and Reporting**
 17 **PART 1—FUNDS MANAGEMENT AND REPORTING**
 18 **TO THE CONGRESS**
 19 **SEC. 511. EXPIRED BALANCE REPORTING IN THE PRESI-**
 20 **DENT’S BUDGET.**

21 Section 1105(a) of title 31, United States Code, is
 22 amended by adding at the end the following:

23 “(40) for the budget for each of fiscal years
 24 2023 through 2027, a report—

1 “(A) identifying unobligated expired bal-
 2 ances as of the beginning of the current fiscal
 3 year and the beginning of each of the preceding
 4 2 fiscal years by agency and the applicable
 5 Treasury Appropriation Fund Symbol or fund
 6 account; and

7 “(B) providing an explanation of unobli-
 8 gated expired balances in any Treasury Appro-
 9 priation Fund Symbol or fund account that ex-
 10 ceed the lesser of 5 percent of total appropria-
 11 tions made available for that account or
 12 \$100,000,000.”.

13 **SEC. 512. CANCELLED BALANCE REPORTING IN THE PRESI-**
 14 **DENT’S BUDGET.**

15 Section 1105(a) of title 31, United States Code, as
 16 amended by section 511, is further amended by adding
 17 at the end the following:

18 “(41) for the budget for each of fiscal years
 19 2023 through 2027, a report—

20 “(A) identifying cancelled balances (pursu-
 21 ant to section 1552(a)) for the preceding 3 fis-
 22 cal years by agency and Treasury Appropriation
 23 Fund Symbol or fund account;

24 “(B) providing an explanation of cancelled
 25 balances in any Treasury Appropriation Fund

1 Symbol or fund account that exceed the lesser
2 of 5 percent of total appropriations made avail-
3 able for that account or \$100,000,000; and

4 “(C) including a tabulation, by Treasury
5 Appropriation Fund Symbol or fund account
6 and appropriation, of all balances of appropria-
7 tions available for an indefinite period in an ap-
8 propriation account available for an indefinite
9 period that do not meet the criteria for closure
10 under section 1555, but for which either—

11 “(i) the head of the agency concerned
12 or the President has determined that the
13 purposes for which the appropriation was
14 made have been carried out; or

15 “(ii) no disbursement has been made
16 against the appropriation—

17 “(I) in the prior year and the
18 preceding fiscal year; or

19 “(II) in the prior year and which
20 the budget estimates zero disburse-
21 ments in the current year.”.

1 **SEC. 513. LAPSE IN APPROPRIATIONS; REPORTING IN THE**
2 **PRESIDENT'S BUDGET.**

3 Section 1105(a) of title 31, United States Code, as
4 amended by section 512, is further amended by adding
5 at the end the following:

6 “(42) a report—

7 “(A) identifying any obligation or expendi-
8 ture made by a department or agency affected
9 in whole or in part by any lapse in appropria-
10 tions of 5 consecutive days or more during the
11 preceding fiscal year for which amounts were
12 not available; and

13 “(B) with respect to any such obligation or
14 expenditure—

15 “(i) the amount so obligated or ex-
16 pended;

17 “(ii) the account affected;

18 “(iii) an explanation of the Antidefi-
19 ciency Act exception or other legal author-
20 ity that permitted the department or agen-
21 cy, as the case may be, to incur such obli-
22 gation or expenditure; and

23 “(iv) an explanation of any change in
24 the application of any Antideficiency Act
25 exception for a program, project, or activ-

1 ity from any explanations previously re-
2 ported on pursuant to this paragraph.”.

3 **SEC. 514. TRANSFER AND OTHER REPURPOSING AUTHOR-**
4 **ITY REPORTING IN THE PRESIDENT’S BUDG-**
5 **ET.**

6 Section 1105(a) of title 31, United States Code, as
7 amended by section 513, is further amended by adding
8 at the end the following:

9 “(43) for the budget for fiscal year 2023, a re-
10 port—

11 “(A) identifying any transfer authority or
12 other authority to repurpose appropriations pro-
13 vided in a law other than an appropriation act;
14 and

15 “(B) with respect to any such authority,
16 providing the citation to the statute, the list of
17 departments or agencies covered, an expla-
18 nation of when such authority may be used, and
19 an explanation of any use of such authority in
20 the preceding 3 fiscal years.”.

21 **SEC. 515. AUTHORIZING CANCELLATIONS IN INDEFINITE**
22 **ACCOUNTS BY APPROPRIATION.**

23 (a) IN GENERAL.—Subchapter IV of chapter 15 of
24 title 31, United States Code, is amended by inserting after
25 section 1555 the following:

1 **“§ 1555a. Cancellation of appropriations available for**
2 **indefinite periods within an account**

3 “Any remaining balance (whether obligated or unobli-
4 gated) from an appropriation available for an indefinite
5 period in an appropriation account available for an indefi-
6 nite period that does not meet the requirements for closure
7 under section 1555 shall be canceled, and thereafter shall
8 not be available for obligation or expenditure for any pur-
9 pose, if—

10 “(1) the head of the agency concerned or the
11 President determines that the purposes for which
12 the appropriation was made have been carried out;
13 and

14 “(2) no disbursement has been made against
15 the appropriation for 2 consecutive fiscal years.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for subchapter IV of chapter 15 of title 31, United States
18 Code, is amended by inserting after the item relating to
19 section 1555 the following:

“1555a. Cancellation of appropriations available for indefinite periods within an
account.”.

1 **PART 2—EMPOWERING CONGRESSIONAL REVIEW**
2 **THROUGH NONPARTISAN CONGRESSIONAL**
3 **AGENCIES AND TRANSPARENCY INITIATIVES**
4 **SEC. 521. REQUIREMENT TO RESPOND TO REQUESTS FOR**
5 **INFORMATION FROM THE COMPTROLLER**
6 **GENERAL FOR BUDGET AND APPROPRIA-**
7 **TIONS LAW DECISIONS.**

8 (a) IN GENERAL.—Subchapter II of chapter 7 of title
9 31, United States Code, is amended by adding at the end
10 the following:

11 **“§ 722. Requirement to respond to requests for infor-**
12 **mation from the Comptroller General for**
13 **budget and appropriations law decisions**

14 “(a) If an executive agency or the District of Colum-
15 bia government receives a written request for information,
16 documentation, or views from the Comptroller General re-
17 lating to a decision or opinion on budget or appropriations
18 law, the executive agency or the District of Columbia gov-
19 ernment shall provide the requested information, docu-
20 mentation, or views not later than 20 days after receiving
21 the written request, unless such written request specifi-
22 cally provides otherwise.

23 “(b) If an executive agency or the District of Colum-
24 bia government fails to provide the requested information,
25 documentation, or views within the time required by sub-
26 section (a)—

1 “(1) the Comptroller General shall notify, in
2 writing, the Committee on Homeland Security and
3 Governmental Affairs of the Senate, the Committee
4 on Oversight and Reform of the House of Represent-
5 atives, and any other appropriate congressional com-
6 mittee of such failure;

7 “(2) the Comptroller General is hereby ex-
8 pressly empowered, through attorneys selected by
9 the Comptroller General, to bring a civil action in
10 the United States District Court for the District of
11 Columbia to require such information, documenta-
12 tion, or views to be produced; and

13 “(3) the court in a civil action brought under
14 paragraph (2) is expressly empowered to enter
15 against any department, agency, officer, or employee
16 of the United States any decree, judgment, or order
17 which may be necessary or appropriate to require
18 such production.

19 “(c) Nothing in this section shall be construed as af-
20 fecting or otherwise limiting the authorities provided to
21 the Comptroller General in section 716 of this title.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for subchapter II of chapter 7 of title 31, United States
24 Code, is amended by inserting after the item relating to
25 section 721 the following:

“722. Requirement to respond to requests for information from the Comptroller General for budget and appropriations law decisions.”.

1 **SEC. 522. REPORTING REQUIREMENTS FOR ANTIDEFICIEN-**
 2 **CY ACT VIOLATIONS.**

3 (a) VIOLATIONS OF SECTION 1341 OR 1342.—Sec-
 4 tion 1351 of title 31, United States Code, is amended—

5 (1) by striking “If” and inserting “(a) If the
 6 Comptroller General, an executive agency, or the
 7 District of Columbia government determines that”;

8 (2) by striking “violates” and inserting “has
 9 violated”;

10 (3) by inserting “and the Attorney General”
 11 after “transmitted to the Comptroller General”; and

12 (4) by adding at the end the following:

13 “(b) Any such report shall include a statement of the
 14 provision violated, a summary of the facts pertaining to
 15 the violation, the title and Treasury Appropriation Fund
 16 Symbol of the appropriation or fund account, the amount
 17 involved for each violation, the date on which the violation
 18 occurred, the position of any officer or employee respon-
 19 sible for the violation, a statement of the administrative
 20 discipline imposed and any further action taken with re-
 21 spect to any officer or employee involved in the violation,
 22 a statement of any additional action taken to prevent re-
 23 currence of the same type of violation, a statement of any
 24 determination that the violation was not knowing and will-

1 ful that has been made by the executive agency or District
2 of Columbia government, and any written response by any
3 officer or employee identified by position as involved in
4 the violation.

5 “(c) If the Comptroller General issues a legal decision
6 concluding that an officer or employee of an executive
7 agency or of the District of Columbia government has vio-
8 lated section 1341(a) or 1342 and the executive agency
9 or District of Columbia government, as applicable, does
10 not agree that a violation has occurred, the report under
11 subsection (a) shall explain its position.”.

12 (b) VIOLATIONS OF SECTION 1517.—Section 1517 of
13 title 31, United States Code, is amended—

14 (1) in subsection (b)—

15 (A) by striking “If” and inserting “If the
16 Comptroller General, an executive agency, or
17 the District of Columbia government determines
18 that”;

19 (B) by striking “violates” and inserting
20 “has violated”; and

21 (C) by inserting “and the Attorney Gen-
22 eral” after “transmitted to the Comptroller
23 General”; and

24 (2) by adding at the end the following:

1 “(c) Any such report shall include a statement of the
2 provision violated, a summary of the facts pertaining to
3 the violation, the title and Treasury Appropriation Fund
4 Symbol of the appropriation or fund account, the amount
5 involved for each violation, the date on which the violation
6 occurred, the position of any officer or employee respon-
7 sible for the violation, a statement of the administrative
8 discipline imposed and any further action taken with re-
9 spect to any officer or employee involved in the violation,
10 a statement of any additional action taken to prevent re-
11 currence of the same type of violation, a statement of any
12 determination that the violation was not knowing and will-
13 ful that has been made by the executive agency or District
14 of Columbia government, and any written response by any
15 officer or employee identified by position as involved in
16 the violation.

17 “(d) If the Comptroller General issues a legal deci-
18 sion concluding that an officer or employee of an executive
19 agency or of the District of Columbia government has vio-
20 lated subsection (a) and the executive agency or District
21 of Columbia government, as applicable, does not agree
22 that a violation has occurred, the report provided to the
23 President, the Congress, and the Comptroller General will
24 explain its position.”.

1 **SEC. 523. DEPARTMENT OF JUSTICE REPORTING TO CON-**
2 **GRESS FOR ANTIDEFICIENCY ACT VIOLA-**
3 **TIONS.**

4 (a) VIOLATIONS OF SECTION 1341 OR 1342.—Sec-
5 tion 1350 of title 31, United States Code, is amended—

6 (1) by striking “An officer” and inserting “(a)
7 An officer”; and

8 (2) by adding at the end the following:

9 “(b)(1) If an executive agency or the District of Co-
10 lumbia government reports, under section 1351, a viola-
11 tion of section 1341(a) or 1342, the Attorney General
12 shall promptly review such report and investigate to the
13 extent necessary to determine whether there are reason-
14 able grounds to believe that the responsible officer or em-
15 ployee knowingly and willfully violated section 1341(a) or
16 1342, as applicable. If the Attorney General determines
17 that there are such reasonable grounds, the Attorney Gen-
18 eral diligently shall investigate a criminal violation under
19 this section.

20 “(2) The Attorney General shall submit to Congress
21 and the Comptroller General on or before March 31 of
22 each calendar year an annual report detailing separately
23 for each executive agency and the District of Columbia
24 government—

1 “(A) the number of reports under section 1351
2 transmitted to the President during the preceding
3 calendar year;

4 “(B) the number of reports reviewed in accord-
5 ance with paragraph (1) during the preceding cal-
6 endar year;

7 “(C) without identification of any individual of-
8 ficer or employee of an executive agency or of the
9 District of Columbia government, a description of
10 each investigation undertaken in accordance with
11 paragraph (1) during the preceding calendar year
12 and an explanation of the status of any such inves-
13 tigation; and

14 “(D) without identification of any individual of-
15 ficer or employee of an executive agency or of the
16 District of Columbia government, an explanation of
17 any update to the status of any review or investiga-
18 tion previously reported pursuant to this para-
19 graph.”.

20 (b) VIOLATIONS OF SECTION 1517.—Section 1519 of
21 title 31, United States Code, is amended—

22 (1) by striking “An officer” and inserting “(a)
23 An officer”; and

24 (2) by adding at the end the following:

1 “(b)(1) If an executive agency or the District of Co-
2 lumbia government reports, under section 1517(b), a vio-
3 lation of section 1517(a), the Attorney General shall
4 promptly review such report and investigate to the extent
5 necessary to determine whether there are reasonable
6 grounds to believe that the responsible officer or employee
7 knowingly and willfully violated section 1517(a). If the At-
8 torney General determines that there are such reasonable
9 grounds, the Attorney General diligently shall investigate
10 a criminal violation under this section.

11 “(2) The Attorney General shall submit to Congress
12 and the Comptroller General on or before March 31 of
13 each calendar year an annual report detailing separately
14 for each executive agency and the District of Columbia
15 government—

16 “(A) the number of reports under section
17 1517(b) transmitted to the President during the pre-
18 ceding calendar year;

19 “(B) the number of reports reviewed in accord-
20 ance with paragraph (1) during the preceding cal-
21 endar year;

22 “(C) without identification of any individual of-
23 ficer or employee of the United States Government
24 or of the District of Columbia government, a de-
25 scription of each investigation undertaken in accord-

1 ance with paragraph (1) during the preceding cal-
2 endar year and an explanation of the status of any
3 such investigation; and

4 “(D) without identification of any individual of-
5 ficer or employee of the United States Government
6 or of the District of Columbia government, an expla-
7 nation of any update to the status of any review or
8 investigation previously reported pursuant to this
9 subsection.”.

10 **SEC. 524. PUBLICATION OF BUDGET OR APPROPRIATIONS**

11 **LAW OPINIONS OF THE DEPARTMENT OF JUS-**
12 **TICE OFFICE OF LEGAL COUNSEL.**

13 (a) SCHEDULE OF PUBLICATION FOR FINAL OLC
14 OPINIONS.—Each final OLC opinion shall be made avail-
15 able on its public website in a manner that is searchable,
16 sortable, and downloadable in its entirety as soon as is
17 practicable, but—

18 (1) not later than 30 days after the opinion is
19 issued or updated if such action takes place on or
20 after the date of enactment of this Act;

21 (2) not later than 1 year after the date of en-
22 actment of this Act for an opinion issued on or after
23 January 20, 1993;

24 (3) not later than 2 years after the date of en-
25 actment of this Act for an opinion issued on or after

1 January 20, 1981, and before or on January 19,
2 1993;

3 (4) not later than 3 years after the date of en-
4 actment of this Act for an opinion issued on or after
5 January 20, 1969, and before or on January 19,
6 1981; and

7 (5) not later than 4 years after the date of en-
8 actment of this Act for all other opinions.

9 (b) EXCEPTIONS AND LIMITATION ON PUBLIC
10 AVAILABILITY OF FINAL OLC OPINIONS.—

11 (1) IN GENERAL.—A final OLC opinion or part
12 thereof may be withheld only to the extent—

13 (A) information contained in the opinion
14 was—

15 (i) specifically authorized to be kept
16 secret, under criteria established by an Ex-
17 ecutive order, in the interest of national
18 defense or foreign policy;

19 (ii) properly classified, including all
20 procedural and marking requirements, pur-
21 suant to such Executive order;

22 (iii) the Attorney General determines
23 that the national defense or foreign policy
24 interests protected outweigh the public's
25 interest in access to the information; and

1 (iv) put through declassification re-
2 view within the past two years;

3 (B) information contained in the opinion
4 relates to the appointment of a specific indi-
5 vidual not confirmed to Federal office;

6 (C) information contained in the opinion is
7 specifically exempted from disclosure by statute
8 (other than sections 552 and 552b of title 5,
9 United States Code), if such statute—

10 (i) requires that the material be with-
11 held in such a manner as to leave no dis-
12 cretion on the issue; or

13 (ii) establishes particular criteria for
14 withholding or refers to particular types of
15 material to be withheld;

16 (D) information in the opinion includes
17 trade secrets and commercial or financial infor-
18 mation obtained from a person and privileged
19 or confidential whose disclosure would likely
20 cause substantial harm to the competitive posi-
21 tion of the person from whom the information
22 was obtained;

23 (E) the President, in his or her sole and
24 nondelegable determination, formally and per-
25 sonally claims in writing that executive privilege

1 prevents the release of the information and dis-
2 closure would cause specific identifiable harm to
3 an interest protected by an exception or the dis-
4 closure is prohibited by law; or

5 (F) information in the opinion includes
6 personnel and medical files and similar files the
7 disclosure of which would constitute a clearly
8 unwarranted invasion of personal privacy.

9 (2) DETERMINATION TO WITHHOLD.—Any de-
10 termination under this subsection to withhold infor-
11 mation contained in a final OLC opinion shall be
12 made by the Attorney General or a designee of the
13 Attorney General. The determination shall be—

14 (A) in writing;

15 (B) made available to the public within the
16 same timeframe as is required of a formal OLC
17 opinion;

18 (C) sufficiently detailed as to inform the
19 public of what kind of information is being
20 withheld and the reason therefore; and

21 (D) effective only for a period of 3 years,
22 subject to review and reissuance, with each
23 reissuance made available to the public.

24 (3) FINAL OPINIONS.—For final OLC opinions
25 for which the text is withheld in full or in substan-

1 tial part, a detailed unclassified summary of the
2 opinion shall be made available to the public, in the
3 same timeframe as required of the final OLC opin-
4 ion, that conveys the essence of the opinion, includ-
5 ing any interpretations of a statute, the Constitu-
6 tion, or other legal authority. A notation shall be in-
7 cluded in any published list of final OLC opinions
8 regarding the extent of the withholdings.

9 (4) NO LIMITATION ON FREEDOM OF INFORMA-
10 TION.—Nothing in this subsection shall be construed
11 as limiting the availability of information under sec-
12 tion 552 of title 5, United States Code or construed
13 as an exemption under paragraph (3) of subsection
14 (b) of such section.

15 (5) NO LIMITATION ON RELIEF.—A decision by
16 the Attorney General to release or withhold informa-
17 tion pursuant to this title shall not preclude any ac-
18 tion or relief conferred by statutory or regulatory re-
19 gime that empowers any person to request or de-
20 mand the release of information.

21 (6) REASONABLY SEGREGABLE PORTIONS OF
22 OPINIONS TO BE PUBLISHED.—Any reasonably seg-
23 regable portion of an opinion shall be provided after
24 withholding of the portions which are exempt under
25 this section. The amount of information withheld,

1 and the exemption under which the withholding is
2 made, shall be indicated on the released portion of
3 the opinion, unless including that indication would
4 harm an interest protected by the exemption in this
5 paragraph under which the withholding is made. If
6 technically feasible, the amount of the information
7 withheld, and the exemption under which the with-
8 holding is made, shall be indicated at the place in
9 the opinion where such withholding is made.

10 (c) METHOD OF PUBLICATION.—The Attorney Gen-
11 eral shall publish each final OLC opinion to the extent
12 the law permits, including by publishing the opinions on
13 a publicly accessible website that—

14 (1) with respect to each opinion—

15 (A) contains an electronic copy of the opin-
16 ion, including any transmittal letter associated
17 with the opinion, in an open format that is plat-
18 form independent and that is available to the
19 public without restrictions;

20 (B) provides the public the ability to re-
21 trieve an opinion, to the extent practicable,
22 through searches based on—

23 (i) the title of the opinion;

24 (ii) the date of publication or revision;

25 or

1 (iii) the full text of the opinion;

2 (C) identifies the time and date when the
3 opinion was required to be published, and when
4 the opinion was transmitted for publication;
5 and

6 (D) provides a permanent means of access-
7 ing the opinion electronically;

8 (2) includes a means for bulk download of all
9 final OLC opinions or a selection of opinions re-
10 trieved using a text-based search;

11 (3) provides free access to the opinions, and
12 does not charge a fee, require registration, or impose
13 any other limitation in exchange for access to the
14 website; and

15 (4) is capable of being upgraded as necessary to
16 carry out the purposes of this section.

17 (d) DEFINITIONS.—In this section:

18 (1) OLC OPINION.—The term “OLC opinion”
19 means views on a matter of legal interpretation com-
20 municated by the Office of Legal Counsel of the De-
21 partment of Justice to any other office or agency, or
22 person in an office or agency, in the executive
23 branch, including any office in the Department of
24 Justice, the White House, or the Executive Office of
25 the President, and rendered in accordance with sec-

1 tions 511–513 of title 28, United States Code, and
2 relating to—

3 (A) subtitle II, III, V, or VI of title 31,
4 United States Code;

5 (B) the Balanced Budget and Emergency
6 Deficit Control Act of 1985;

7 (C) the Congressional Budget and Im-
8 poundment Control Act of 1974; or

9 (D) any appropriations Act, continuing
10 resolution, or other provision of law providing
11 or governing appropriations or budget author-
12 ity.

13 (2) FINAL OLC OPINION.—The term “final
14 OLC opinion” means an OLC opinion that—

15 (A) the Attorney General, Assistant Attor-
16 ney General for the Office of Legal Counsel, or
17 a Deputy Assistant Attorney General for the
18 Office of Legal Counsel, has determined is
19 final; or

20 (B) is cited in another Office of Legal
21 Counsel opinion.

1 **Subtitle C—Strengthening Con-**
2 **gressional Role in and Over-**
3 **sight of Emergency Declarations**
4 **and Designations**

5 **SEC. 531. IMPROVING CHECKS AND BALANCES ON THE USE**
6 **OF THE NATIONAL EMERGENCIES ACT.**

7 (a) REQUIREMENTS RELATING TO DECLARATION
8 AND RENEWAL OF NATIONAL EMERGENCIES.—Title II of
9 the National Emergencies Act (50 U.S.C. 1621 et seq.)
10 is amended by striking sections 201 and 202 and inserting
11 the following:

12 **“SEC. 201. DECLARATIONS OF NATIONAL EMERGENCIES.**

13 “(a) AUTHORITY TO DECLARE NATIONAL EMER-
14 GENCIES.—With respect to Acts of Congress authorizing
15 the exercise, during the period of a national emergency,
16 of any special or extraordinary power, the President is au-
17 thorized to declare such a national emergency by procla-
18 mation. Such proclamation shall immediately be trans-
19 mitted to Congress and published in the Federal Register.

20 “(b) SPECIFICATION OF PROVISIONS OF LAW TO BE
21 EXERCISED AND REPORTING.—No powers or authorities
22 made available by statute for use during the period of a
23 national emergency shall be exercised unless and until the
24 President specifies the provisions of law under which the

1 President proposes that the President or other officers will
2 act in—

3 “(1) a proclamation declaring a national emer-
4 gency under subsection (a); or

5 “(2) one or more Executive orders relating to
6 the emergency published in the Federal Register and
7 transmitted to Congress.

8 “(c) PROHIBITION ON SUBSEQUENT ACTIONS IF
9 EMERGENCIES NOT APPROVED.—

10 “(1) SUBSEQUENT DECLARATIONS.—If a joint
11 resolution of approval is not enacted under section
12 203 with respect to a national emergency before the
13 expiration of the period described in section 202(a),
14 or with respect to a national emergency proposed to
15 be renewed under section 202(b), the President may
16 not, during the remainder of the term of office of
17 that President, declare a subsequent national emer-
18 gency under subsection (a) with respect to the same
19 circumstances.

20 “(2) EXERCISE OF AUTHORITIES.—If a joint
21 resolution of approval is not enacted under section
22 203 with respect to a power or authority specified by
23 the President in a proclamation under subsection (a)
24 or an Executive order under subsection (b)(2) with
25 respect to a national emergency, the President may

1 not, during the remainder of the term of office of
2 that President, exercise that power or authority with
3 respect to that emergency.

4 “(d) EFFECT OF FUTURE LAWS.—No law enacted
5 after the date of the enactment of the Congressional
6 Power of the Purse Act shall supersede this title unless
7 it does so in specific terms, referring to this title, and de-
8 claring that the new law supersedes the provisions of this
9 title.

10 **“SEC. 202. EFFECTIVE PERIODS OF NATIONAL EMER-**
11 **GENCIES.**

12 “(a) TEMPORARY EFFECTIVE PERIODS.—

13 “(1) IN GENERAL.—A declaration of a national
14 emergency shall remain in effect for a period of 20
15 days from the issuance of the proclamation under
16 section 201(a) (unless the declaration is terminated
17 before the end of that period pursuant to an Act of
18 Congress under subsection (c)(1)(C) or a proclama-
19 tion of the President under subsection (c)(1)(D))
20 and shall terminate when that 20-day period expires
21 unless there is enacted into law a joint resolution of
22 approval under section 203 with respect to the pro-
23 clamation.

24 “(2) EXERCISE OF POWERS AND AUTHORI-
25 TIES.—Any emergency power or authority made

1 available under a provision of law specified in a
2 proclamation or Executive order pursuant to section
3 201(b) may be exercised pursuant to the declaration
4 of a national emergency for a period of 20 days from
5 the issuance of the proclamation or Executive order
6 (unless the declaration is terminated before the end
7 of that period pursuant to an Act of Congress under
8 subsection (c)(1)(C) or a proclamation of the Presi-
9 dent under subsection (c)(1)(D)). That power or au-
10 thority may not be exercised after that 20-day pe-
11 riod expires unless there is enacted into law a joint
12 resolution of approval under section 203 approv-
13 ing—

14 “(A) the proclamation of the national
15 emergency or the Executive order; and

16 “(B) the exercise of the power or authority
17 specified by the President in such proclamation
18 or Executive order.

19 “(3) COMPUTATION OF DAYS.—For purposes of
20 paragraphs (1) and (2), a period of days shall be
21 computed excluding—

22 “(A) the days on which the Senate or the
23 House of Representatives is not in session be-
24 cause of an adjournment of more than 3 days

1 to a day certain or an adjournment of the Con-
2 gress sine die;

3 “(B) any Saturday and Sunday, not ex-
4 cluded under subparagraph (A), when the Sen-
5 ate or the House of Representatives is not in
6 session; or

7 “(C) the date on which the proclamation or
8 Executive order described in paragraph (1) or
9 (2), as applicable, is issued.

10 “(b) RENEWAL OF NATIONAL EMERGENCIES.—

11 “(1) IN GENERAL.—A national emergency de-
12 clared by the President under section 201(a) or pre-
13 viously renewed under this subsection, and not al-
14 ready terminated pursuant to subsection (a) or (c),
15 shall terminate on the date described in paragraph
16 (2) unless—

17 “(A) the President publishes in the Fed-
18 eral Register and transmits to Congress an Ex-
19 ecutive order renewing the emergency; and

20 “(B) there is enacted into law a joint reso-
21 lution of approval with respect to renewing the
22 emergency pursuant to section 203 before the
23 termination of the emergency or previous re-
24 newal of the emergency.

1 “(2) DATE DESCRIBED.—The date described in
2 this paragraph is the date that is one year after, as
3 applicable—

4 “(A) the date on which the President
5 transmitted to Congress the proclamation de-
6 claring the emergency; or

7 “(B) the date of the enactment of a pre-
8 vious joint resolution of approval with respect
9 to renewing the emergency pursuant to section
10 203.

11 “(c) TERMINATION OF NATIONAL EMERGENCIES.—

12 “(1) IN GENERAL.—Any national emergency
13 declared by the President under section 201(a) shall
14 terminate on the earliest of—

15 “(A) the date provided for in subsection
16 (a);

17 “(B) the date provided for in subsection
18 (b);

19 “(C) the date specified in an Act of Con-
20 gress terminating the emergency; or

21 “(D) the date specified in a proclamation
22 of the President terminating the emergency.

23 “(2) EFFECT OF TERMINATION.—Effective on
24 the date of the termination of a national emergency
25 under paragraph (1)—

1 “(A) any powers or authorities exercised
2 by reason of the emergency shall cease to be ex-
3 ercised;

4 “(B) any amounts reprogrammed, repur-
5 posed, or transferred under any provision of law
6 with respect to the emergency that remain un-
7 obligated on that date shall be returned and
8 made available for the purpose for which such
9 amounts were appropriated; and

10 “(C) any contracts entered into under any
11 provision of law relating to the emergency shall
12 be terminated.

13 **“SEC. 203. REVIEW BY CONGRESS OF NATIONAL EMER-**
14 **GENCIES.**

15 “(a) JOINT RESOLUTION OF APPROVAL DEFINED.—
16 In this section, the term ‘joint resolution of approval’
17 means a joint resolution that does not have a preamble
18 and that contains only the following provisions after its
19 resolving clause:

20 “(1) A provision approving one or more—

21 “(A) proclamations declaring national
22 emergencies under section 201(a);

23 “(B) Executive orders issued under section
24 201(b)(2); or

1 “(C) Executive orders issued under section
2 202(b).

3 “(2) A provision approving a list of all or a por-
4 tion of the provisions of law specified by the Presi-
5 dent under section 201(b) in the proclamations or
6 Executive orders that are the subject of the joint
7 resolution.

8 “(b) PROCEDURES FOR CONSIDERATION OF JOINT
9 RESOLUTIONS OF APPROVAL.—

10 “(1) INTRODUCTION.—After the President
11 transmits to Congress a proclamation declaring a
12 national emergency under section 201(a), or an Ex-
13 ecutive order specifying emergency powers or au-
14 thorities under section 201(b)(2) or renewing a na-
15 tional emergency under section 202(b), a joint reso-
16 lution of approval may be introduced in either House
17 of Congress by any member of that House.

18 “(2) COMMITTEE REFERRAL IN THE SENATE.—
19 In the Senate, a joint resolution of approval shall be
20 referred to the appropriate committee.

21 “(3) EXPEDITED CONSIDERATION IN SEN-
22 ATE.—In the Senate, the following shall apply:

23 “(A) COMMITTEE REFERRAL.—A joint res-
24 olution of approval shall be referred to the ap-
25 propriate committee or committees.

1 “(B) REPORTING AND DISCHARGE.—If the
2 committee to which a joint resolution of ap-
3 proval has been referred has not reported it at
4 the end of 10 calendar days after its introduc-
5 tion, that committee shall be discharged from
6 further consideration of the resolution and it
7 shall be placed on the calendar.

8 “(C) PROCEEDING TO CONSIDERATION.—
9 Notwithstanding Rule XXII of the Standing
10 Rules of the Senate, when a committee to which
11 a joint resolution of approval is referred has re-
12 ported the resolution, or when that committee is
13 discharged under subparagraph (B) from fur-
14 ther consideration of the resolution, it is at any
15 time thereafter in order to move to proceed to
16 the consideration of the joint resolution, and all
17 points of order against the joint resolution (and
18 against the motion to proceed to the consider-
19 ation of the joint resolution) are waived. The
20 motion to proceed shall be debatable for 4
21 hours evenly divided between proponents and
22 opponents of the joint resolution of approval.
23 The motion is not subject to amendment, or to
24 a motion to postpone, or to a motion to proceed
25 to the consideration of other business. A motion

1 to reconsider the vote by which the motion is
2 agreed to or disagreed to shall not be in order.
3 If a motion to proceed to the consideration of
4 a joint resolution of approval is agreed to, the
5 joint resolution shall remain the unfinished
6 business of the Senate until disposed of.

7 “(D) FLOOR CONSIDERATION.—There
8 shall be 10 hours of consideration on a joint
9 resolution of approval, to be divided evenly be-
10 tween the proponents and opponents of the
11 joint resolution. Of that 10 hours, there shall be
12 a total of 2 hours of debate on any debatable
13 motions in connection with the joint resolution,
14 to be divided evenly between the proponents
15 and opponents of the joint resolution.

16 “(E) AMENDMENTS.—No amendments
17 shall be in order with respect to a joint resolu-
18 tion of approval in the Senate.

19 “(F) MOTION TO RECONSIDER VOTE ON
20 PASSAGE.—A motion to reconsider a vote on
21 passage of a joint resolution of approval shall
22 not be in order.

23 “(G) APPEALS.—Points of order and ap-
24 peals from the decision of the Presiding Officer
25 shall be decided without debate.

1 “(4) EXPEDITED CONSIDERATION IN HOUSE OF
2 REPRESENTATIVES.—In the House of Representa-
3 tives, the following shall apply:

4 “(A) REPORTING AND DISCHARGE.—If any
5 committee to which a joint resolution of ap-
6 proval has been referred has not reported it to
7 the House within 7 legislative days after the
8 date of referral such committee shall be dis-
9 charged from further consideration of the joint
10 resolution.

11 “(B)(i) PROCEEDING TO CONSIDER-
12 ATION.—Beginning on the third legislative day
13 after each committee to which a joint resolution
14 of approval has been referred reports it to the
15 House or has been discharged from further con-
16 sideration thereof, it shall be in order to move
17 to proceed to consider the joint resolution of ap-
18 proval in the House. All points of order against
19 the motion are waived. Such a motion shall not
20 be in order after the House has disposed of a
21 motion to proceed on the joint resolution of ap-
22 proval. The previous question shall be consid-
23 ered as ordered on the motion to its adoption
24 without intervening motion. The motion shall
25 not be debatable. A motion to reconsider the

1 vote by which the motion is disposed of shall
2 not be in order.

3 “(ii) MOTION.—A motion to proceed to the
4 consideration of a joint resolution of approval
5 with respect to an Executive order described in
6 subparagraph (B) or (C) of subsection (a)(1) or
7 a list described in subsection (a)(2) shall not be
8 in order before the enactment of a joint resolu-
9 tion of approval with respect to the proclama-
10 tion described in subsection (a)(1)(A) that is
11 the subject of the Executive order or list.

12 “(C) CONSIDERATION.—The joint resolu-
13 tion of approval shall be considered as read. All
14 points of order against the joint resolution of
15 approval and against its consideration are
16 waived. The previous question shall be consid-
17 ered as ordered on the joint resolution of ap-
18 proval to final passage without intervening mo-
19 tion except 2 hours of debate equally divided
20 and controlled by the sponsor of the joint reso-
21 lution of approval (or a designee) and an oppo-
22 nent. A motion to reconsider the vote on pas-
23 sage of the joint resolution of approval shall not
24 be in order.

1 “(5) COORDINATION WITH ACTION BY OTHER
2 HOUSE.—

3 “(A) IN GENERAL.—If, before the passage
4 by one House of Congress of a joint resolution
5 of approval of that House, that House receives
6 from the other House a joint resolution of ap-
7 proval with respect to the same proclamation
8 described in section 201(a) or Executive order
9 described in section 201(b)(2) or 202(b), then
10 the following procedures shall apply:

11 “(i) The joint resolution of approval
12 of the other House shall not be referred to
13 a committee.

14 “(ii) With respect to a joint resolution
15 of approval of the House receiving the
16 joint resolution—

17 “(I) the procedure in that House
18 shall be the same as if no joint resolu-
19 tion of approval had been received
20 from the other House; but

21 “(II) the vote on passage shall be
22 on the joint resolution of approval of
23 the other House.

24 “(iii) Upon the failure of passage of
25 the joint resolution of approval of the other

1 House, the question shall immediately
2 occur on passage of the joint resolution of
3 approval of the receiving House.

4 “(B) TREATMENT OF LEGISLATION OF
5 OTHER HOUSE.—If one House fails to introduce
6 a joint resolution of approval under this section
7 with respect to proclamation under section
8 201(a) or Executive order under section
9 201(b)(2) or 202(b), the joint resolution of ap-
10 proval of the other House shall be entitled to
11 expedited consideration under paragraph (3) or
12 (4), as applicable.

13 “(C) APPLICATION TO REVENUE MEAS-
14 URES.—The provisions of this paragraph shall
15 not apply in the House of Representatives to a
16 joint resolution of approval that is a revenue
17 measure.

18 “(6) TREATMENT OF VETO MESSAGE.—Debate
19 on a veto message in the Senate under this section
20 shall be 1 hour evenly divided between the majority
21 and minority leaders or their designees.

22 “(c) RULE OF CONSTRUCTION.—The enactment of a
23 joint resolution of approval under this section shall not
24 be interpreted to serve as a grant or modification by Con-

1 gress of statutory authority for the emergency powers of
2 the President.

3 “(d) RULES OF THE HOUSE AND SENATE.—This sec-
4 tion is enacted by Congress—

5 “(1) as an exercise of the rulemaking power of
6 the Senate and the House of Representatives, re-
7 spectively, and as such is deemed a part of the rules
8 of each House, respectively, but applicable only with
9 respect to the procedure to be followed in the House
10 in the case of joint resolutions of approval described
11 in this section, and supersedes other rules only to
12 the extent that it is inconsistent with such other
13 rules; and

14 “(2) with full recognition of the constitutional
15 right of either House to change the rules (so far as
16 relating to the procedure of that House) at any time,
17 in the same manner, and to the same extent as in
18 the case of any other rule of that House.

19 **“SEC. 204. EXCLUSION OF CERTAIN NATIONAL EMER-**
20 **GENCIES INVOKING INTERNATIONAL EMER-**
21 **GENCY ECONOMIC POWERS ACT.**

22 “(a) IN GENERAL.—In the case of a national emer-
23 gency described in subsection (b), the provisions of the
24 National Emergencies Act, as in effect on the day before
25 the date of the enactment of the Congressional Power of

1 the Purse Act, shall continue to apply on and after such
2 date of enactment.

3 “(b) NATIONAL EMERGENCY DESCRIBED.—

4 “(1) IN GENERAL.—A national emergency de-
5 scribed in this subsection is a national emergency
6 pursuant to which the President proposes to exercise
7 emergency powers or authorities made available
8 under the International Emergency Economic Pow-
9 ers Act (50 U.S.C. 1701 et seq.), supplemented as
10 necessary by a provision of law specified in para-
11 graph (2).

12 “(2) PROVISIONS OF LAW SPECIFIED.—The
13 provisions of law specified in this paragraph are—

14 “(A) the United Nations Participation Act
15 of 1945 (22 U.S.C. 287 et seq.);

16 “(B) section 212(f) of the Immigration
17 and Nationality Act (8 U.S.C. 1182(f)); or

18 “(C) any provision of law that authorizes
19 the implementation, imposition, or enforcement
20 of economic sanctions with respect to a foreign
21 country.

22 “(c) EFFECT OF ADDITIONAL POWERS AND AU-
23 THORITIES.—Subsection (a) shall not apply to a national
24 emergency or the exercise of emergency powers and au-
25 thorities pursuant to the national emergency if, in addition

1 to the exercise of emergency powers and authorities de-
2 scribed in subsection (b), the President proposes to exer-
3 cise, pursuant to the national emergency, any emergency
4 powers and authorities under any other provision of law.”.

5 (b) REPORTING REQUIREMENTS.—Section 401 of the
6 National Emergencies Act (50 U.S.C. 1641) is amended
7 by adding at the end the following:

8 “(d) REPORT ON EMERGENCIES.—The President
9 shall transmit to Congress, with any proclamation declar-
10 ing a national emergency under section 201(a) or any Ex-
11 ecutive order specifying emergency powers or authorities
12 under section 201(b)(2) or renewing a national emergency
13 under section 202(b), a report, in writing, that includes
14 the following:

15 “(1) A description of the circumstances necessi-
16 tating the declaration of a national emergency, the
17 renewal of such an emergency, or the use of a new
18 emergency power or authority, as the case may be.

19 “(2) The estimated duration of the national
20 emergency, or a statement that the duration of the
21 national emergency cannot reasonably be estimated
22 at the time of transmission of the report.

23 “(3) A summary of the actions the President or
24 other officers intend to take, including any re-
25 programming or transfer of funds and any contracts

1 anticipated to be entered into, and the statutory au-
2 thorities the President and such officers expect to
3 rely on in addressing the national emergency.

4 “(4) In the case of a renewal of a national
5 emergency, a summary of the actions the President
6 or other officers have taken in the preceding one-
7 year period, including any reprogramming or trans-
8 fer of funds, to address the emergency.

9 “(e) PROVISION OF INFORMATION TO CONGRESS.—
10 The President shall provide to Congress such other infor-
11 mation as Congress may request in connection with any
12 national emergency in effect under title II.

13 “(f) PERIODIC REPORTS ON STATUS OF EMER-
14 GENCIES.—If the President declares a national emergency
15 under section 201(a), the President shall, not less fre-
16 quently than every 90 days for the duration of the emer-
17 gency, report to Congress on the status of the emergency
18 and the actions the President or other officers have taken
19 and authorities the President and such officers have relied
20 on in addressing the emergency.”.

21 (c) EXCLUSION OF IMPOSITION OF DUTIES AND IM-
22 PORT QUOTAS FROM PRESIDENTIAL AUTHORITIES
23 UNDER INTERNATIONAL EMERGENCY ECONOMIC POW-
24 ERS ACT.—Section 203 of the International Emergency
25 Economic Powers Act (50 U.S.C. 1702) is amended—

1 (1) by redesignating subsection (c) as sub-
2 section (d); and

3 (2) by inserting after subsection (b) the fol-
4 lowing:

5 “(c)(1) The authority granted to the President by
6 this section does not include the authority to impose duties
7 or tariff-rate quotas or (subject to paragraph (2)) other
8 quotas on articles entering the United States.

9 “(2) The limitation under paragraph (1) does not
10 prohibit the President from excluding all articles imported
11 from a country from entering the United States.”.

12 (d) CONFORMING AMENDMENTS.—

13 (1) NATIONAL EMERGENCIES ACT.—Title III of
14 the National Emergencies Act (50 U.S.C. 1631) is
15 repealed.

16 (2) INTERNATIONAL EMERGENCY ECONOMIC
17 POWERS ACT.—Section 207 of the International
18 Emergency Economic Powers Act (50 U.S.C. 1706)
19 is amended—

20 (A) in subsection (b), by striking “concur-
21 rent resolution” and inserting “joint resolution”
22 each place it appears; and

23 (B) by adding at the end the following:

24 “(e) In this section, the term ‘National Emergencies
25 Act’ means the National Emergencies Act, as in effect on

1 the day before the date of the enactment of the Congres-
2 sional Power of the Purse Act.”.

3 (e) EFFECTIVE DATE; APPLICABILITY.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), this section and the amendments made by
6 this section shall take effect on the date of the en-
7 actment of this Act and apply with respect to na-
8 tional emergencies declared under section 201 of the
9 National Emergencies Act on or after that date.

10 (2) APPLICABILITY TO RENEWALS OF EXISTING
11 EMERGENCIES.—When a national emergency de-
12 clared under section 201 of the National Emer-
13 gencies Act before the date of the enactment of the
14 Congressional Power of the Purse Act would expire
15 or be renewed under section 202(d) of that Act (as
16 in effect on the day before such date of enactment),
17 that national emergency shall be subject to the re-
18 quirements for renewal under section 202(b) of that
19 Act, as amended by subsection (a).

20 **SEC. 532. NATIONAL EMERGENCIES ACT DECLARATION**
21 **SPENDING REPORTING IN THE PRESIDENT’S**
22 **BUDGET.**

23 Section 1105(a) of title 31, United States Code, as
24 amended by section 514 of this Act, is further amended
25 by adding at the end the following:

1 “(44)(A) a report on the proposed, planned,
2 and actual obligations and expenditures of funds (for
3 the prior fiscal year, the current fiscal year, and the
4 fiscal year for which the budget is submitted) attrib-
5 utable to the exercise of powers and authorities
6 made available by statute for each national emer-
7 gency declared by the President, currently active or
8 in effect during the applicable fiscal years.

9 “(B) Obligations and expenditures contained in
10 the report under subparagraph (A) shall—

11 “(i) be organized by Treasury Appropria-
12 tion Fund Symbol or fund account and by pro-
13 gram, project, and activity; and

14 “(ii) include—

15 “(I) a description of each such pro-
16 gram, project, and activity;

17 “(II) the authorities under which such
18 funding actions are taken; and

19 “(III) the purpose and progress of
20 such obligations and expenditures toward
21 addressing the applicable national emer-
22 gency.

23 “(C) The report under subparagraph (A) shall
24 include, with respect to any transfer, reprogram-

1 ming, or repurposing of funds to address the appli-
2 cable national emergency—

3 “(i) the amount of such transfer, re-
4 programming, or repurposing;

5 “(ii) the authority authorizing each such
6 transfer, reprogramming, or repurposing; and

7 “(iii) a description of programs, projects,
8 and activities affected by such transfer, re-
9 programming, or repurposing, including by a
10 reduction in funding.”.

11 **SEC. 533. DISCLOSURE TO CONGRESS OF PRESIDENTIAL**
12 **EMERGENCY ACTION DOCUMENTS.**

13 (a) IN GENERAL.—Not later than 30 days after the
14 conclusion of the process for approval, adoption, or revi-
15 sion of any presidential emergency action document, the
16 President shall submit that document to the appropriate
17 congressional committees.

18 (b) DOCUMENTS IN EXISTENCE BEFORE DATE OF
19 ENACTMENT.—Not later than 15 days after the date of
20 the enactment of this Act, the President shall submit to
21 the appropriate congressional committees all presidential
22 emergency action documents in existence before such date
23 of enactment.

24 (c) DEFINITIONS.—In this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees”, with respect to a presidential emergency
4 action document submitted under subsection (a) or
5 (b), means—

6 (A) the Committee on Homeland Security
7 and Governmental Affairs, the Committee on
8 the Judiciary, and the Select Committee on In-
9 telligence of the Senate;

10 (B) the Committee on Oversight and Re-
11 form, the Committee on the Judiciary, and the
12 Permanent Select Committee on Intelligence of
13 the House of Representatives; and

14 (C) any other committee of the Senate or
15 the House of Representatives with jurisdiction
16 over the subject matter addressed in the presi-
17 dential emergency action document.

18 (2) PRESIDENTIAL EMERGENCY ACTION DOCU-
19 MENT.—The term “presidential emergency action
20 document” refers to—

21 (A) each of the approximately 56 docu-
22 ments described as presidential emergency ac-
23 tion documents in the budget justification mate-
24 rials for the Office of Legal Counsel of the De-
25 partment of Justice submitted to Congress in

1 support of the budget of the President for fiscal
2 year 2018; and

3 (B) any other pre-coordinated legal docu-
4 ment in existence before, on, or after the date
5 of the enactment of this Act, that—

6 (i) is designated as a presidential
7 emergency action document; or

8 (ii) is designed to implement a presi-
9 dential decision or transmit a presidential
10 request when an emergency disrupts nor-
11 mal governmental or legislative processes.

12 **SEC. 534. EMERGENCY AND OVERSEAS CONTINGENCY OP-**
13 **ERATIONS DESIGNATIONS BY CONGRESS IN**
14 **STATUTE.**

15 Section 251(b)(2)(A) of the Balanced Budget and
16 Emergency Deficit Control Act of 1985 (2 U.S.C.
17 901(b)(2)(A)) is amended—

18 (1) in clause (i), by striking “and the President
19 subsequently so designates”; and

20 (2) in clause (ii), by striking “and the President
21 subsequently so designates”.

1 **TITLE VI—SECURITY FROM PO-**
2 **LITICAL INTERFERENCE IN**
3 **JUSTICE**

4 **SEC. 601. SHORT TITLE.**

5 This title may be cited as the “Security from Political
6 Interference in Justice Act”.

7 **SEC. 602. DEFINITIONS.**

8 In this title:

9 (1) **COMMUNICATIONS LOG.**—The term “com-
10 munications log” means the log required to be main-
11 tained under section 603(a).

12 (2) **COVERED COMMUNICATION.**—

13 (A) **IN GENERAL.**—The term “covered
14 communication” means any communication re-
15 lating to any contemplated or ongoing investiga-
16 tion or litigation conducted by the Department
17 of Justice in any civil or criminal matter (re-
18 gardless of whether a civil action or criminal in-
19 dictment or information has been filed).

20 (B) **EXCEPTIONS.**—The term “covered
21 communication” does not include a communica-
22 tion that is any of the following:

23 (i) A communication that involves
24 contact between the President, the Vice
25 President, the Counsel to the President, or

1 the Principal Deputy Counsel to the Presi-
2 dent, and the Attorney General, the Dep-
3 uty Attorney General, or the Associate At-
4 torney General, except to the extent that
5 the communication concerns a con-
6 templated or ongoing investigation or liti-
7 gation in which a target or subject is one
8 of the following:

9 (I) The President, the Vice Presi-
10 dent, or a member of the immediate
11 family of the President or Vice Presi-
12 dent.

13 (II) Any individual working in
14 the Executive Office of the President
15 who is compensated at a rate of pay
16 at or above level II of the Executive
17 Schedule under section 5313 of title
18 5, United States Code.

19 (III) The current or former chair
20 or treasurer of any national campaign
21 committee that sought the election or
22 seeks the reelection of the President,
23 or any officer of such a committee ex-
24 ercising authority at the national

1 level, during the tenure in office of the
2 President.

3 (ii) A communication that involves
4 contact between an officer or employee of
5 the Department of Justice and an officer
6 or employee of the Executive Office of the
7 President on a particular matter, if any of
8 the President, the Vice President, the
9 Counsel to the President, or the Principal
10 Deputy Counsel to the President, and if
11 any of the Attorney General, the Deputy
12 Attorney General, or the Associate Attor-
13 ney General, have designated a subordinate
14 to carry on such contact, and the person so
15 designating monitors all subsequent com-
16 munications and the person designated
17 keeps the designating person informed of
18 each such communication, except to the ex-
19 tent that the communication concerns a
20 contemplated or ongoing investigation or
21 litigation in which a target or subject is
22 one of the following:

23 (I) The President, the Vice Presi-
24 dent, or a member of the immediate

1 family of the President or Vice Presi-
2 dent.

3 (II) Any individual working in
4 the Executive Office of the President
5 who is compensated at a rate of pay
6 at or above level II of the Executive
7 Schedule under section 5313 of title
8 5, United States Code.

9 (III) The current or former chair
10 or treasurer of any national campaign
11 committee that sought the election or
12 seeks the reelection of the President,
13 or any officer of such a committee ex-
14 exercising authority at the national
15 level, during the tenure in office of the
16 President.

17 (iii) A communication that involves
18 contact from or to the Deputy Counsel to
19 the President for National Security Af-
20 fairs, the staff of the National Security
21 Council, or the staff of the Homeland Se-
22 curity Council that relates to a national se-
23 curity matter, except to the extent that the
24 communication concerns a pending adver-

1 sarial case in litigation that may have na-
2 tional security implications.

3 (iv) A communication that involves
4 contact between the Office of the Pardon
5 Attorney of the Department of Justice and
6 the Counsel to the President or a Deputy
7 Counsel to the President relating to par-
8 don matters.

9 (v) A communication that relates sole-
10 ly to policy, appointments, legislation, rule-
11 making, budgets, public relations or af-
12 fairs, programmatic matters, intergovern-
13 mental relations, administrative or per-
14 sonnel matters, appellate litigation, or re-
15 quests for legal advice.

16 (3) MEMBER OF THE IMMEDIATE FAMILY OF
17 THE PRESIDENT OR VICE PRESIDENT.—The term
18 “member of the immediate family of the President
19 or Vice President” means an individual to whom the
20 President or Vice President—

21 (A) is related by blood, marriage, or adop-
22 tion; or

23 (B) stands in loco parentis.

1 **SEC. 603. COMMUNICATIONS LOGS.**

2 (a) IN GENERAL.—The Attorney General shall main-
3 tain a log of covered communications.

4 (b) CONTENTS.—A communications log shall include,
5 with respect to a covered communication—

6 (1) the name and title of each officer or em-
7 ployee of the Department of Justice or the Executive
8 Office of the President who participated in the cov-
9 ered communication;

10 (2) the topic of the covered communication; and

11 (3) a statement describing the purpose and ne-
12 cessity of the covered communication.

13 (c) OVERSIGHT.—

14 (1) PERIODIC DISCLOSURE OF LOGS.—Not later
15 than January 30 and July 30 of each year, the At-
16 torney General shall submit to the Office of the In-
17 spector General of the Department of Justice a re-
18 port containing the communications log for the 6-
19 month period preceding that January or July.

20 (2) NOTICE OF INAPPROPRIATE OR IMPROPER
21 COMMUNICATIONS.—The Office of the Inspector
22 General of the Department of Justice shall—

23 (A) review each communications log re-
24 ceived under paragraph (1); and

25 (B) notify the Committee on the Judiciary
26 of the Senate and the Committee on the Judici-

1 ary of the House of Representatives if the In-
 2 specter General determines that a covered com-
 3 munication described in the communications
 4 log—

5 (i) is inappropriate from a law en-
 6 forcement perspective; or

7 (ii) raises concerns about improper
 8 political interference.

9 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
 10 tion may be construed to limit the valid written assertion
 11 by the President of presidential communications privilege
 12 with regard to any material required to be submitted
 13 under this section.

14 **SEC. 604. RULE OF CONSTRUCTION.**

15 Nothing in this title may be construed to affect any
 16 requirement to report pursuant to title I of this Act or
 17 the amendments made by that title.

18 **TITLE VII—PROTECTING IN-**
 19 **SPECTOR GENERAL INDE-**
 20 **PENDENCE**

21 **Subtitle A—Requiring Cause for**
 22 **Removal**

23 **SEC. 701. SHORT TITLE.**

24 This subtitle may be cited as the “Inspector General
 25 Independence Act”.

1 **SEC. 702. AMENDMENT.**

2 The Inspector General Act of 1978 (5 U.S.C. App.)
3 is amended—

4 (1) in section 3(b)—

5 (A) by striking “An Inspector General”
6 and inserting “(1) An Inspector General”;

7 (B) by inserting after “by the President”
8 the following: “in accordance with paragraph
9 (2)”; and

10 (C) by adding at the end the following:

11 “(2) The President may remove an Inspector General
12 only for any of the following grounds (and the documenta-
13 tion of any such ground shall be included in the commu-
14 nication required pursuant to paragraph (1)):

15 “(A) Documented permanent incapacity.

16 “(B) Documented neglect of duty.

17 “(C) Documented malfeasance.

18 “(D) Documented conviction of a felony or con-
19 duct involving moral turpitude.

20 “(E) Documented knowing violation of a law or
21 regulation.

22 “(F) Documented gross mismanagement.

23 “(G) Documented gross waste of funds.

24 “(H) Documented abuse of authority.

25 “(I) Documented inefficiency.”; and

1 (2) in section 8G(e)(2), by adding at the end
2 the following: “An Inspector General may be re-
3 moved only for any of the following grounds (and
4 the documentation of any such ground shall be in-
5 cluded in the communication required pursuant to
6 this paragraph):

7 “(A) Documented permanent incapacity.

8 “(B) Documented neglect of duty.

9 “(C) Documented malfeasance.

10 “(D) Documented conviction of a felony or con-
11 duct involving moral turpitude.

12 “(E) Documented knowing violation of a law or
13 regulation.

14 “(F) Documented gross mismanagement.

15 “(G) Documented gross waste of funds.

16 “(H) Documented abuse of authority.

17 “(I) Documented inefficiency.”.

18 **SEC. 703. REMOVAL OR TRANSFER REQUIREMENTS.**

19 (a) REASONS FOR REMOVAL OR TRANSFER.—Section
20 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.),
21 as amended by section 702, is amended—

22 (1) in paragraph (1), by striking “reasons” and
23 inserting “substantive rationale, including detailed
24 and case-specific reasons,”; and

25 (2) by adding at the end the following:

1 “(3) If there is an open or completed inquiry into
2 an Inspector General that relates to the removal or trans-
3 fer of the Inspector General under paragraph (1), the
4 written communication required under that paragraph
5 shall—

6 “(A) identify each entity that is conducting, or
7 that conducted, the inquiry; and

8 “(B) in the case of a completed inquiry, contain
9 the findings made during the inquiry.”.

10 (b) REASONS FOR REMOVAL OR TRANSFER FOR DES-
11 IGNATED FEDERAL ENTITIES.—Section 8G(e) of the In-
12 spector General Act of 1978 (5 U.S.C. App.) is amend-
13 ed—

14 (1) in paragraph (2), by striking “reasons” and
15 inserting “substantive rationale, including detailed
16 and case-specific reasons,”; and

17 (2) by inserting at the end the following:

18 “(3) If there is an open or completed inquiry into
19 an Inspector General that relates to the removal or trans-
20 fer of the Inspector General under paragraph (2), the
21 written communication required under that paragraph
22 shall—

23 “(A) identify each entity that is conducting, or
24 that conducted, the inquiry; and

1 “(B) in the case of a completed inquiry, contain
2 the findings made during the inquiry.”.

3 **Subtitle B—Inspectors General of**
4 **Intelligence Community**

5 **SEC. 711. INDEPENDENCE OF INSPECTORS GENERAL OF**
6 **THE INTELLIGENCE COMMUNITY.**

7 (a) IN GENERAL.—The National Security Act of
8 1947 (50 U.S.C. 3001 et seq.) is amended by adding at
9 the end the following new title:

10 **“TITLE XII—MATTERS REGARD-**
11 **ING INSPECTORS GENERAL**
12 **OF ELEMENTS OF THE INTEL-**
13 **LIGENCE COMMUNITY**

14 **“Subtitle A—Inspectors General**

15 **“SEC. 1201. INDEPENDENCE OF INSPECTORS GENERAL.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) ADMINISTRATIVE LEAVE.—The term ‘ad-
18 ministrative leave’ includes any other type of paid or
19 unpaid non-duty status.

20 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
21 TEES.—The term ‘appropriate congressional com-
22 mittees’ means—

23 “(A) the congressional intelligence commit-
24 tees; and

1 “(B) the Committee on Homeland Security
2 and Governmental Affairs of the Senate and the
3 Committee on Oversight and Reform of the
4 House of Representatives.

5 “(3) HEAD OFFICIAL.—The term ‘head official’
6 means—

7 “(A) with respect to the position of a cov-
8 ered Inspector General that requires appoint-
9 ment by the President, by and with the advice
10 and consent of the Senate, the President; and

11 “(B) with respect to the position of a cov-
12 ered Inspector General that requires appoint-
13 ment by a head of a department or agency of
14 the Federal Government, the head of such de-
15 partment or agency.

16 “(b) REMOVAL.—

17 “(1) IN GENERAL.—A covered Inspector Gen-
18 eral may be removed from office only by the head of-
19 ficial.

20 “(2) GROUNDS.—The head official may remove
21 a covered Inspector General only for any of the fol-
22 lowing grounds:

23 “(A) Documented permanent incapacity.

24 “(B) Documented neglect of duty.

25 “(C) Documented malfeasance.

1 “(D) Documented conviction of a felony or
2 conduct involving moral turpitude.

3 “(E) Documented knowing violation of a
4 law or regulation.

5 “(F) Documented gross mismanagement.

6 “(G) Documented gross waste of funds.

7 “(H) Documented abuse of authority.

8 “(I) Documented Inefficiency.

9 “(c) ADMINISTRATIVE LEAVE.—

10 “(1) IN GENERAL.—A covered Inspector Gen-
11 eral may be placed on administrative leave only by
12 the head official.

13 “(2) GROUNDS.—The head official may place a
14 covered Inspector General on administrative leave
15 only for any of the grounds specified in subsection
16 (b)(2).

17 “(d) NOTIFICATION.—The head official may not re-
18 move a covered Inspector General under subsection (b) or
19 place a covered Inspector General on administrative leave
20 under subsection (c) unless—

21 “(1) the head official transmits in writing to
22 the appropriate congressional committees a notifica-
23 tion of such removal or placement, including an ex-
24 planation of the documented grounds specified in
25 subsection (b)(2) for such removal or placement; and

1 “(2) with respect to the removal of a covered
2 Inspector General, a period of 30 days elapses fol-
3 lowing the date of such transmittal.

4 “(e) REPORT.—Not later than 30 days after the date
5 on which the head official notifies a covered Inspector
6 General of being removed under subsection (b) or placed
7 on administrative leave under subsection (c), the office of
8 that Inspector General shall submit to the appropriate
9 congressional committees a report containing the fol-
10 lowing:

11 “(1) A description of the facts and cir-
12 cumstances of any pending complaint, investigation,
13 inspection, audit, or other review or inquiry, includ-
14 ing any information, allegation, or complaint re-
15 ported to the Attorney General in accordance with
16 section 535 of title 28, United States Code, that the
17 Inspector General was working on as of the date of
18 such removal or placement.

19 “(2) Any other significant matter that the of-
20 fice of the Inspector General determines appropriate.

21 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion shall be construed to prohibit a personnel action of
23 a covered Inspector General otherwise authorized by law,
24 other than transfer or removal.”.

1 (b) DEFINITION.—Section 3 of such Act (50 U.S.C.
2 3003) is amended by adding at the end the following new
3 paragraph:

4 “(8) The term ‘covered Inspector General’
5 means each of the following:

6 “(A) The Inspector General of the Intel-
7 ligence Community.

8 “(B) The Inspector General of the Central
9 Intelligence Agency.

10 “(C) The Inspector General of the Defense
11 Intelligence Agency.

12 “(D) The Inspector General of the Na-
13 tional Reconnaissance Office.

14 “(E) The Inspector General of the Na-
15 tional Geospatial-Intelligence Agency.

16 “(F) The Inspector General of the Na-
17 tional Security Agency.”.

18 (c) CLERICAL AMENDMENTS.—The table of sections
19 at the beginning of the National Security Act of 1947 is
20 amended by adding after the items relating to title XI the
21 end the following new items:

“TITLE XII—MATTERS REGARDING INSPECTORS GENERAL OF
ELEMENTS OF THE INTELLIGENCE COMMUNITY

“SUBTITLE A—INSPECTORS GENERAL

“Sec. 1201. Independence of Inspectors General.”.

1 **SEC. 712. AUTHORITY OF INSPECTORS GENERAL OF THE**
2 **INTELLIGENCE COMMUNITY TO DETERMINE**
3 **MATTERS OF URGENT CONCERN.**

4 (a) DETERMINATION.—

5 (1) IN GENERAL.—Title XII of the National Se-
6 curity Act of 1947, as added by section 711, is
7 amended by inserting after section 1201 the fol-
8 lowing new section:

9 **“SEC. 1203. DETERMINATION OF MATTERS OF URGENT**
10 **CONCERN.**

11 “(a) DETERMINATION.—

12 “(1) IN GENERAL.—Each covered Inspector
13 General shall have sole authority to determine
14 whether any complaint or information reported to
15 the Inspector General is a matter of urgent concern.

16 “(2) FINALITY.—A determination described in
17 paragraph (1) is final and conclusive.

18 “(b) FOREIGN INTERFERENCE IN ELECTIONS.—In
19 addition to any other matter which is considered an urgent
20 concern pursuant to section 103H(k)(5)(G), section
21 17(d)(5)(G) of the Central Intelligence Agency Act of
22 1949 (50 U.S.C. 3517(d)(5)(G)), or other applicable pro-
23 vision of law, the term ‘urgent concern’ includes a serious
24 or flagrant problem, abuse, violation of law or Executive
25 order, or deficiency relating to foreign interference in elec-
26 tions in the United States.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions at the beginning of the National Security Act
3 of 1947 is amended by inserting after the item relat-
4 ing to section 1201, as added by section 711, the
5 following new item:

“Sec. 1203. Determination of matters of urgent concern.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) INTELLIGENCE COMMUNITY.—Section
8 103H(k)(5)(G) of the National Security Act of 1947
9 (50 U.S.C. 3033(k)(5)(G)) is amended by striking
10 “In this paragraph” and inserting “In accordance
11 with section 1203, in this paragraph”.

12 (2) CENTRAL INTELLIGENCE AGENCY.—Section
13 17(d)(5)(G) of the Central Intelligence Agency Act
14 of 1949 (50 U.S.C. 3517(d)(5)(G)) is amended by
15 striking “In this paragraph” and inserting “In ac-
16 cordance with section 1203 of the National Security
17 Act of 1947, in this paragraph”.

18 (c) REPORTS ON UNRESOLVED DIFFERENCES.—
19 Paragraph (3) of section 103H(k) of the National Security
20 Act of 1947 (50 U.S.C. 3033(k)) is amended by adding
21 at the end the following new subparagraph:

22 “(C) With respect to each report submitted pursuant
23 to subparagraph (A)(i), the Inspector General shall in-
24 clude in the report, at a minimum—

1 “(i) a general description of the unresolved dif-
2 ferences, the particular duties or responsibilities of
3 the Inspector General involved, and, if such dif-
4 ferences relate to a complaint or information under
5 paragraph (5), a description of the complaint or in-
6 formation and the entities or individuals identified in
7 the complaint or information; and

8 “(ii) to the extent such differences can be at-
9 tributed not only to the Director but also to any
10 other official, department, agency, or office within
11 the executive branch, or a component thereof, the ti-
12 tles of such official, department, agency, or office.”.

13 (d) CLARIFICATION OF ROLE OF DIRECTOR OF NA-
14 TIONAL INTELLIGENCE.—Section 102A(f)(1) of such Act
15 (50 U.S.C. 3024(f)(1)) is amended—

16 (1) by redesignating subparagraph (B) as sub-
17 paragraph (C); and

18 (2) by inserting after subparagraph (A) the fol-
19 lowing new subparagraph:

20 “(B) The authority of the Director of National Intel-
21 ligence under subparagraph (A) includes coordinating and
22 supervising activities undertaken by elements of the intel-
23 ligence community for the purpose of protecting the
24 United States from any foreign interference in elections
25 in the United States.”.

1 **SEC. 713. CONFORMING AMENDMENTS AND COORDINATION**
2 **WITH OTHER PROVISIONS OF LAW.**

3 (a) INTELLIGENCE COMMUNITY.—Paragraph (4) of
4 section 103H(c) of the National Security Act of 1947 (50
5 U.S.C. 3033(c)) is amended to read as follows:

6 “(4) The provisions of title XII shall apply to the In-
7 spector General with respect to the removal of the Inspec-
8 tor General and any other matter relating to the Inspector
9 General as specifically provided for in such title.”.

10 (b) CENTRAL INTELLIGENCE AGENCY.—Paragraph
11 (6) of section 17(b) of the Central Intelligence Agency Act
12 of 1949 (50 U.S.C. 3517(b)) is amended to read as fol-
13 lows:

14 “(6) The provisions of title XII of the National Secu-
15 rity Act of 1947 shall apply to the Inspector General with
16 respect to the removal of the Inspector General and any
17 other matter relating to the Inspector General as specifi-
18 cally provided for in such title.”.

19 (c) OTHER ELEMENTS.—

20 (1) IN GENERAL.—Title XII of the National Se-
21 curity Act of 1947, as added by section 711, is fur-
22 ther amended by inserting after section 1203, as
23 added by section 712(a), the following new section:

1 **“SEC. 1205. COORDINATION WITH OTHER PROVISIONS OF**
 2 **LAW.**

3 “No provision of law that is inconsistent with any
 4 provision of this title shall be considered to supersede, re-
 5 peal, or otherwise modify a provision of this title unless
 6 such other provision of law specifically cites a provision
 7 of this title in order to supersede, repeal, or otherwise
 8 modify that provision of this title.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-
 10 tions at the beginning of the National Security Act
 11 of 1947 is amended by inserting after the item relat-
 12 ing to section 1203, as added by section 712, the
 13 following new item:

“Sec. 1205. Coordination with other provisions of law.”.

14 **Subtitle C—Congressional**
 15 **Notification**

16 **SEC. 721. SHORT TITLE.**

17 This subtitle may be cited as the “Inspector General
 18 Protection Act”.

19 **SEC. 722. CHANGE IN STATUS OF INSPECTOR GENERAL OF-**
 20 **FICES.**

21 (a) CHANGE IN STATUS OF INSPECTOR GENERAL OF
 22 OFFICE.—Paragraph (1) of section 3(b) of the Inspector
 23 General Act of 1978 (5 U.S.C. App.), as designated by
 24 section 702, is amended—

1 (1) by inserting “, is placed on paid or unpaid
2 non-duty status,” after “is removed from office”;

3 (2) by inserting “, change in status,” after
4 “any such removal”; and

5 (3) by inserting “, change in status,” after “be-
6 fore the removal”.

7 (b) CHANGE IN STATUS OF INSPECTOR GENERAL OF
8 DESIGNATED FEDERAL ENTITY.—Section 8G(e)(2) of the
9 Inspector General Act of 1978 (5 U.S.C. App.), as amend-
10 ed by section 703, is amended—

11 (1) by inserting “, is placed on paid or unpaid
12 non-duty status,” after “office”;

13 (2) by inserting “, change in status,” after
14 “any such removal”; and

15 (3) by inserting “, change in status,” after “be-
16 fore the removal”.

17 (c) EXCEPTION TO REQUIREMENT TO SUBMIT COM-
18 MUNICATION RELATING TO CERTAIN CHANGES IN STA-
19 TUS.—

20 (1) COMMUNICATION RELATING TO CHANGE IN
21 STATUS OF INSPECTOR GENERAL OF OFFICE.—Sec-
22 tion 3(b) of the Inspector General Act of 1978 (5
23 U.S.C. App.), as amended by section 702, is amend-
24 ed—

1 (A) in paragraph (1), by striking “If” and
2 inserting “Except as provided in paragraph (4),
3 if”; and

4 (B) by adding at the end the following:

5 “(4) If an Inspector General is placed on paid or un-
6 paid non-duty status, the President may submit the com-
7 munication described in paragraph (1) to Congress later
8 than 30 days before the Inspector General is placed on
9 paid or unpaid non-duty status, but in any case not later
10 than the date on which the placement takes effect, if—

11 “(A) the President determines that a delay in
12 placing the Inspector General on paid or unpaid
13 non-duty status would—

14 “(i) pose a threat to the Inspector General
15 or others;

16 “(ii) result in the destruction of evidence
17 relevant to an investigation; or

18 “(iii) result in loss of or damage to Gov-
19 ernment property; and

20 “(B) in the communication, the President in-
21 cludes—

22 “(i) a specification of which clause the
23 President relied on to make the determination
24 under subparagraph (A);

1 “(ii) the substantive rationale, including
2 detailed and case-specific reasons, for such de-
3 termination;

4 “(iii) if the President relied on an inquiry
5 to make such determination, an identification of
6 each entity that is conducting, or that con-
7 ducted, such inquiry; and

8 “(iv) if an inquiry described in clause (iii)
9 is completed, the findings of that inquiry.

10 “(5) The President may not place an Inspector Gen-
11 eral on paid or unpaid non-duty status during the 30-day
12 period preceding the date on which the Inspector General
13 is removed or transferred under paragraph (1) unless the
14 President—

15 “(A) determines that not placing the Inspector
16 General on paid or unpaid non-duty status would—

17 “(i) pose a threat to the Inspector General
18 or others;

19 “(ii) result in the destruction of evidence
20 relevant to an investigation; or

21 “(iii) result in loss of or damage to Gov-
22 ernment property; and

23 “(B) on or before the date on which the place-
24 ment takes effect, submits to the committee in the
25 Senate and the committee in the House of Rep-

1 representatives that has jurisdiction over the Inspector
2 General involved, the Committee on Homeland Security and Governmental Affairs of the Senate, and
3 the Committee on Oversight and Reform of the
4 House of Representatives a written communication
5 that contains—
6

7 “(i) a specification of which clause under
8 subparagraph (A) the President relied on to
9 make the determination under such subpara-
10 graph;

11 “(ii) the substantive rationale, including
12 detailed and case-specific reasons, for such de-
13 termination;

14 “(iii) if the President relied on an inquiry
15 to make such determination, an identification of
16 each entity that is conducting, or that con-
17 ducted, such inquiry; and

18 “(iv) if an inquiry described in clause (iii)
19 is completed, the findings of that inquiry.”.

20 (2) COMMUNICATION RELATING TO CHANGE IN
21 STATUS OF INSPECTOR GENERAL OF DESIGNATED
22 FEDERAL ENTITY.—Section 8G(e) of the Inspector
23 General Act of 1978 (5 U.S.C. App.), as amended
24 by section 702, is amended—

1 (A) in paragraph (2), by striking “If” and
2 inserting “Except as provided in paragraph (4),
3 if”; and

4 (B) by adding at the end the following:

5 “(4) If an Inspector General is placed on paid or un-
6 paid non-duty status, the head of the designated Federal
7 entity may submit the communication described in para-
8 graph (2) to Congress later than 30 days before the In-
9 spector General is placed on paid or unpaid non-duty sta-
10 tus, but in any case not later than the date on which the
11 placement takes effect, if—

12 “(A) the head of the designated Federal entity
13 determines that a delay in placing the Inspector
14 General on paid or unpaid non-duty status would—

15 “(i) pose a threat to the Inspector General
16 or others;

17 “(ii) result in the destruction of evidence
18 relevant to an investigation; or

19 “(iii) result in loss of or damage to Gov-
20 ernment property; and

21 “(B) in the communication, the head of the
22 designated Federal entity includes—

23 “(i) a specification of which clause under
24 subparagraph (A) the head of the designated

1 Federal entity relied on to make the determina-
2 tion under such subparagraph;

3 “(ii) the substantive rationale, including
4 detailed and case-specific reasons, for such de-
5 termination;

6 “(iii) if the head relied on an inquiry to
7 make such determination, an identification of
8 each entity that is conducting, or that con-
9 ducted, such inquiry; and

10 “(iv) if an inquiry described in clause (iii)
11 is completed, the findings of that inquiry.

12 “(5) The head of a designated Federal entity may
13 not place an Inspector General on paid or unpaid non-
14 duty status during the 30-day period preceding the date
15 on which the Inspector General is removed or transferred
16 under paragraph (2) unless the head of the designated
17 Federal entity—

18 “(A) determines that not placing the Inspector
19 General on paid or unpaid non-duty status would—

20 “(i) pose a threat to the Inspector General
21 or others;

22 “(ii) result in the destruction of evidence
23 relevant to an investigation; or

24 “(iii) result in loss of or damage to Gov-
25 ernment property; and

1 “(B) on or before the date on which the place-
2 ment takes effect, submits to the committee in the
3 Senate and the committee in the House of Rep-
4 resentatives that has jurisdiction over the Inspector
5 General involved, the Committee on Homeland Secu-
6 rity and Governmental Affairs of the Senate, and
7 the Committee on Oversight and Reform of the
8 House of Representatives a written communication
9 that contains—

10 “(i) a specification of which clause under
11 subparagraph (A) the head of the designated
12 Federal entity relied on to make the determina-
13 tion under such subparagraph;

14 “(ii) the substantive rationale, including
15 detailed and case-specific reasons, for such de-
16 termination;

17 “(iii) if the head of the designated Federal
18 entity relied on an inquiry to make such deter-
19 mination, an identification of each entity that is
20 conducting, or that conducted, such inquiry;
21 and

22 “(iv) if an inquiry described in clause (iii)
23 is completed, the findings of that inquiry.”.

24 (d) APPLICATION.—The amendments made by this
25 section shall apply with respect to removals, transfers, and

1 changes of status occurring on or after the date that is
2 30 days after the date of enactment of this Act.

3 **SEC. 723. PRESIDENTIAL EXPLANATION OF FAILURE TO**
4 **NOMINATE AN INSPECTOR GENERAL.**

5 (a) IN GENERAL.—Subchapter III of chapter 33 of
6 title 5, United States Code, is amended by inserting after
7 section 3349d the following:

8 **“§ 3349e. Presidential explanation of failure to nomi-**
9 **nate an Inspector General**

10 “If the President fails to make a formal nomination
11 for a vacant Inspector General position that requires a for-
12 mal nomination by the President to be filled within the
13 period beginning on the date on which the vacancy oc-
14 curred and ending on the day that is 210 days after that
15 date, the President shall communicate, within 30 days
16 after the end of such period, to Congress in writing—

17 “(1) the reasons why the President has not yet
18 made a formal nomination; and

19 “(2) a target date for making a formal nomina-
20 tion.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for chapter 33 of title 5, United States Code, is amended
23 by inserting after the item relating to 3349d the following:

“3349e. Presidential explanation of failure to nominate an Inspector General.”.

24 (c) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall take effect on the date of enactment

1 of this Act and shall apply to any vacancy first occurring
 2 on or after that date.

3 **TITLE VIII—PROTECTING** 4 **WHISTLEBLOWERS**

5 **SEC. 801. SHORT TITLE.**

6 This title may be cited as the “Whistleblower Protec-
 7 tion Improvement Act of 2021”.

8 **Subtitle A—Whistleblower** 9 **Protection Improvement**

10 **SEC. 811. ADDITIONAL WHISTLEBLOWER PROTECTIONS.**

11 (a) INVESTIGATIONS AS PERSONNEL ACTIONS.—

12 (1) IN GENERAL.—Section 2302(a)(2)(A) of
 13 title 5, United States Code, is amended—

14 (A) in clause (xi), by striking “and” at the
 15 end;

16 (B) by redesignating clause (xii) as clause
 17 (xiii); and

18 (C) by inserting after the clause (xi) the
 19 following:

20 “(xii) for purposes of subsection (b)(8)—

21 “(I) the commencement, expansion, or
 22 extension of an investigation, but not in-
 23 cluding any investigation that is ministerial
 24 or nondiscretionary (including a ministerial
 25 or nondiscretionary investigation described

1 in section 1213) or any investigation that
2 is conducted by an Inspector General of an
3 entity of the Government of an employee
4 not employed by the office of that Inspec-
5 tor General; and

6 “(II) a referral to an Inspector Gen-
7 eral of an entity of the Government, except
8 for a referral that is ministerial or nondis-
9 cretionary; and”.

10 (2) APPLICATION.—The amendment made by
11 paragraph (1) shall apply to any investigation com-
12 menced, expanded, or extended, or to any referral
13 made, as described under clause (xii) of section
14 2302(a)(2)(A) of title 5, United States Code, as
15 amended by such paragraph, on or after the date of
16 enactment of this Act.

17 (b) RIGHT TO PETITION CONGRESS.—

18 (1) IN GENERAL.—Section 2302(b)(9) of title
19 5, United States Code, is amended—

20 (A) in subparagraph (C), by striking “or”
21 at the end;

22 (B) in subparagraph (D), by adding “or”
23 after the semicolon at the end; and

24 (C) by adding at the end the following:

1 “(E) the exercise of any right protected
2 under section 7211;”.

3 (2) APPLICATION.—The amendment made by
4 paragraph (1) shall apply to the exercise of any
5 right described in subparagraph (E) of section
6 2302(b)(9) of title 5, United States Code, as added
7 by such paragraph (1), occurring on or after the
8 date of enactment of this Act.

9 (c) PROHIBITION ON DISCLOSURE OF WHISTLE-
10 BLOWER IDENTITY.—

11 (1) IN GENERAL.—Section 2302 of title 5,
12 United States Code, is amended by adding at the
13 end the following:

14 “(g)(1) No employee of an agency may willfully com-
15 municate or transmit to any individual who is not an offi-
16 cer or employee of the Government the identity of, or per-
17 sonally identifiable information about, any other employee
18 because that other employee has made, or is suspected to
19 have made, a disclosure protected by subsection (b)(8),
20 unless—

21 “(A) the other employee provides express writ-
22 ten consent prior to the communication or trans-
23 mission of their identity or personally identifiable in-
24 formation;

1 “(B) the communication or transmission is
2 made in accordance with the provisions of section
3 552a;

4 “(C) the communication or transmission is
5 made to a lawyer for the sole purpose of providing
6 legal advice to an employee accused of whistleblower
7 retaliation; or

8 “(D) the communication or transmission is re-
9 quired or permitted by any other provision of law.

10 “(2) In this subsection, the term ‘officer or employee
11 of the Government’ means—

12 “(A) the President;

13 “(B) a Member of Congress;

14 “(C) a member of the uniformed services;

15 “(D) an employee, as that term is defined in
16 section 2105, including an employee of the United
17 States Postal Service, the Postal Regulatory Com-
18 mission, or the Department of Veterans Affairs (in-
19 cluding any employee appointed pursuant to chapter
20 73 or 74 of title 38); and

21 “(E) any other officer or employee in any
22 branch of the Government of the United States.”.

23 (2) APPLICATION.—The amendment made by
24 paragraph (1) shall apply to any transmission or
25 communication described in subsection (g) of section

1 2302 of title 5, United States Code, as added by
2 such paragraph (1), made on or after the date of en-
3 actment of this Act.

4 (d) RIGHT TO PETITION CONGRESS.—

5 (1) IN GENERAL.—Section 7211 of title 5,
6 United States Code, is amended to read as follows:

7 **“§ 7211. Employees’ right to petition or furnish infor-**
8 **mation or respond to Congress**

9 “(a) IN GENERAL.—Each officer or employee of the
10 Federal Government, individually or collectively, has a
11 right to—

12 “(1) petition Congress or a Member of Con-
13 gress;

14 “(2) furnish information, documents, or testi-
15 mony to either House of Congress, any Member of
16 Congress, or any committee or subcommittee of Con-
17 gress; or

18 “(3) respond to any request for information,
19 documents, or testimony from either House of Con-
20 gress or any Committee or subcommittee of Con-
21 gress.

22 “(b) PROHIBITED ACTIONS.—No officer or employee
23 of the Federal Government may interfere with or deny the
24 right set forth in subsection (a), including by—

1 “(1) prohibiting or preventing, or attempting or
2 threatening to prohibit or prevent, any other officer
3 or employee of the Federal Government from engag-
4 ing in activity protected in subsection (a); or

5 “(2) removing, suspending from duty without
6 pay, demoting, reducing in rank, seniority, status,
7 pay, or performance or efficiency rating, denying
8 promotion to, relocating, reassigning, transferring,
9 disciplining, or discriminating in regard to any em-
10 ployment right, entitlement, or benefit, or any term
11 or condition of employment of, any other officer or
12 employee of the Federal Government or attempting
13 or threatening to commit any of the foregoing ac-
14 tions protected in subsection (a).

15 “(c) APPLICATION.—This section shall not be con-
16 strued to authorize disclosure of any information that is—

17 “(1) specifically prohibited from disclosure by
18 any other provision of Federal law; or

19 “(2) specifically required by Executive order to
20 be kept secret in the interest of national defense or
21 the conduct of foreign affairs, unless disclosure is
22 otherwise authorized by law.

23 “(d) DEFINITION OF OFFICER OR EMPLOYEE OF
24 THE FEDERAL GOVERNMENT.—For purposes of this sec-

1 tion, the term ‘officer or employee of the Federal Govern-
2 ment’ includes—

3 “(1) the President;

4 “(2) a Member of Congress;

5 “(3) a member of the uniformed services;

6 “(4) an employee (as that term is defined in
7 section 2105);

8 “(5) an employee of the United States Postal
9 Service or the Postal Regulatory Commission; and

10 “(6) an employee appointed under chapter 73
11 or 74 of title 38.”.

12 (2) CLERICAL AMENDMENT.—The table of sec-
13 tions for subchapter II of chapter 72 of title 5,
14 United States Code, is amended by striking the item
15 related to section 7211 and inserting the following:

“7211. Employees’ right to petition or furnish information or respond to Con-
gress.”.

16 **SEC. 812. ENHANCEMENT OF WHISTLEBLOWER PROTEC-**
17 **TIONS.**

18 (a) DISCLOSURES RELATING TO OFFICERS OR EM-
19 PLOYEES OF AN OFFICE OF INSPECTOR GENERAL.—Sec-
20 tion 1213(c) of title 5, United States Code, is amended
21 by adding at the end the following:

22 “(3) If the information transmitted under this sub-
23 section disclosed a violation of law, rule, or regulation, or
24 gross waste, gross mismanagement, abuse of authority, or

1 a substantial and specific danger to public health or safe-
2 ty, by any officer or employee of an Office of Inspector
3 General, the Special Counsel may refer the matter to the
4 Council of the Inspectors General on Integrity and Effi-
5 ciency, which shall comply with the standards and proce-
6 dures applicable to investigations and reports under this
7 subsection.”.

8 (b) RETALIATORY REFERRALS TO INSPECTORS GEN-
9 ERAL.—Section 1214(d) of title 5, United States Code,
10 is amended by adding at the end the following:

11 “(3) In any case in which the Special Counsel deter-
12 mines that a referral to an Inspector General of an entity
13 of the Federal Government was in retaliation for a disclo-
14 sure or protected activity described in section 2302(b)(8)
15 or in retaliation for exercising a right described in section
16 2302(b)(9)(A)(i), the Special Counsel shall transmit that
17 finding in writing to the Inspector General within 7 days
18 of making the finding. The Inspector General shall con-
19 sider that finding and make a determination on whether
20 to initiate an investigation or continue an investigation
21 based on the referral that the Special Counsel found to
22 be retaliatory.”.

23 (c) ENSURING TIMELY RELIEF.—

24 (1) INDIVIDUAL RIGHT OF ACTION.—Section
25 1221 of title 5, United States Code, is amended by

1 striking “section 2302(b)(8) or section
2 2302(b)(9)(A)(i), (B), (C), or (D),” each place it ap-
3 pears and inserting “section 2302(b)(8), section
4 2302(b)(9)(A)(i), (B), (C), (D), or (E), section
5 2302(b)(13), or section 2302(g),”.

6 (2) STAYS.—Section 1221(c)(2) of title 5,
7 United States Code, is amended to read as follows:

8 “(2) Any stay requested under paragraph (1) shall
9 be granted within 10 calendar days (excluding Saturdays,
10 Sundays, and legal holidays) after the date the request
11 is made, if the Board—

12 “(A) determines that there is a substantial like-
13 lihood that protected activity was a contributing fac-
14 tor to the personnel action involved; or

15 “(B) otherwise determines that such a stay
16 would be appropriate.”.

17 (3) APPEAL OF STAY.—Section 1221(c) of title
18 5, United States Code, is amended by adding at the
19 end the following:

20 “(4) If any stay requested under paragraph (1) is de-
21 nied, the employee, former employee, or applicant may,
22 within 7 days after receiving notice of the denial, file an
23 appeal for expedited review by the Board. The agency shall
24 have 7 days thereafter to respond. The Board shall provide
25 a decision not later than 21 days after receiving the ap-

1 peal. During the period of appeal, both parties may sup-
 2 plement the record with information unavailable to them
 3 at the time the stay was first requested.”.

4 (4) ACCESS TO DISTRICT COURT; JURY
 5 TRIALS.—

6 (A) IN GENERAL.—Section 1221(i) of title
 7 5, United States Code, is amended—

8 (i) by striking “(i) Subsections” and
 9 inserting “(i)(1) Subsections”; and

10 (ii) by adding at the end the fol-
 11 lowing:

12 “(2)(A) If, in the case of an employee, former em-
 13 ployee, or applicant for employment who seeks corrective
 14 action from the Merit Systems Protection Board based on
 15 an alleged prohibited personnel practice described in sec-
 16 tion 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D),
 17 or (E), section 2302(b)(13), or section 2302(g), no final
 18 order or decision is issued by the Board within 180 days
 19 after the date on which a request for such corrective action
 20 has been duly submitted to the Board, such employee,
 21 former employee, or applicant may, after providing written
 22 notice to the Special Counsel and the Board and only with-
 23 in 20 days after providing such notice, bring an action
 24 for review de novo before the appropriate United States
 25 district court, and such action shall, at the request of ei-

1 ther party to such action, be tried before a jury. Upon
2 filing of an action with the appropriate United States dis-
3 trict court, any proceedings before the Board shall cease
4 and the employee, former employee, or applicant for em-
5 ployment waives any right to refile with the Board.

6 “(B) If the Board certifies (in writing) to the parties
7 of a case that the complexity of such case requires a longer
8 period of review, subparagraph (A) shall be applied by
9 substituting ‘240 days’ for ‘180 days’.

10 “(C) In any such action brought before a United
11 States district court under subparagraph (A), the court—

12 “(i) shall apply the standards set forth in sub-
13 section (e); and

14 “(ii) may award any relief that the court con-
15 siders appropriate, including any relief described in
16 subsection (g).”.

17 (B) APPLICATION.—

18 (i) IN GENERAL.—The amendments
19 made by subparagraph (A) shall apply to
20 any corrective action duly submitted to the
21 Merit Systems Protection Board, during
22 the 5-year period preceding the date of en-
23 actment of this Act, by an employee,
24 former employee, or applicant for employ-
25 ment based on an alleged prohibited per-

1 sonnel practice described in section
2 2302(b)(8), 2302(b)(9)(A)(i), (B), (C), or
3 (D), or 2302(b)(13) of title 5, United
4 States Code, with respect to which no final
5 order or decision has been issued by the
6 Board.

7 (ii) LIMITATION.—In the case of an
8 individual described in clause (i) whose
9 duly submitted claim to the Merit Systems
10 Protection Board was made not later than
11 180 days before the date of enactment of
12 this Act, such individual may only bring an
13 action before a United States district court
14 as described in section 1221(i)(2) of title
15 5, United States Code (as added by sub-
16 paragraph (A)), if that individual—

17 (I) provides written notice to the
18 Office of Special Counsel and the
19 Merit Systems Protection Board not
20 later than 90 days after the date of
21 enactment of this Act; and

22 (II) brings such action not later
23 than 20 days after providing such no-
24 tice.

1 (d) RECIPIENTS OF WHISTLEBLOWER DISCLO-
2 SURES.—Section 2302(b)(8)(B) of title 5, United States
3 Code, is amended by striking “or to the Inspector General
4 of an agency or another employee designated by the head
5 of the agency to receive such disclosures” and inserting
6 “the Inspector General of an agency, a supervisor in the
7 employee’s direct chain of command up to and including
8 the head of the employing agency, or to an employee des-
9 ignated by any of the aforementioned individuals for the
10 purpose of receiving such disclosures”.

11 (e) ATTORNEY FEES.—

12 (1) IN GENERAL.—Section 7703(a) of title 5,
13 United States Code, is amended by adding at the
14 end the following:

15 “(3) If an employee, former employee, or applicant
16 for employment is the prevailing party under a proceeding
17 brought under this section, the employee, former em-
18 ployee, or applicant for employment shall be entitled to
19 attorney fees for all representation carried out pursuant
20 to this section. In such an action for attorney fees, the
21 agency responsible for taking the personnel action shall
22 be the respondent and shall be responsible for paying the
23 fees.”.

24 (2) APPLICATION.—In addition to any pro-
25 ceeding brought by an employee, former employee,

1 or applicant for employment on or after the date of
2 enactment of this Act to a Federal court under sec-
3 tion 7703 of title 5, United States Code, the amend-
4 ment made by paragraph (1) shall apply to any pro-
5 ceeding brought by an employee, former employee,
6 or applicant for employment under such section be-
7 fore the date of enactment of this Act with respect
8 to which the applicable Federal court has not issued
9 a final decision.

10 (f) EXTENDING WHISTLEBLOWER PROTECTION ACT
11 TO CERTAIN EMPLOYEES.—

12 (1) IN GENERAL.—Section 2302(a)(2)(A) of
13 title 5, United States Code, is amended in the mat-
14 ter following clause (xiii), as so redesignated by sec-
15 tion 811(a)(1)—

16 (A) by inserting “subsection (b)(9)(A)(i),
17 (B), (C), (D), or (E), subsection (b)(13), or
18 subsection (g),” after “subsection (b)(8),”; and

19 (B) by inserting after “title 31” the fol-
20 lowing: “, a commissioned officer or applicant
21 for employment in the Public Health Service,
22 an officer or applicant for employment in the
23 commissioned officer corps of the National Oce-
24 anic and Atmospheric Administration, or a non-

1 career appointee in the Senior Executive Serv-
2 ice”.

3 (2) CONFORMING AMENDMENTS.—Section 261
4 of the National Oceanic and Atmospheric Adminis-
5 tration Commissioned Officer Corps Act of 2002 (33
6 U.S.C. 3071) is amended—

7 (A) in subsection (a)—

8 (i) by striking paragraph (8); and

9 (ii) by redesignating paragraphs (9)
10 through (26) as paragraphs (8) through
11 (25), respectively;

12 (B) in subsection (b), by striking the sec-
13 ond sentence; and

14 (C) by striking subsection (c).

15 (3) APPLICATION.—

16 (A) IN GENERAL.—With respect to an offi-
17 cer or applicant for employment in the commis-
18 sioned officer corps of the National Oceanic and
19 Atmospheric Administration, the amendments
20 made by paragraphs (1) and (2) shall apply to
21 any personnel action taken against such officer
22 or applicant on or after the date of enactment
23 of the National Oceanic and Atmospheric Ad-
24 ministration Commissioned Officer Corps
25 Amendments Act of 2020 (Public Law 116–

1 259) for making any disclosure protected under
2 section 2302(b)(8) of title 5, United States
3 Code.

4 (B) EXCEPTION.—Subparagraph (A) shall
5 not apply to any personnel action with respect
6 to which an allegation has been submitted pur-
7 suant to section 1034 of title 10, United States
8 Code, and a final decision has been rendered re-
9 garding such allegation.

10 (C) DEFINITIONS.—In this paragraph, the
11 terms “disclosure” and “personnel action” have
12 the meanings given those terms in section
13 2302(a) of title 5, United States Code.

14 (g) RELIEF.—

15 (1) IN GENERAL.—Section 7701(b)(2)(A) of
16 title 5, United States Code, is amended by striking
17 “upon the making of the decision” and inserting
18 “upon making of the decision, necessary to make the
19 employee whole as if there had been no prohibited
20 personnel practice, including training, seniority, and
21 promotions consistent with the employee’s prior
22 record”.

23 (2) APPLICATION.—In addition to any appeal
24 made on or after the date of enactment of this Act
25 to the Merit Systems Protection Board under section

1 7701 of title 5, United States Code, the amendment
2 made by paragraph (1) shall apply to any appeal
3 made under such section before the date of enact-
4 ment of this Act with respect to which the Board
5 has not issued a final decision.

6 **SEC. 813. CLASSIFYING CERTAIN FURLOUGHS AS ADVERSE**
7 **PERSONNEL ACTIONS.**

8 (a) IN GENERAL.—Section 7512 of title 5, United
9 States Code, is amended—

10 (1) in paragraph (4), by striking “and” at the
11 end; and

12 (2) by striking paragraph (5) and inserting the
13 following:

14 “(5) a furlough of more than 14 days but less
15 than 30 days; and

16 “(6) a furlough of 13 days or less that is not
17 due to a lapse in appropriations;”.

18 (b) APPLICATION.—The amendment made by sub-
19 section (a) shall apply to any furlough covered by para-
20 graph (5) or (6) of section 7512 of title 5, United States
21 Code, as amended by such subsection, occurring on or
22 after the date of enactment of this Act.

1 **SEC. 814. CODIFICATION OF PROTECTIONS FOR DISCLO-**
2 **SURES OF CENSORSHIP RELATED TO RE-**
3 **SEARCH, ANALYSIS, OR TECHNICAL INFOR-**
4 **MATION.**

5 (a) IN GENERAL.—Section 2302 of title 5, United
6 States Code, as amended by section 811(c)(1), is further
7 amended by adding at the end the following:

8 “(h)(1) In this subsection—

9 “(A) the term ‘applicant’ means an applicant
10 for a covered position;

11 “(B) the term ‘censorship related to research,
12 analysis, or technical information’ means any effort
13 to distort, misrepresent, or suppress research, anal-
14 ysis, or technical information; and

15 “(C) the term ‘employee’ means an employee in
16 a covered position in an agency.

17 “(2)(A) Any disclosure of information by an employee
18 or applicant for employment that the employee or appli-
19 cant reasonably believes is evidence of censorship related
20 to research, analysis, or technical information—

21 “(i) shall come within the protections of sub-
22 section (b)(8)(A) if—

23 “(I) the employee or applicant reasonably
24 believes that the censorship related to research,
25 analysis, or technical information is or will
26 cause—

1 “(aa) any violation of law, rule, or
2 regulation; or

3 “(bb) gross mismanagement, a gross
4 waste of funds, an abuse of authority, or
5 a substantial and specific danger to public
6 health or safety; and

7 “(II) such disclosure is not specifically pro-
8 hibited by law or such information is not spe-
9 cifically required by Executive order to be kept
10 classified in the interest of national defense or
11 the conduct of foreign affairs; and

12 “(ii) shall come within the protections of sub-
13 section (b)(8)(B) if—

14 “(I) the employee or applicant reasonably
15 believes that the censorship related to research,
16 analysis, or technical information is or will
17 cause—

18 “(aa) any violation of law, rule, or
19 regulation; or

20 “(bb) gross mismanagement, a gross
21 waste of funds, an abuse of authority, or
22 a substantial and specific danger to public
23 health or safety; and

24 “(II) the disclosure is made to the Special
25 Counsel, or to the Inspector General of an

1 agency or another person designated by the
2 head of the agency to receive such disclosures,
3 consistent with the protection of sources and
4 methods.

5 “(3) A disclosure shall not be excluded from para-
6 graph (2) for any reason described under paragraph (1)
7 or (2) of subsection (f).

8 “(4) Nothing in this subsection shall be construed to
9 imply any limitation on the protections of employees and
10 applicants afforded by any other provision of law, includ-
11 ing protections with respect to any disclosure of informa-
12 tion believed to be evidence of censorship related to re-
13 search, analysis, or technical information.”.

14 (b) REPEAL.—

15 (1) IN GENERAL.—Section 110 of the Whistle-
16 blower Protection Enhancement Act of 2012 (5
17 U.S.C. 2302 note) is hereby repealed.

18 (2) RULE OF CONSTRUCTION.—Nothing in this
19 section shall be construed to limit or otherwise affect
20 any action under section 110 of the Whistleblower
21 Protection Enhancement Act of 2012 (5 U.S.C.
22 2302 note) commenced before the date of enactment
23 of this Act or any protections afforded by such sec-
24 tion with respect to such action.

1 **SEC. 815. TITLE 5 TECHNICAL AND CONFORMING AMEND-**
2 **MENTS.**

3 Title 5, United States Code, is amended—

4 (1) in section 1212(h), by striking “or (9)”
5 each place it appears and inserting “, (b)(9),
6 (b)(13), or (g)”;

7 (2) in section 1214—

8 (A) in subsections (a) and (b), by striking
9 “section 2302(b)(8) or section 2302(b)(9)(A)(i),
10 (B), (C), or (D)” each place it appears and in-
11 serting “section 2302(b)(8), section
12 2302(b)(9)(A)(i), (B), (C), (D), or (E), section
13 2302(b)(13), or section 2302(g)”;

14 (B) in subsection (i), by striking “section
15 2302(b)(8) or subparagraph (A)(i), (B), (C), or
16 (D) of section 2302(b)(9)” and inserting “sec-
17 tion 2302(b)(8), subparagraph (A)(i), (B), (C),
18 (D), or (E) of section 2302(b)(9), section
19 2302(b)(13), or section 2302(g)”;

20 (3) in section 1215(a)(3)(B), by striking “sec-
21 tion 2302(b)(8), or 2302(b)(9)(A)(i), (B), (C), or
22 (D)” each place it appears and inserting “section
23 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D),
24 or (E), section 2302(b)(13), or section 2302(g)”;

25 (4) in section 2302—

26 (A) in subsection (a)—

1 (i) in paragraph (1), by inserting “or
2 (g)” after “subsection (b)”; and

3 (ii) in paragraph (2)(C)(i), by striking
4 “subsection (b)(8) or section
5 2302(b)(9)(A)(i), (B), (C), or (D)” and in-
6 serting “section 2302(b)(8), section
7 2302(b)(9)(A)(i), (B), (C), (D), or (E),
8 section 2302(b)(13), or section 2302(g)”;
9 and

10 (B) in subsection (c)(1)(B), by striking
11 “paragraph (8) or subparagraph (A)(i), (B),
12 (C), or (D) of paragraph (9) of subsection (b)”
13 and inserting “paragraph (8), subparagraph
14 (A)(i), (B), (C), or (D) of paragraph (9), or
15 paragraph (13), of subsection (b), or subsection
16 (g)”;

17 (5) in section 7515(a)(2), by striking “para-
18 graph (8), (9), or (14) of section 2302(b)” and in-
19 serting “paragraph (8), (9), (13), or (14) of section
20 2302(b) or section 2302(g)”;

21 (6) in section 7701(c)(2)(B), by inserting “or
22 section 2302(g)” after “section 2302(b)”; and

23 (7) in section 7703(b)(1)(B), by striking “sec-
24 tion 2302(b)(8), or 2302(b)(9)(A)(i), (B), (C), or
25 (D)” and inserting “section 2302(b)(8), section

1 2302(b)(9)(A)(i), (B), (C), (D), or (E), section
 2 2302(b)(13), or section 2302(g)”.

3 **Subtitle B—Whistleblowers of the**
 4 **Intelligence Community**

5 **SEC. 821. LIMITATION ON SHARING OF INTELLIGENCE**
 6 **COMMUNITY WHISTLEBLOWER COMPLAINTS**
 7 **WITH PERSONS NAMED IN SUCH COM-**
 8 **PLAINTS.**

9 (a) IN GENERAL.—Title XII of the National Security
 10 Act of 1947, as added by section 711, is further amended
 11 by inserting after section 1205, as added by section
 12 713(e), the following new subtitle:

13 **“Subtitle B—Protections for**
 14 **Whistleblowers**

15 **“SEC. 1223. LIMITATION ON SHARING OF INTELLIGENCE**
 16 **COMMUNITY WHISTLEBLOWER COMPLAINTS**
 17 **WITH PERSONS NAMED IN SUCH COM-**
 18 **PLAINTS.**

19 “(a) WHISTLEBLOWER DISCLOSURE INFORMATION
 20 DEFINED.—In this section, the term ‘whistleblower disclo-
 21 sure information’ means, with respect to a whistleblower
 22 disclosure—

23 “(1) the disclosure;

24 “(2) confirmation of the fact of the existence of
 25 the disclosure; or

1 “(3) the identity, or other identifying informa-
2 tion, of the whistleblower who made the disclosure.

3 “(b) IN GENERAL.—It shall be unlawful for any em-
4 ployee or officer of the Federal Government to knowingly
5 and willfully share any whistleblower disclosure informa-
6 tion with any individual named as a subject of the whistle-
7 blower disclosure and alleged in the disclosure to have en-
8 gaged in misconduct, unless—

9 “(1) the whistleblower consented, in writing, to
10 such sharing before the sharing occurs;

11 “(2) a covered Inspector General to whom such
12 disclosure is made—

13 “(A) determines that such sharing is nec-
14 essary to advance an investigation, audit, in-
15 spection, review, or evaluation by the Inspector
16 General; and

17 “(B) notifies the whistleblower of such
18 sharing before the sharing occurs; or

19 “(3) an attorney for the Government—

20 “(A) determines that such sharing is nec-
21 essary to advance an investigation by the attor-
22 ney; and

23 “(B) notifies the whistleblower of such
24 sharing before the sharing occurs.”.

25 (b) TECHNICAL AND CLERICAL AMENDMENTS.—

1 (1) TRANSFER.—The National Security Act of
2 1947 (50 U.S.C. 3001 et seq.) is amended as fol-
3 lows:

4 (A) Section 1104 is—

5 (i) transferred to title XII of such
6 Act, as added by section 711;

7 (ii) inserted before section 1223 of
8 such Act, as added by this section; and

9 (iii) redesignated as section 1221.

10 (B) Section 1106 is—

11 (i) amended by striking “section
12 1104” each place it appears and inserting
13 “section 1221”;

14 (ii) transferred to title XII of such
15 Act, as added by section 711;

16 (iii) inserted after section 1223 of
17 such Act, as added by this section; and

18 (iv) redesignated as section 1225.

19 (2) CLERICAL AMENDMENTS.—The table of sec-
20 tions at the beginning of the National Security Act
21 of 1947 is amended—

22 (A) by striking the items relating to sec-
23 tion 1104 and section 1106; and

24 (B) by inserting after the item relating to
25 section 1205 the following new items:

“SUBTITLE B—PROTECTIONS FOR WHISTLEBLOWERS

“Sec. 1221. Prohibited personnel practices in the intelligence community.

“Sec. 1223. Limitation on sharing of intelligence community whistleblower complaints with persons named in such complaints.

“Sec. 1225. Inspector General external review panel.”.

1 (c) DEFINITIONS.—Section 3 of such Act (50 U.S.C.
2 3003), as amended by section 711, is further amended by
3 adding at the end the following new paragraphs:

4 “(9) The term ‘whistleblower’ means a person
5 who makes a whistleblower disclosure.

6 “(10) The term ‘whistleblower disclosure’
7 means a disclosure that is protected under section
8 1221 of this Act or section 3001(j)(1) of the Intel-
9 ligence Reform and Terrorism Prevention Act of
10 2004 (50 U.S.C. 3341(j)).”.

11 (d) CONFORMING AMENDMENT.—Section 5331 of the
12 Damon Paul Nelson and Matthew Young Pollard Intel-
13 ligence Authorization Act for Fiscal Years 2018, 2019,
14 and 2020 (division E of Public Law 116–92; 50 U.S.C.
15 3033 note) is amended by striking “section 1104 of the
16 National Security Act of 1947 (50 U.S.C. 3234)” and in-
17 serting “section 1221 of the National Security Act of
18 1947”.

19 **SEC. 822. DISCLOSURES TO CONGRESS.**

20 (a) IN GENERAL.—Title XII of the National Security
21 Act of 1947, as added by section 711, is further amended
22 by inserting after section 1225, as designated by section
23 821(b), the following new section:

1 **“SEC. 1227. PROCEDURES REGARDING DISCLOSURES TO**
2 **CONGRESS.**

3 “(a) GUIDANCE.—

4 “(1) OBLIGATION TO PROVIDE SECURITY DI-
5 RECTION UPON REQUEST.—Upon the request of a
6 whistleblower, the head of the relevant element of
7 the intelligence community, acting through the cov-
8 ered Inspector General for that element, shall fur-
9 nish on a confidential basis to the whistleblower in-
10 formation regarding how the whistleblower may di-
11 rectly contact the congressional intelligence commit-
12 tees, in accordance with appropriate security prac-
13 tices, regarding a complaint or information of the
14 whistleblower pursuant to section 103H(k)(5)(D) or
15 other appropriate provision of law.

16 “(2) NONDISCLOSURE.—Unless a whistleblower
17 who makes a request under paragraph (1) provides
18 prior consent, a covered Inspector General may not
19 disclose to the head of the relevant element of the
20 intelligence community—

21 “(A) the identity of the whistleblower; or

22 “(B) the element at which such whistle-
23 blower is employed, detailed, or assigned as a
24 contractor employee.

25 “(b) OVERSIGHT OF OBLIGATION.—If a covered In-
26 spector General determines that the head of an element

1 of the intelligence community denied a request by a whis-
2 tleblower under subsection (a), directed the whistleblower
3 not to contact the congressional intelligence committees,
4 or unreasonably delayed in providing information under
5 such subsection, the covered Inspector General shall notify
6 the congressional intelligence committees of such denial,
7 direction, or unreasonable delay.

8 “(c) PERMANENT SECURITY OFFICER.—The head of
9 each element of the intelligence community may designate
10 a permanent security officer in the element to provide to
11 whistleblowers the information under subsection (a).”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of the National Security Act of 1947 is
14 amended by inserting after the item relating to section
15 1225, as added by section 821(b), the following new item:

“Sec. 1227. Procedures regarding disclosures to Congress.”.

16 (c) CONFORMING AMENDMENT.—Section
17 103H(k)(5)(D)(i) of the National Security Act of 1947
18 (50 U.S.C. 3033(k)(5)(D)(i)) is amended by adding at the
19 end the following: “The employee may request information
20 pursuant to section 1227 with respect to contacting such
21 committees.”.

1 **SEC. 823. PROHIBITION AGAINST DISCLOSURE OF WHIS-**
2 **TLBLOWER IDENTITY AS REPRISAL**
3 **AGAINST WHISTLEBLOWER DISCLOSURE BY**
4 **EMPLOYEES AND CONTRACTORS IN INTEL-**
5 **LIGENCE COMMUNITY.**

6 (a) IN GENERAL.—Paragraph (3) of subsection (a)
7 of section 1221 of the National Security Act of 1947, as
8 designated by section 821(b)(1)(A), is amended—

9 (1) in subparagraph (I), by striking “; or” and
10 inserting a semicolon;

11 (2) by redesignating subparagraph (J) as sub-
12 paragraph (K); and

13 (3) by inserting after subparagraph (I) the fol-
14 lowing:

15 “(J) a knowing and willful disclosure re-
16 vealing the identity or other personally identifi-
17 able information of such employee or such con-
18 tractor employee without the express written
19 consent of such employee or such contractor
20 employee or if the Inspector General determines
21 such disclosure is necessary for the exclusive
22 purpose of investigating a complaint or infor-
23 mation received under section 8H of the Inspec-
24 tor General Act of 1978 (5 U.S.C. App. 8H);
25 or”.

1 (b) APPLICABILITY TO DETAILEES.—Such subsection
2 is amended by adding at the end the following:

3 “(5) EMPLOYEE.—The term ‘employee’, with
4 respect to an agency or a covered intelligence com-
5 munity element, includes an individual who has been
6 detailed to such agency or covered intelligence com-
7 munity element.”.

8 (c) PRIVATE RIGHT OF ACTION FOR UNLAWFUL DIS-
9 CLOSURE OF WHISTLEBLOWER IDENTITY.—Subsection
10 (d) of such section is amended to read as follows:

11 “(d) ENFORCEMENT.—

12 “(1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection, the President shall provide
14 for the enforcement of this section.

15 “(2) PRIVATE RIGHT OF ACTION FOR UNLAW-
16 FUL, WILLFUL DISCLOSURE OF WHISTLEBLOWER
17 IDENTITY.—In a case in which an employee of an
18 agency, or other employee or officer of the Federal
19 Government, takes a personnel action described in
20 subsection (a)(3)(J) against an employee of a cov-
21 ered intelligence community element as a reprisal in
22 violation of subsection (b) or in a case in which a
23 contractor employee takes a personnel action de-
24 scribed in such subsection against another con-
25 tractor employee as a reprisal in violation of sub-

1 section (c), the employee or contractor employee
 2 against whom the personnel action was taken may
 3 bring a private action for all appropriate remedies,
 4 including injunctive relief and compensatory and pu-
 5 nitive damages, against the employee or contractor
 6 employee who took the personnel action, in a Fed-
 7 eral district court of competent jurisdiction within
 8 180 days of when the employee or contractor em-
 9 ployee first learned of or should have learned of the
 10 violation.”.

11 **TITLE IX—ACCOUNTABILITY**
 12 **FOR ACTING OFFICIALS**

13 **SEC. 901. SHORT TITLE.**

14 This title may be cited as the “Accountability for Act-
 15 ing Officials Act”.

16 **SEC. 902. CLARIFICATION OF FEDERAL VACANCIES RE-**
 17 **FORM ACT OF 1998.**

18 (a) **ELIGIBILITY REQUIREMENTS.**—Section 3345 of
 19 title 5, United States Code, is amended as follows:

20 (1) In subsection (a)—

21 (A) in paragraph (1), by adding before the
 22 semicolon at the end the following: “, but, and
 23 except as provided in subsection (e), only if the
 24 individual serving in the position of first assist-
 25 ant has occupied such position for a period of

1 at least 30 days during the 365-day period pre-
2 ceeding the date of the death, resignation, or be-
3 ginning of inability to serve of the applicable of-
4 ficer”; and

5 (B) by striking subparagraph (A) of para-
6 graph (3) and inserting the following:

7 “(A) the officer or employee served in a
8 position in such agency for a period of at least
9 1 year preceding the date of death, resignation,
10 or beginning of inability to serve of the applica-
11 ble officer; and”.

12 (2) By adding at the end the following:

13 “(d) For purposes of this section, a position shall be
14 considered to be the first assistant to the office with re-
15 spect to which a vacancy occurs only if such position has
16 been designated, at least 30 days before the date of the
17 vacancy, by law, rule, or regulation as the first assistant
18 position. The previous sentence shall begin to apply on the
19 date that is 180 days after the date of enactment of the
20 Accountability for Acting Officials Act.

21 “(e) The 30-day service requirement in subsection
22 (a)(1) shall not apply to any individual who is a first as-
23 sistant if—

24 “(1)(A) the office of such first assistant is an
25 office for which appointment is required to be made

1 by the President, by and with the advice and consent
2 of the Senate; and

3 “(B) the Senate has approved the appointment
4 of such individual to such office; or

5 “(2) the individual began serving in the position
6 of first assistant during the 180-day period begin-
7 ning on a transitional inauguration day (as that
8 term is defined in section 3349a(a)).”.

9 (b) QUALIFICATIONS.—Section 3345(b) of title 5,
10 United States Code, is amended by adding at the end the
11 following:

12 “(3) Any individual directed to perform the functions
13 and duties of the vacant office temporarily in an acting
14 capacity under subsection (a)(2) or (f) shall possess the
15 qualifications (if any) set forth in law, rule, or regulation
16 that are otherwise applicable to an individual appointed
17 by the President, by and with the advice and consent of
18 the Senate, to occupy such office.”.

19 (c) APPLICATION TO INDIVIDUALS REMOVED FROM
20 OFFICE.—Paragraph (2) of section 3345(c) of title 5,
21 United States Code, is amended by inserting after “the
22 expiration of a term of office” the following: “or removal
23 (voluntarily or involuntarily) from office”.

24 (d) VACANCY OF INSPECTOR GENERAL POSITIONS.—

1 (1) IN GENERAL.—Section 3345 of title 5,
2 United States Code, as amended by subsection
3 (a)(2), is further amended by adding at the end the
4 following:

5 “(f)(1) Notwithstanding subsection (a), if an Inspec-
6 tor General position that requires appointment by the
7 President by and with the advice and consent of the Sen-
8 ate to be filled is vacant, the first assistant of such posi-
9 tion shall perform the functions and duties of the Inspec-
10 tor General temporarily in an acting capacity subject to
11 the time limitations of section 3346.

12 “(2) Notwithstanding subsection (a), if, for purposes
13 of carrying out paragraph (1) of this subsection, by reason
14 of absence, disability, or vacancy, the first assistant to the
15 position of Inspector General is not available to perform
16 the functions and duties of the Inspector General, an act-
17 ing Inspector General shall be appointed by the President
18 from among individuals serving in an office of any Inspec-
19 tor General, provided that—

20 “(A) during the 365-day period preceding the
21 date of death, resignation, or beginning of inability
22 to serve of the applicable Inspector General, the in-
23 dividual served in a position in an office of any In-
24 spector General for not less than 90 days; and

1 “(B) the rate of pay for the position of such in-
2 dividual is equal to or greater than the minimum
3 rate of pay payable for a position at GS-15 of the
4 General Schedule.”.

5 (2) APPLICATION.—The amendment made by
6 paragraph (1) shall apply to any vacancy first occur-
7 ring with respect to an Inspector General position on
8 or after the date of enactment of this Act.

9 (e) TESTIMONY OF ACTING OFFICIALS BEFORE CON-
10 GRESS.—Section 3345 of title 5, United States Code, as
11 amended by subsection (d)(1), is further amended by add-
12 ing at the end the following:

13 “(g)(1) Any individual serving as an acting officer
14 due to a vacancy to which this section applies, or any indi-
15 vidual who has served in such capacity and continues to
16 perform the same or similar duties beyond the time limits
17 described in section 3346, shall appear, at least once dur-
18 ing any 60-day period that the individual is so serving,
19 before the appropriate committees of jurisdiction of the
20 Senate and the House of Representatives.

21 “(2) Paragraph (1) may be waived upon mutual
22 agreement of the chairs and ranking members of such
23 committees.”.

24 (f) TIME LIMITATION FOR PRINCIPAL OFFICES.—
25 Section 3346 of title 5, United States Code, is amended—

1 (1) in subsection (a), by inserting “or as pro-
2 vided in subsection (d)” after “sickness”; and

3 (2) by adding at the end the following:

4 “(d) With respect to the vacancy of the position of
5 head of any agency listed in section 901(b) of title 31 (or
6 of any other Executive department) and to which this sec-
7 tion applies, subsections (a) through (c) of this section and
8 sections 3348(c), 3349(b), and 3349a(b) shall be applied
9 by substituting ‘120’ for ‘210’ in each instance.”.

10 (g) EXCLUSIVITY.—Section 3347 of title 5, United
11 States Code, is amended—

12 (1) by redesignating subsection (b) as sub-
13 section (c); and

14 (2) by inserting after subsection (a) the fol-
15 lowing:

16 “(b) Notwithstanding subsection (a), any statutory
17 provision covered under paragraph (1) of such subsection
18 that contains a non-discretionary order or directive to des-
19 ignate an officer or employee to perform the functions and
20 duties of a specified office temporarily in an acting capac-
21 ity shall be the exclusive means for temporarily author-
22 izing an acting official to perform the functions and duties
23 of such office.”.

24 (h) REPORTING OF VACANCIES.—

1 (1) IN GENERAL.—Section 3349 of title 5,
2 United States Code, is amended—

3 (A) in subsection (a)—

4 (i) by striking “immediately upon” in
5 each instance and inserting “not later than
6 7 days after”;

7 (ii) in paragraph (3), by striking
8 “and” at the end;

9 (iii) in paragraph (4), by striking the
10 period at the end and inserting “; and”;
11 and

12 (iv) by adding at the end the fol-
13 lowing:

14 “(5) notification of the end of the term of serv-
15 ice of any person serving in an acting capacity and
16 the name of any subsequent person serving in an
17 acting capacity and the date the service of such sub-
18 sequent person began not later than 7 days after
19 such date.”; and

20 (B) in subsection (b), by striking “imme-
21 diately” and inserting “not later than 14 days
22 after the date of such determination”.

23 (2) TECHNICAL CORRECTIONS.—Paragraphs
24 (1) and (2) of subsection (b) of section 3349 of title

1 5, United States Code, are amended to read as fol-
2 lows:

3 “(1) the Committee on Homeland Security and
4 Governmental Affairs of the Senate;

5 “(2) the Committee on Oversight and Reform
6 of the House of Representatives;”.

7 (i) VACANCIES DURING PRESIDENTIAL INAUGURAL
8 TRANSITIONS.—Section 3349a(b) of title 5, United States
9 Code, is amended to read as follows:

10 “(b) Notwithstanding section 3346 (except as pro-
11 vided in paragraph (2) of this subsection) or 3348(c), with
12 respect to any vacancy that exists on a transitional inau-
13 guration day, or that arises during the 60-day period be-
14 ginning on such day, the person serving as an acting offi-
15 cer as described under section 3345 may serve in the of-
16 fice—

17 “(1) for no longer than 300 days beginning on
18 such day; or

19 “(2) subject to section 3346(b), once a first or
20 second nomination for the office is submitted to the
21 Senate, from the date of such nomination for the pe-
22 riod that the nomination is pending in the Senate.”.

1 **TITLE X—STRENGTHENING**
2 **HATCH ACT ENFORCEMENT**
3 **AND PENALTIES**

4 **SEC. 1001. SHORT TITLE.**

5 This title may be cited as the “Hatch Act Account-
6 ability Act”.

7 **SEC. 1002. STRENGTHENING HATCH ACT ENFORCEMENT**
8 **AND PENALTIES AGAINST POLITICAL AP-**
9 **POINTEES.**

10 (a) INVESTIGATIONS BY OFFICE OF SPECIAL COUN-
11 SEL.—Section 1216 of title 5, United States Code, as
12 amended by section 307, is amended—

- 13 (1) in subsection (c), by striking “(1),”; and
14 (2) by adding at the end the following:

15 “(e)(1) In addition to the authority otherwise pro-
16 vided in this chapter, the Special Counsel may, regardless
17 of whether the Special Counsel has received an allegation,
18 conduct any investigation as the Special Counsel considers
19 necessary concerning political activity prohibited under
20 such subchapter.

21 “(2) With respect to any investigation under para-
22 graph (1), the Special Counsel may seek corrective action
23 under section 1214 and disciplinary action under section
24 1215 in the same way as if a prohibited personnel practice
25 were involved.

1 “(f)(1) Notwithstanding section 1215(b), consistent
2 with paragraph (3) of this subsection, if, after an inves-
3 tigation under subsection (d)(1), the Special Counsel de-
4 termines that a political appointee has violated section
5 7323 or 7324, the Special Counsel may present a com-
6 plaint to the Merit Systems Protection Board under the
7 process provided in section 1215, against such political ap-
8 pointee.

9 “(2) Notwithstanding section 7326, a final order of
10 the Board on a complaint of a violation of section 7323
11 or 7324 by a political appointee may impose an assess-
12 ment of a civil penalty not to exceed \$50,000.

13 “(3) The Special Counsel may not present a com-
14 plaint under paragraph (1) of this subsection—

15 “(A) unless no disciplinary action or civil pen-
16 alty has been taken or assessed, respectively, against
17 the political appointee pursuant to section 7326; and

18 “(B) until on or after the date that is 90 days
19 after the date that the complaint regarding the polit-
20 ical appointee was presented to the President under
21 section 1215(b), notwithstanding whether the Presi-
22 dent submits a written statement pursuant to para-
23 graph (4) of this subsection.

24 “(4)(A) Not later than 90 days after receiving from
25 the Special Counsel a complaint recommending discipli-

1 nary action under section 1215(b) with respect to a polit-
2 ical appointee for a violation of section 7323 or 7324, the
3 President shall provide a written statement to the Special
4 Counsel on whether the President imposed the rec-
5 ommended disciplinary action, imposed another form of
6 disciplinary action and the nature of that disciplinary ac-
7 tion, or took no disciplinary action against the political
8 appointee.

9 “(B) Not later than 14 days after receiving a written
10 statement under subparagraph (A) of this paragraph—

11 “(i) the Special Counsel shall submit the writ-
12 ten statement to the Committee on Homeland Secu-
13 rity and Governmental Affairs of the Senate and the
14 Committee on Oversight and Reform of the House
15 of Representatives; and

16 “(ii) publish the written statement on the public
17 website of the Office of Special Counsel.

18 “(5) Not later than 14 days after the date that the
19 Special Counsel determines a political appointee has vio-
20 lated section 7323 or 7324, the Special Counsel shall—

21 “(A) submit a report on the investigation into
22 such political appointee, and any communications
23 sent from the Special Counsel to the President rec-
24 ommending discipline of such political appointee, to
25 the Committee on Homeland Security and Govern-

1 mental Affairs of the Senate and the Committee on
2 Oversight and Reform of the House of Representa-
3 tives; and

4 “(B) publish the report and such communica-
5 tions on the public website of the Office of Special
6 Counsel.

7 “(6) In this subsection, the term ‘political appointee’
8 means any individual, other than the President and the
9 Vice-President, employed or holding office—

10 “(A) in the Executive Office of the President,
11 the Office of the Vice President, and any other office
12 of the White House, but not including any career
13 employee; or

14 “(B) in a confidential, policy-making, policy-de-
15 termining, or policy-advocating position appointed by
16 the President, by and with the advice and consent
17 of the Senate (other than an individual in the For-
18 eign Service of the United States).”.

19 (b) CLARIFICATION ON APPLICATION OF HATCH ACT
20 TO EOP AND OVP EMPLOYEES.—Section 7322(1)(A) of
21 title 5, United States Code, is amended by inserting after
22 “Executive agency” the following: “, including the Execu-
23 tive Office of the President, the Office of the Vice Presi-
24 dent, and any other office of the White House,”.

1 **TITLE XI—PROMOTING EFFI-**
2 **CIENT PRESIDENTIAL TRAN-**
3 **SITIONS**

4 **SEC. 1101. SHORT TITLE.**

5 This title may be cited as the “Efficient Transition
6 Act of 2021”.

7 **SEC. 1102. ASCERTAINMENT OF SUCCESSFUL CANDIDATES**
8 **IN GENERAL ELECTIONS FOR PURPOSES OF**
9 **PRESIDENTIAL TRANSITION.**

10 (a) IN GENERAL.—Section 3(c) of the Presidential
11 Transition Act of 1963 (3 U.S.C. 102 note) is amended—

12 (1) by striking “The terms” and inserting “(1)
13 The terms”; and

14 (2) by adding at the end the following:

15 “(2) The Administrator shall make the ascertainment
16 under paragraph (1) as soon as practicable after the gen-
17 eral elections.

18 “(3) If the Administrator does not make such ascer-
19 tainment within 5 days after such elections, each eligible
20 candidate (as defined in subsection (h)(4)) shall be treated
21 as if the eligible candidate is the apparent successful can-
22 didate for purposes of this Act until the Administrator
23 makes the ascertainment or until the House of Represent-
24 atives and the Senate certify the results of the elections,
25 whichever occurs first.”.

1 (b) REGULATIONS.—Not later than 270 days after
 2 the date of enactment of this Act, the Administrator of
 3 General Services shall promulgate regulations that estab-
 4 lish standards and procedures to be followed by the Ad-
 5 ministrator in making an ascertainment under section 3(c)
 6 of the Presidential Transition Act of 1963 (3 U.S.C. 102
 7 note), as amended by subsection (a).

8 **TITLE XII—PRESIDENTIAL AND**
 9 **VICE PRESIDENTIAL TAX**
 10 **TRANSPARENCY**

11 **SEC. 1201. PRESIDENTIAL AND VICE PRESIDENTIAL TAX**
 12 **TRANSPARENCY.**

13 (a) DEFINITIONS.—In this section—

14 (1) The term “covered candidate” means a can-
 15 didate of a major party in a general election for the
 16 office of President or Vice President.

17 (2) The term “income tax return” means, with
 18 respect to an individual, any return (as such term is
 19 defined in section 6103(b)(1) of the Internal Rev-
 20 enue Code of 1986, except that such term shall not
 21 include declarations of estimated tax) of—

22 (A) such individual, other than information
 23 returns issued to persons other than such indi-
 24 vidual; or

1 (B) of any corporation, partnership, or
2 trust in which such individual holds, directly or
3 indirectly, a significant interest as the sole or
4 principal owner or the sole or principal bene-
5 ficial owner (as such terms are defined in regu-
6 lations prescribed by the Secretary).

7 (3) The term “major party” has the meaning
8 given the term in section 9002 of the Internal Rev-
9 enue Code of 1986.

10 (4) The term “Secretary” means the Secretary
11 of the Treasury or the delegate of the Secretary.

12 (b) DISCLOSURE.—

13 (1) IN GENERAL.—

14 (A) CANDIDATES FOR PRESIDENT AND
15 VICE PRESIDENT.—Not later than the date that
16 is 15 days after the date on which an individual
17 becomes a covered candidate, the individual
18 shall submit to the Federal Election Commis-
19 sion a copy of the individual’s income tax re-
20 turns for the 10 most recent taxable years for
21 which a return has been filed with the Internal
22 Revenue Service.

23 (B) PRESIDENT AND VICE PRESIDENT.—
24 With respect to an individual who is the Presi-
25 dent or Vice President, not later than the due

1 date for the return of tax for each taxable year,
2 such individual shall submit to the Federal
3 Election Commission a copy of the individual's
4 income tax returns for the taxable year and for
5 the 9 preceding taxable years.

6 (C) TRANSITION RULE FOR SITTING PRESI-
7 DENTS AND VICE PRESIDENTS.—Not later than
8 the date that is 30 days after the date of enact-
9 ment of this section, an individual who is the
10 President or Vice President on such date of en-
11 actment shall submit to the Federal Election
12 Commission a copy of the income tax returns
13 for the 10 most recent taxable years for which
14 a return has been filed with the Internal Rev-
15 enue Service.

16 (2) FAILURE TO DISCLOSE.—If any require-
17 ment under paragraph (1) to submit an income tax
18 return is not met, the chairman of the Federal Elec-
19 tion Commission shall submit to the Secretary a
20 written request that the Secretary provide the Fed-
21 eral Election Commission with the income tax re-
22 turn.

23 (3) PUBLICLY AVAILABLE.—The chairman of
24 the Federal Election Commission shall make publicly
25 available each income tax return submitted under

1 paragraph (1) in the same manner as a return pro-
2 vided under section 6103(l)(23) of the Internal Rev-
3 enue Code of 1986 (as added by this section).

4 (4) TREATMENT AS A REPORT UNDER THE
5 FEDERAL ELECTION CAMPAIGN ACT OF 1971.—For
6 purposes of the Federal Election Campaign Act of
7 1971, any income tax return submitted under para-
8 graph (1) or provided under section 6103(l)(23) of
9 the Internal Revenue Code of 1986 (as added by
10 this section) shall, after redaction under paragraph
11 (3) or subparagraph (B)(ii) of such section, be treat-
12 ed as a report filed under the Federal Election Cam-
13 paign Act of 1971.

14 (c) DISCLOSURE OF RETURNS OF PRESIDENTS AND
15 VICE PRESIDENTS AND CERTAIN CANDIDATES FOR
16 PRESIDENT AND VICE PRESIDENT.—

17 (1) IN GENERAL.—Section 6103(l) of the Inter-
18 nal Revenue Code of 1986 is amended by adding at
19 the end the following new paragraph:

20 “(23) DISCLOSURE OF RETURN INFORMATION
21 OF PRESIDENTS AND VICE PRESIDENTS AND CER-
22 TAIN CANDIDATES FOR PRESIDENT AND VICE PRESI-
23 DENT.—

24 “(A) IN GENERAL.—Upon written request
25 by the chairman of the Federal Election Com-

1 mission under section 1201(b)(2) of the Pro-
2 tecting Our Democracy Act, not later than the
3 date that is 15 days after the date of such re-
4 quest, the Secretary shall provide copies of any
5 return which is so requested to officers and em-
6 ployees of the Federal Election Commission
7 whose official duties include disclosure or redac-
8 tion of such return under this paragraph.

9 “(B) DISCLOSURE TO THE PUBLIC.—

10 “(i) IN GENERAL.—The chairman of
11 the Federal Election Commission shall
12 make publicly available any return which is
13 provided under subparagraph (A).

14 “(ii) REDACTION OF CERTAIN INFOR-
15 MATION.—Before making publicly available
16 under clause (i) any return, the chairman
17 of the Federal Election Commission shall
18 redact such information as the Federal
19 Election Commission and the Secretary
20 jointly determine is necessary for pro-
21 tecting against identity theft, such as so-
22 cial security numbers.”.

23 (2) CONFORMING AMENDMENTS.—Section
24 6103(p)(4) of such Code is amended—

1 (A) in the matter preceding subparagraph
 2 (A) by striking “or (22)” and inserting “(22),
 3 or (23)”; and

4 (B) in subparagraph (F)(ii) by striking “or
 5 (22)” and inserting “(22), or (23)”.

6 (3) EFFECTIVE DATE.—The amendments made
 7 by this subsection shall apply to disclosures made on
 8 or after the date of enactment of this Act.

9 **DIVISION C—DEFENDING ELEC-**
 10 **TIONS AGAINST FOREIGN IN-**
 11 **TERFERENCE**

12 **TITLE XIII—REPORTING FOR-**
 13 **EIGN INTERFERENCE IN**
 14 **ELECTIONS**

15 **SEC. 1301. FEDERAL CAMPAIGN REPORTING OF FOREIGN**
 16 **CONTACTS.**

17 (a) INITIAL NOTICE.—

18 (1) IN GENERAL.—Section 304 of the Federal
 19 Election Campaign Act of 1971 (52 U.S.C. 30104)
 20 is amended by adding at the end the following new
 21 subsection:

22 “(j) DISCLOSURE OF REPORTABLE FOREIGN CON-
 23 TACTS.—

24 “(1) COMMITTEE OBLIGATION TO NOTIFY.—
 25 Not later than 1 week after a reportable foreign con-

1 tact, each political committee shall notify the Fed-
2 eral Bureau of Investigation and the Commission of
3 the reportable foreign contact and provide a sum-
4 mary of the circumstances with respect to such re-
5 portable foreign contact. The Federal Bureau of In-
6 vestigation, not later than 1 week after receiving a
7 notification from a political committee under this
8 paragraph, shall submit to the political committee,
9 the Select Committee on Intelligence of the Senate,
10 and the Permanent Select Committee on Intelligence
11 of the House of Representatives written or electronic
12 confirmation of receipt of the notification.

13 “(2) INDIVIDUAL OBLIGATION TO NOTIFY.—
14 Not later than 3 days after a reportable foreign con-
15 tact—

16 “(A) each candidate and each immediate
17 family member of a candidate shall notify the
18 treasurer or other designated official of the
19 principal campaign committee of such candidate
20 of the reportable foreign contact and provide a
21 summary of the circumstances with respect to
22 such reportable foreign contact; and

23 “(B) each official, employee, or agent of a
24 political committee shall notify the treasurer or
25 other designated official of the committee of the

1 reportable foreign contact and provide a sum-
2 mary of the circumstances with respect to such
3 reportable foreign contact.

4 “(3) REPORTABLE FOREIGN CONTACT.—In this
5 subsection:

6 “(A) IN GENERAL.—The term ‘reportable
7 foreign contact’ means any direct or indirect
8 contact or communication that—

9 “(i) is between—

10 “(I) a candidate, an immediate
11 family member of the candidate, a po-
12 litical committee, or any official, em-
13 ployee, or agent of such committee;
14 and

15 “(II) an individual that the per-
16 son described in subclause (I) knows,
17 has reason to know, or reasonably be-
18 lieves is a covered foreign national;
19 and

20 “(ii) the person described in clause
21 (i)(I) knows, has reason to know, or rea-
22 sonably believes involves—

23 “(I) an offer or other proposal
24 for a contribution, donation, expendi-

1 ture, disbursement, or solicitation de-
2 scribed in section 319; or

3 “(II) coordination or collabora-
4 tion with, an offer or provision of in-
5 formation or services to or from, or
6 persistent and repeated contact with,
7 a covered foreign national in connec-
8 tion with an election.

9 “(B) EXCEPTIONS.—

10 “(i) CONTACTS IN OFFICIAL CAPACITY
11 AS ELECTED OFFICIAL.—The term ‘report-
12 able foreign contact’ shall not include any
13 contact or communication with a covered
14 foreign national by an elected official or an
15 employee of an elected official solely in an
16 official capacity as such an official or em-
17 ployee.

18 “(ii) CONTACTS FOR PURPOSES OF
19 ENABLING OBSERVATION OF ELECTIONS
20 BY INTERNATIONAL OBSERVERS.—The
21 term ‘reportable foreign contact’ shall not
22 include any contact or communication with
23 a covered foreign national by any person
24 which is made for purposes of enabling the
25 observation of elections in the United

1 States by a foreign national or the obser-
2 vation of elections outside of the United
3 States by a candidate, political committee,
4 or any official, employee, or agent of such
5 committee.

6 “(iii) EXCEPTIONS NOT APPLICABLE
7 IF CONTACTS OR COMMUNICATIONS IN-
8 VOLVE PROHIBITED DISBURSEMENTS.—A
9 contact or communication by an elected of-
10 ficial or an employee of an elected official
11 shall not be considered to be made solely
12 in an official capacity for purposes of
13 clause (i), and a contact or communication
14 shall not be considered to be made for pur-
15 poses of enabling the observation of elec-
16 tions for purposes of clause (ii), if the con-
17 tact or communication involves a contribu-
18 tion, donation, expenditure, disbursement,
19 or solicitation described in section 319.

20 “(C) COVERED FOREIGN NATIONAL DE-
21 FINED.—

22 “(i) IN GENERAL.—In this paragraph,
23 the term ‘covered foreign national’
24 means—

1 “(I) a foreign principal (as de-
2 fined in section 1(b) of the Foreign
3 Agents Registration Act of 1938 (22
4 U.S.C. 611(b))) that is a government
5 of a foreign country or a foreign polit-
6 ical party;

7 “(II) any person who acts as an
8 agent, representative, employee, or
9 servant, or any person who acts in
10 any other capacity at the order, re-
11 quest, or under the direction or con-
12 trol, of a foreign principal described in
13 subclause (I) or of a person any of
14 whose activities are directly or indi-
15 rectly supervised, directed, controlled,
16 financed, or subsidized in whole or in
17 major part by a foreign principal de-
18 scribed in subclause (I); or

19 “(III) any person included in the
20 list of specially designated nationals
21 and blocked persons maintained by
22 the Office of Foreign Assets Control
23 of the Department of the Treasury
24 pursuant to authorities relating to the
25 imposition of sanctions relating to the

1 conduct of a foreign principal de-
2 scribed in subclause (I).

3 “(ii) CLARIFICATION REGARDING AP-
4 PLICATION TO CITIZENS OF THE UNITED
5 STATES.—In the case of a citizen of the
6 United States, subclause (II) of clause (i)
7 applies only to the extent that the person
8 involved acts within the scope of that per-
9 son’s status as the agent of a foreign prin-
10 cipal described in subclause (I) of clause
11 (i).

12 “(4) IMMEDIATE FAMILY MEMBER.—In this
13 subsection, the term ‘immediate family member’
14 means, with respect to a candidate, a parent, parent-
15 in-law, spouse, adult child, or sibling.”.

16 (2) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall apply with respect to report-
18 able foreign contacts which occur on or after the
19 date of the enactment of this Act.

20 (b) INFORMATION INCLUDED ON REPORT.—

21 (1) IN GENERAL.—Section 304(b) of such Act
22 (52 U.S.C. 30104(b)) is amended—

23 (A) by striking “and” at the end of para-
24 graph (7);

1 (B) by striking the period at the end of
2 paragraph (8) and inserting “; and”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(9) for any reportable foreign contact (as de-
6 fined in subsection (j)(3))—

7 “(A) the date, time, and location of the
8 contact;

9 “(B) the date and time of when a des-
10 ignated official of the committee was notified of
11 the contact;

12 “(C) the identity of individuals involved;
13 and

14 “(D) a description of the contact, including
15 the nature of any contribution, donation, ex-
16 penditure, disbursement, or solicitation involved
17 and the nature of any activity described in sub-
18 section (j)(3)(A)(ii)(II) involved.”.

19 (2) EFFECTIVE DATE.—The amendments made
20 by paragraph (1) shall apply with respect to reports
21 filed on or after the expiration of the 60-day period
22 which begins on the date of the enactment of this
23 Act.

1 **SEC. 1302. FEDERAL CAMPAIGN FOREIGN CONTACT RE-**
2 **PORTING COMPLIANCE SYSTEM.**

3 (a) IN GENERAL.—Section 302 of the Federal Elec-
4 tion Campaign Act of 1971 (52 U.S.C. 30102) is amended
5 by adding at the end the following new subsection:

6 “(j) REPORTABLE FOREIGN CONTACTS COMPLIANCE
7 POLICY.—

8 “(1) REPORTING.—Each political committee
9 shall establish a policy that requires all officials, em-
10 ployees, and agents of such committee (and, in the
11 case of an authorized committee, the candidate and
12 each immediate family member of the candidate) to
13 notify the treasurer or other appropriate designated
14 official of the committee of any reportable foreign
15 contact (as defined in section 304(j)) not later than
16 3 days after such contact was made.

17 “(2) RETENTION AND PRESERVATION OF
18 RECORDS.—Each political committee shall establish
19 a policy that provides for the retention and preserva-
20 tion of records and information related to reportable
21 foreign contacts (as so defined) for a period of not
22 less than 3 years.

23 “(3) CERTIFICATION.—

24 “(A) IN GENERAL.—Upon filing its state-
25 ment of organization under section 303(a), and
26 with each report filed under section 304(a), the

1 treasurer of each political committee (other
2 than an authorized committee) shall certify
3 that—

4 “(i) the committee has in place poli-
5 cies that meet the requirements of para-
6 graphs (1) and (2);

7 “(ii) the committee has designated an
8 official to monitor compliance with such
9 policies; and

10 “(iii) not later than 1 week after the
11 beginning of any formal or informal affili-
12 ation with the committee, all officials, em-
13 ployees, and agents of such committee
14 will—

15 “(I) receive notice of such poli-
16 cies;

17 “(II) be informed of the prohibi-
18 tions under section 319; and

19 “(III) sign a certification affirm-
20 ing their understanding of such poli-
21 cies and prohibitions.

22 “(B) AUTHORIZED COMMITTEES.—With
23 respect to an authorized committee, the can-
24 didate shall make the certification required
25 under subparagraph (A).”

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendment made by
3 subsection (a) shall apply with respect to political
4 committees which file a statement of organization
5 under section 303(a) of the Federal Election Cam-
6 paign Act of 1971 (52 U.S.C. 30103(a)) on or after
7 the date of the enactment of this Act.

8 (2) TRANSITION RULE FOR EXISTING COMMIT-
9 TEES.—Not later than 30 days after the date of the
10 enactment of this Act, each political committee
11 under the Federal Election Campaign Act of 1971
12 shall file a certification with the Federal Election
13 Commission that the committee is in compliance
14 with the requirements of section 302(j) of such Act
15 (as added by subsection (a)).

16 **SEC. 1303. CRIMINAL PENALTIES.**

17 Section 309(d)(1) of the Federal Election Campaign
18 Act of 1971 (52 U.S.C. 30109(d)(1)) is amended by add-
19 ing at the end the following new subparagraphs:

20 “(E) Any person who knowingly and willfully com-
21 mits a violation of subsection (j) or (b)(9) of section 304
22 or section 302(j) shall be fined not more than \$500,000,
23 imprisoned not more than 5 years, or both.

24 “(F) Any person who knowingly and willfully conceals
25 or destroys any materials relating to a reportable foreign

1 contact (as defined in section 304(j)) shall be fined not
2 more than \$1,000,000, imprisoned not more than 5 years,
3 or both.”.

4 **SEC. 1304. REPORT TO CONGRESSIONAL INTELLIGENCE**
5 **COMMITTEES.**

6 (a) IN GENERAL.—Not later than 1 year after the
7 date of enactment of this Act, and annually thereafter,
8 the Director of the Federal Bureau of Investigation shall
9 submit to the congressional intelligence committees a re-
10 port relating to notifications received by the Federal Bu-
11 reau of Investigation under section 304(j)(1) of the Fed-
12 eral Election Campaign Act of 1971 (as added by section
13 1301(a) of this Act).

14 (b) ELEMENTS.—Each report under subsection (a)
15 shall include, at a minimum, the following with respect
16 to notifications described in subsection (a):

17 (1) The number of such notifications received
18 from political committees during the year covered by
19 the report.

20 (2) A description of protocols and procedures
21 developed by the Federal Bureau of Investigation re-
22 lating to receipt and maintenance of records relating
23 to such notifications.

24 (3) With respect to such notifications received
25 during the year covered by the report, a description

1 of any subsequent actions taken by the Director re-
2 sulting from the receipt of such notifications.

3 (c) CONGRESSIONAL INTELLIGENCE COMMITTEES
4 DEFINED.—In this section, the term “congressional intel-
5 ligence committees” has the meaning given that term in
6 section 3 of the National Security Act of 1947 (50 U.S.C.
7 3003).

8 **SEC. 1305. RULE OF CONSTRUCTION.**

9 Nothing in this title or the amendments made by this
10 title shall be construed—

11 (1) to impede legitimate journalistic activities;

12 or

13 (2) to impose any additional limitation on the
14 right to express political views or to participate in
15 public discourse of any individual who—

16 (A) resides in the United States;

17 (B) is not a citizen of the United States or
18 a national of the United States, as defined in
19 section 101(a)(22) of the Immigration and Na-
20 tionality Act (8 U.S.C. 1101(a)(22)); and

21 (C) is not lawfully admitted for permanent
22 residence, as defined by section 101(a)(20) of
23 the Immigration and Nationality Act (8 U.S.C.
24 1101(a)(20)).

1 **TITLE XIV—ELIMINATING FOR-**
2 **EIGN INTERFERENCE IN**
3 **ELECTIONS**

4 **SEC. 1401. CLARIFICATION OF APPLICATION OF FOREIGN**
5 **MONEY BAN.**

6 (a) CLARIFICATION OF TREATMENT OF PROVISION
7 OF CERTAIN INFORMATION AS CONTRIBUTION OR DONA-
8 TION OF A THING OF VALUE.—Section 319 of the Federal
9 Election Campaign Act of 1971 (52 U.S.C. 30121) is
10 amended by adding at the end the following new sub-
11 section:

12 “(c) CLARIFICATION OF TREATMENT OF PROVISION
13 OF CERTAIN INFORMATION AS CONTRIBUTION OR DONA-
14 TION OF A THING OF VALUE.—For purposes of this sec-
15 tion, a ‘contribution or donation of money or other thing
16 of value’ includes the provision of opposition research,
17 polling, or other non-public information relating to a can-
18 didate for election for a Federal, State, or local office for
19 the purpose of influencing the election, regardless of
20 whether such research, polling, or information has mone-
21 tary value, except that nothing in this subsection shall be
22 construed to treat the mere provision of an opinion about
23 a candidate as a thing of value for purposes of this sec-
24 tion.”.

1 (b) CLARIFICATION OF APPLICATION OF FOREIGN
2 MONEY BAN TO ALL CONTRIBUTIONS AND DONATIONS
3 OF THINGS OF VALUE AND TO ALL SOLICITATIONS OF
4 CONTRIBUTIONS AND DONATIONS OF THINGS OF
5 VALUE.—Section 319(a) of such Act (52 U.S.C.
6 30121(a)) is amended—

7 (1) in paragraph (1)(A), by striking “promise
8 to make a contribution or donation” and inserting
9 “promise to make such a contribution or donation”;

10 (2) in paragraph (1)(B), by striking “donation”
11 and inserting “donation of money or other thing of
12 value, or to make an express or implied promise to
13 make such a contribution or donation,”; and

14 (3) by amending paragraph (2) to read as fol-
15 lows:

16 “(2) a person to solicit, accept, or receive (di-
17 rectly or indirectly) a contribution or donation de-
18 scribed in subparagraph (A) or (B) of paragraph
19 (1), or to solicit, accept, or receive (directly or indi-
20 rectly) an express or implied promise to make such
21 a contribution or donation, from a foreign na-
22 tional.”.

23 (c) ENHANCED PENALTY FOR CERTAIN VIOLA-
24 TIONS.—

1 (1) IN GENERAL.—Section 309(d)(1) of such
2 Act (52 U.S.C. 30109(d)(1)), as amended by section
3 1303, is further amended by adding at the end the
4 following new subparagraph:

5 “(G)(i) Any person who knowingly and willfully com-
6 mits a violation of section 319 which involves a foreign
7 national which is a government of a foreign country or
8 a foreign political party, or which involves a thing of value
9 consisting of the provision of opposition research, polling,
10 or other non-public information relating to a candidate for
11 election for a Federal, State, or local office for the purpose
12 of influencing the election, shall be fined under title 18,
13 United States Code, or imprisoned for not more than 5
14 years, or both.

15 “(ii) In clause (i), each of the terms ‘government of
16 a foreign country’ and ‘foreign political party’ has the
17 meaning given such term in section 1 of the Foreign
18 Agents Registration Act of 1938, as Amended (22 U.S.C.
19 611).”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall apply with respect to viola-
22 tions committed on or after the date of the enact-
23 ment of this Act.

1 **SEC. 1402. REQUIRING ACKNOWLEDGMENT OF FOREIGN**
2 **MONEY BAN BY POLITICAL COMMITTEES.**

3 (a) PROVISION OF INFORMATION BY FEDERAL ELEC-
4 TION COMMISSION.—Section 303 of the Federal Election
5 Campaign Act of 1971 (52 U.S.C. 30103) is amended by
6 adding at the end the following new subsection:

7 “(e) ACKNOWLEDGMENT OF FOREIGN MONEY
8 BAN.—

9 “(1) NOTIFICATION BY COMMISSION.—Not later
10 than 30 days after a political committee files its
11 statement of organization under subsection (a), and
12 biennially thereafter until the committee terminates,
13 the Commission shall provide the committee with a
14 written explanation of section 319.

15 “(2) ACKNOWLEDGMENT BY COMMITTEE.—

16 “(A) IN GENERAL.—Not later than 30
17 days after receiving the written explanation of
18 section 319 under paragraph (1), the committee
19 shall transmit to the Commission a signed cer-
20 tification that the committee has received such
21 written explanation and has provided a copy of
22 the explanation to all members, employees, con-
23 tractors, and volunteers of the committee.

24 “(B) PERSON RESPONSIBLE FOR SIGNA-
25 TURE.—The certification required under sub-
26 paragraph (A) shall be signed—

1 “(i) in the case of an authorized com-
2 mittee of a candidate, by the candidate; or

3 “(ii) in the case of any other political
4 committee, by the treasurer of the com-
5 mittee.”.

6 (b) EFFECTIVE DATE; TRANSITION FOR EXISTING
7 COMMITTEES.—

8 (1) IN GENERAL.—The amendment made by
9 subsection (a) shall apply with respect to political
10 committees which file statements of organization
11 under section 303 of the Federal Election Campaign
12 Act of 1971 (52 U.S.C. 30103) on or after the date
13 of the enactment of this Act.

14 (2) TRANSITION FOR EXISTING COMMITTEES.—

15 (A) NOTIFICATION BY FEDERAL ELECTION
16 COMMISSION.—Not later than 90 days after the
17 date of the enactment of this Act, the Federal
18 Election Commission shall provide each political
19 committee under such Act with the written ex-
20 planation of section 319 of such Act, as re-
21 quired under section 303(e)(1) of such Act (as
22 added by subsection (a)).

23 (B) ACKNOWLEDGMENT BY COMMITTEE.—

24 Not later than 30 days after receiving the writ-
25 ten explanation under subparagraph (A), each

1 political committee under such Act shall trans-
2 mit to the Federal Election Commission the
3 signed certification, as required under section
4 303(e)(2) of such Act (as added by subsection
5 (a)).

6 **DIVISION D—SEVERABILITY**

7 **TITLE XV—SEVERABILITY**

8 **SEC. 1501. SEVERABILITY.**

9 If any provision of this Act or any amendment made
10 by this Act, or the application of a provision of this Act
11 or an amendment made by this Act to any person or cir-
12 cumstance, is held to be unconstitutional, the remainder
13 of this Act, and the application of the provisions to any
14 person or circumstance, shall not be affected by the hold-
15 ing.

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