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 Demo-
5 cacy Act”.
SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

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

(1) Division A—Preventing Abuses of Presidential Power.

(2) Division B—Restoring Checks and Balances, Accountability, and Transparency.

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

(4) Division D—Severability.

(b) TABLE OF CONTENTS.—The table of contents of 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.

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.

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 ABUSES OF PRESIDENTIAL POWER

4 TITLE I—ABUSE OF THE PARDON POWER PREVENTION

6 SEC. 101. SHORT TITLE.

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

*S 2921 IS
SEC. 102. CONGRESSIONAL OVERSIGHT RELATING TO CERTAIN PARDONS.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

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

(B) if an investigation relates to intelligence or counterintelligence matters, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

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

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

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

(C) an offense under section 1001, 1505, 1512, or 1621 of title 18, United States Code,
if the offense occurred in relation to a Congressional proceeding or investigation.

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

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

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

(1) all materials obtained or produced by the prosecution team, including the Attorney General and any United States Attorney, and all materials obtained or prepared by any investigative agency of the United States government, relating to the offense for which the individual was so pardoned; and

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

(c) **TREATMENT OF INFORMATION.**—Rule 6(e) of the Federal Rules of Criminal Procedure shall not be construed to prohibit the disclosure of information required by subsection (b).
SEC. 103. BRIBERY IN CONNECTION WITH PARDONS AND COMMUTATIONS.

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

(1) in subsection (a)—

(A) in paragraph (1), by inserting ‘‘, including the President and the Vice President of the United States,’’ after ‘‘or an officer or employee or person’’; and

(B) in paragraph (3), by inserting before the period at the end the following: ‘‘, including any pardon, commutation, or reprieve, or an offer of any such pardon, commutation, or reprieve’’; and

(2) in subsection (b)(3), by inserting ‘‘(including, for purposes of this paragraph, any pardon, commutation, or reprieve, or an offer of any such pardon, commutation, or reprieve)’’ after ‘‘corruptly gives, offers, or promises anything of value’’.

SEC. 104. PROHIBITION ON PRESIDENTIAL SELF-PARDON.

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

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

(2) shall not—

(A) deprive the courts of jurisdiction; or
(B) operate to confer on the President any legal immunity from investigation or prosecution.

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

**SEC. 201. SHORT TITLE.**

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

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

(a) Offenses Committed by the President or Vice President During or Prior to Tenure in Office.—Section 3282 of title 18, United States Code, is amended by adding at the end the following:

“(c) Offenses Committed by the President or Vice President During or Prior to Tenure in Office.—In the case of any person serving as President or Vice President of the United States, the duration of that person’s tenure in office shall not be considered for purposes of any statute of limitations applicable to any Federal criminal offense committed by that person (including any offenses committed during any period of time preceding such tenure in office).”.

(b) Applicability.—The amendments made by subsection (a) shall apply to any offense committed before the date of enactment of this section, if the statute of limita-
tions applicable to that offense had not run as of such date.

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

SEC. 301. SHORT TITLE.
This title may be cited as the “Foreign and Domestic Emoluments Enforcement Act”.

SEC. 302. DEFINITIONS.
In this title:

(1) The term “emolument” means any profit, gain, or advantage that is received directly or indirectly from any government of a foreign country, the Federal Government, or any State or local government, or from any instrumentality thereof, including payments arising from commercial transactions at fair market value.

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

(3) The term “government of a foreign country” has the meaning given such term in section 1(e)
of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(e)).

SEC. 303. PROHIBITION ON ACCEPTANCE OF FOREIGN AND DOMESTIC EMOLUMENTS.

(a) FOREIGN.—Except as otherwise provided in section 7342 of title 5, United States Code, it shall be unlawful for any person holding an office of profit or trust under the United States to accept from a government of a foreign country, without first obtaining the consent of Congress, any present or emolument, or any office or title. The prohibition under this subsection applies without regard to whether the present, emolument, office, or title is—

(1) provided directly or indirectly by that government of a foreign country; or

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

(b) DOMESTIC.—It shall be unlawful for the President to accept from the United States, or any of them, any emolument other than the compensation for his or her services as President provided for by Federal law. The prohibition under this subsection applies without regard to whether the emolument is provided directly or indirectly, and without regard to whether the emolument is
provided to the President or to any private business interest of the President.

SEC. 304. CIVIL ACTIONS BY CONGRESS CONCERNING FOREIGN EMOLUMENTS.

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

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

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

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

(3) It shall be the duty of the Supreme Court of the United States to advance on the docket and
to expedite to the greatest possible extent the disposition of any such action and appeal.

(c) Remedy.—If the court determines that a violation of subsection (a) of section 303 has occurred, the court shall issue an order enjoining the course of conduct found to constitute the violation, and such of the following as are appropriate:

(1) The disgorgement of the value of any foreign present or emolument.

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

(3) The renunciation of any office or title accepted in violation of such subsection.

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

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

(d) Use of Government Funds Prohibited.—No appropriated funds, funds provided from any accounts in the United States Treasury, funds derived from the collection of fees, or any other Government funds shall be used
to pay any disgorgement imposed by the court pursuant to this section.

SEC. 305. DISCLOSURES CONCERNING FOREIGN AND DOMESTIC EMOLUMENTS.

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

“(9) Any present, emolument, office, or title received from a government of a foreign country, including the source, date, type, and amount or value of each present or emolument accepted on or before the date of filing during the preceding calendar year.

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

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

“(A) any emolument received from the United States, or any of them, other than the compensation for his or her services as President provided for by Federal law; and

“(B) any business interest that is reasonably expected to result in the receipt of any emolument from the United States, or any of them.”.
(b) Rule of Construction.—Nothing in the amendments made by this section shall be construed to affect the prohibition against the acceptance of presents and emoluments under section 303.

SEC. 306. ENFORCEMENT AUTHORITY OF THE DIRECTOR OF THE OFFICE OF GOVERNMENT ETHICS.

(a) General Authority.—Section 402(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) by striking ``(a) The Director'' and inserting ``(a)(1) The Director''; and

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

``(2) The Director shall provide overall direction of executive branch policies related to compliance with the Foreign and Domestic Emoluments Enforcement Act and the amendments made by such Act and shall have the authority to—

``(A) issue administrative fines to individuals for violations;

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

``(C) bring civil actions to enforce such fines and orders.’’.
(b) Specific Authorities.—Section 402(b) of such Act (5 U.S.C. App.) is amended—

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

(2) by striking the period at the end of paragraph (15) and inserting “; and”; and

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

“(16) developing and promulgating rules and regulations to ensure compliance with the Foreign and Domestic Emoluments Enforcement Act and the amendments made by such Act, including establishing—

“(A) requirements for reporting and disclosure;

“(B) a schedule of administrative fines that may be imposed by the Director for violations; and

“(C) a process for referral of matters to the Office of Special Counsel for investigation in compliance with section 1216(d) of title 5, United States Code.”.
SEC. 307. JURISDICTION OF THE OFFICE OF SPECIAL COUNSEL.

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

(1) in subsection (a)—

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

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

and

(C) by adding at the end the following:

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

and

(2) by adding at the end the following:

“(d) If the Director of the Office of Government Ethics refers a matter for investigation pursuant to section 402 of the Ethics in Government Act of 1978, or if the Special Counsel receives a credible complaint of a violation referred to in subsection (a)(6), the Special Counsel shall complete an investigation not later than 120 days thereafter. If the Special Counsel investigates any violation pursuant to subsection (a)(6), the Special Counsel shall report not later than 7 days after the completion of such investigation to the Director of the Office of Government Ethics.
Ethics and to Congress on the results of such investiga-

DIVISION B—RESTORING CHECKS AND BALANCES, AC-
COUNTABILITY, AND TRANSPARENCY

TITLE IV—ENFORCEMENT OF CONGRESSIONAL SUBPOENAS

SEC. 401. SHORT TITLE.

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

SEC. 402. FINDINGS.

The Congress finds as follows:

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

(2) Congress “suffers a concretely and particular-
ized injury when denied the opportunity to obtain in-
formation necessary” to the exercise of its constitu-
tional functions, as the United States Court of Ap-
peals for the District of Columbia Circuit correctly
recognized in its August 7, 2020, en banc decision
in Committee on the Judiciary of the U.S. House of
Representatives v. McGahn.

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

SEC. 403. ENFORCEMENT OF CONGRESSIONAL SUBPOENAS.

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

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

“(a) CAUSE OF ACTION.—The Senate, the House of
Representatives, or a committee or subcommittee thereof,
may bring a civil action against the recipient of a sub-
poena issued by a congressional committee or sub-
committee to enforce compliance with the subpoena.
“(b) SPECIAL RULES.—In any civil action described in subsection (a), the following rules shall apply:

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

“(2) Notwithstanding section 1657(a), it shall be the duty of every court of the United States to expedite to the greatest possible extent the disposition of any such action and appeal. Upon a showing by the plaintiff of undue delay, other irreparable harm, or good cause, a court to which an appeal of the action may be taken shall issue any necessary and appropriate writs and orders to ensure compliance with this paragraph.

“(3) If a three-judge court is expressly requested by the plaintiff in the initial pleading, the action shall be heard by a three-judge court convened pursuant to section 2284, and shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

“(4) The initial pleading shall be accompanied by certification that the party bringing the action has in good faith conferred or attempted to confer
with the recipient of the subpoena to secure compliance with the subpoena without court action.

“(c) Penalties.—

“(1) Cases involving government agencies.—

“(A) In general.—The court may impose monetary penalties directly against each head of a Government agency and the head of each component thereof held to have knowingly failed to comply with any part of a congressional subpoena, unless—

“(i) the President instructed the official not to comply; and

“(ii) the President, or the head of the agency or component thereof, submits to the court a letter confirming such instruction and the basis for such instruction.

“(B) Prohibition on use of government funds.—No appropriated funds, funds provided from any accounts in the Treasury, funds derived from the collection of fees, or other Government funds shall be used to pay any monetary penalty imposed by the court pursuant to this paragraph.
“(2) LEGAL FEES.—In addition to any other penalties or sanctions, the court shall require that any defendant, other than a Government agency, held to have willfully failed to comply with any part of a congressional subpoena, pay a penalty in an amount equal to that party’s legal fees, including attorney’s fees, litigation expenses, and other costs. If such defendant is an officer or employee of a Government agency, such legal fees may be paid from funds appropriated to pay the salary of the defendant.

“(d) WAIVER.—Any ground for noncompliance asserted by the recipient of a congressional subpoena shall be deemed to have been waived as to any particular information withheld from production if the court finds that the recipient failed in a timely manner to comply with the applicable requirements of section 105(b) of the Revised Statutes of the United States with respect to such information.

“(e) RULES OF PROCEDURE.—The Supreme Court of the United States and the Judicial Conference of the United States shall prescribe rules of procedure to ensure the expeditious treatment of actions described in subsection (a). Such rules shall be prescribed and submitted to the Congress pursuant to sections 2072, 2073, and
2074. This shall include procedures for expeditiously con-
considering any assertion of constitutional or Federal statu-
tory privilege made in connection with testimony by any 
recipient of a subpoena from a congressional committee 
or subcommittee. The Supreme Court shall transmit such 
rules to Congress within 6 months after the effective date 
of this section and then pursuant to section 2074 there-

“(f) DEFINITION.—For purposes of this section, the 
term ‘Government agency’ means any office or entity de-
scribed in sections 105 and 106 of title 3, an Executive 
department listed in section 101 of title 5, an independent 
establishment, commission, board, bureau, division, or of-

cice in the executive branch, or other agency or instrumen-
tality of the Federal Government, including wholly or part-

ly owned Government corporations.”.

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

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

SEC. 404. COMPLIANCE WITH CONGRESSIONAL SUB-
POENAS.

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

s 2921 IS
“SEC. 105. RESPONSE TO CONGRESSIONAL SUBPOENAS.

“(a) SUBPOENA BY CONGRESSIONAL COMMITTEE.—

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

“(b) FAILURE TO PRODUCE INFORMATION.—

“(1) GROUNDS FOR WITHHOLDING INFORMATION.—Unless required by the Constitution of the
United States or by Federal statute, no claim of
privilege or protection from disclosure shall be a
ground for withholding information responsive to the
subpoena or required by this section.

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

“(A) An express assertion and description

of the ground asserted for withholding the in-
formation.

“(B) The type of information.

“(C) The general subject matter.

“(D) The date, author, and addressee.

“(E) The relationship of the author and

addressee to each other.
“(F) The custodian of the information.

“(G) Any other descriptive information that may be produced or disclosed regarding the information that will enable the congressional committee or subcommittee issuing the subpoena to assess the ground asserted for withholding the information.

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

(b) CLERICAL AMENDMENT.—The table of contents for chapter 7 of title II of the Revised Statutes of the United States is amended by adding at the end the following:

“105. Response to congressional subpoenas.”.

SEC. 405. RULE OF CONSTRUCTION.

Nothing in this title may be interpreted to limit or constrain Congress’s inherent authority or foreclose any other means for enforcing compliance with congressional subpoenas, nor may anything in this title be interpreted to establish or recognize any ground for noncompliance with a congressional subpoena.
TITLE V—REASSERTING CONGRESSIONAL POWER OF THE PURSE

SEC. 500. SHORT TITLE.

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

Subtitle A—Strengthening Congressional Control and Review To Prevent Impoundment

SEC. 501. STRENGTHENING CONGRESSIONAL CONTROL.

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

“PRUDENT OBLIGATION OF BUDGET AUTHORITY AND SPECIFIC REQUIREMENTS FOR EXPIRING BUDGET AUTHORITY

“Sec. 1018. (a) Special Message Requirement.—With respect to budget authority proposed to be rescinded or that is set to be reserved or proposed to be deferred in a special message transmitted under section 1012 or 1013, such budget authority—

“(1) shall be made available for obligation in sufficient time to be prudently obligated as required under section 1012(b) or 1013; and
“(2) may not be deferred or otherwise withheld from obligation during the 90-day period before the expiration of the period of availability of such budget authority, including, if applicable, the 90-day period before the expiration of an initial period of availability for which such budget authority was provided.

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

“(1) to make available all amounts for obligation in sufficient time to be prudently obligated; and

“(2) to make available all amounts for obligation, without precondition (including footnotes) that shall be met prior to obligation, not later than 90 days before the expiration of the period of availability of such appropriation, including, if applicable, 90 days before the expiration of an initial period of availability for which such appropriation was provided.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Congressional Budget and Impoundment Control Act of 1974 set forth in section 1(b) of such Act is amend-
ed by inserting after the item relating to section 1017 the following:

“1018. Prudent obligation of budget authority and specific requirements for expiring budget authority.”

3 SEC. 502. STRENGTHENING CONGRESSIONAL REVIEW.

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

“REPORTING

“Sec. 1019. (a) APPORTIONMENT OF APPROPRIATIONS.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Office of Management and Budget shall—

“(A) complete implementation of a publicly available website with an automated system to post each document apportioning an appropriation, pursuant to section 1513(b) of title 31, United States Code, including any associated footnotes, in a format that qualifies each such document as an Open Government Data Asset (as defined in section 3502 of title 44, United States Code), not later than 2 business days after the date of approval of such apportionment;
“(B) place on such website each document apportioning an appropriation, pursuant to such section 1513(b), including any associated footnotes, already approved for the fiscal year; and

“(C) submit to the Committee on the Budget and the Committee on Appropriations of the Senate and the Committee on the Budget and the Committee on Appropriations of the House of Representatives a report indicating the date of completion of the requirements under subparagraphs (A) and (B).

“(2) EXPLANATORY STATEMENT.—Each document apportioning an appropriation posted on a publicly accessible website under paragraph (1) shall also include a written explanation by the officer approving each such apportionment (pursuant to section 1513(b) of title 31, United States Code) of the rationale for the apportionment schedule and for any footnotes for apportioned amounts.

“(3) SPECIAL PROCESS FOR TRANSMITTING CLASSIFIED DOCUMENTATION TO THE CONGRESS.—The Office of Management and Budget or the applicable department or agency shall make available classified documentation referenced in any apportionment.
tionment at the request of the chair or ranking
member of any appropriate congressional committee
or subcommittee.

“(4) Department and Agency Report.—
Each department or agency shall—

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

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

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

“(iii) an approved apportionment re-
ceived by the department or agency may
hinder the prudent obligation of such ap-
propriation or the execution of a program,
project, or activity by such department or
agency; and
“(B) include in each notification under subparagraph (A) information identifying the bureau, account name, appropriation name, and Treasury Appropriation Fund Symbol or fund account.

“(b) Approving Officials.—

“(1) Delegation of authority.—Not later than 15 days after the date of enactment of this section, any delegation of apportionment authority pursuant to section 1513(b) of title 31, United States Code, that is in effect as of such date shall be submitted for publication in the Federal Register. Any delegation of such apportionment authority after the date of enactment of this section shall, on the date of such delegation, be submitted for publication in the Federal Register. The Office of Management and Budget shall publish such delegations in a format that qualifies such publications as an Open Government Data Asset (as defined in section 3502 of title 44, United States Code) on a public internet website, which shall be continuously updated with the position of each Federal officer or employee to whom apportionment authority has been delegated.

“(2) Report to Congress.—Not later than 5 days after any change in the position of the approv-
ing official with respect to such delegated apportion-
ment authority for any account is made, the Office
shall submit a report to the Committee on Approp-
riations and the Committee on the Budget of the
Senate, the Committee on Appropriations and the
Committee on the Budget of the House of Rep-
resentatives, and any other appropriate congres-
sional committee explaining why such change was
made.”.

(b) CLERICAL AMENDMENT.—The table of contents
of the Congressional Budget and Impoundment Control
Act of 1974 set forth in section 1(b) of such Act, as
amended by section 501(b), is further amended by insert-
ing after the item relating to section 1018 the following:
“1019. Reporting.”.

SEC. 503. UPDATED AUTHORITIES FOR AND REPORTING BY
THE COMPTROLLER GENERAL.

(a) IN GENERAL.—Section 1015 of the Impoundment
Control Act of 1974 (2 U.S.C. 686) is amended—

(1) in subsection (a), in the matter following
paragraph (2), by striking the last sentence; and

(2) by adding at the end the following:
“(c) REVIEW.—
“(1) IN GENERAL.—The Comptroller General
shall—

“(A) review compliance with this part; and
“(B) submit to the Committee on the Budget, the Committee on Appropriations, and the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Budget, the Committee on Appropriations, and the Committee on Oversight and Reform of the House of Representatives, and any other appropriate congressional committee of the Senate or the House of Representatives a report, and any relevant information related to the report, on any noncompliance with this part.

“(2) Information, documentation, and views.—The President or the head of the relevant department or agency of the United States shall provide information, documentation, and views to the Comptroller General, as is determined by the Comptroller General to be necessary to determine such compliance, not later than 20 days after the date on which the request from the Comptroller General is received, or if the Comptroller General determines that a shorter or longer period is appropriate based on the specific circumstances, within such shorter or longer period.
“(3) ACCESS.—To carry out the responsibilities of this part, the Comptroller General shall have access to interview the officers, employees, contractors, and other agents and representatives of a department, agency, or office of the United States at any reasonable time as the Comptroller General may request.”.

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

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

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

(3) by adding at the end the following:

“(5) affecting or limiting in any way the authorities provided to the Comptroller General under chapter 7 of title 31, United States Code.”.

SEC. 504. ADVANCE CONGRESSIONAL NOTIFICATION AND LITIGATION.

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

“SUITS BY COMPTROLLER GENERAL

“Sec. 1016. (a) IN GENERAL.—If, under this title, budget authority is required to be made available for obligation and such budget authority is not made available
for obligation or information, documentation, views, or access are required to be produced and such information, documentation, views, or access are not produced, the Comptroller General is expressly empowered, through attorneys selected by the Comptroller General, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation or such information, documentation, views, or access to be produced.

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

“(c) NOTICE.—No civil action shall be brought by the Comptroller General to require budget authority be made available under this section until the expiration of 15 calendar days following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated is filed with the Speaker of the House of Representatives and the President of the Senate, except that expiration of such period shall not be required if the Comptroller General finds
(and incorporates the finding in the explanatory statement filed) that such delay would be contrary to the public interest.”.

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

(a) In General.—Part B of the Impoundment Control Act of 1974 (2 U.S.C. 682 et seq.), as amended by section 502(a), is further amended by adding at the end the following:

“PENALTIES FOR FAILURE TO COMPLY

“SEC. 1020. (a) Administrative Discipline.—An officer or employee of the Executive Branch of the United States Government violating this part shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office.

“(b) Reporting Violations.—

“(1) In General.—In the event of a violation of section 1001, 1012, 1013, or 1018 of this part, or in the case that the Government Accountability Office issues a legal decision concluding that a department, agency, or office of the United States violated this part, the President or the head of the relevant department or agency as the case may be, shall report immediately to Congress all relevant facts and a statement of actions taken. A copy of
each report shall also be transmitted to the Comptroller General and the relevant inspector general on the same date the report is transmitted to Congress.

“(2) CONTENTS.—

“(A) IN GENERAL.—Any such report shall include a summary of the facts pertaining to the violation, the title and Treasury Appropriation Fund Symbol of the appropriation or fund account, the amount involved for each violation, the date on which the violation occurred, the position of any individuals responsible for the violation, a statement of the administrative discipline imposed and any further action taken with respect to any officer or employee involved in the violation, a statement of any additional action taken to prevent recurrence of the same type of violation, and any written response by any officer or employee identified by position as involved in the violation.

“(B) DISAGREEMENT.—If the Government Accountability Office issues a legal decision concluding that a department, agency, or office of the United States violated this part and the relevant department, agency, or office does not agree that a violation has occurred, the report
provided to Congress, the Comptroller General, and relevant inspector general will explain the position of the department, agency, or office.

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

(b) CLERICAL AMENDMENT.—The table of contents of the Congressional Budget and Impoundment Control Act of 1974 set forth in section 1(b) of such Act, as amended by section 502(b), is further amended by inserting after the item relating to section 1019 the following:

“1020. Penalties for failure to comply.”.

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.

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

“(40) for the budget for each of fiscal years 2023 through 2027, a report—
“(A) identifying unobligated expired balances as of the beginning of the current fiscal year and the beginning of each of the preceding 2 fiscal years by agency and the applicable Treasury Appropriation Fund Symbol or fund account; and

“(B) providing an explanation of unobligated expired balances in any Treasury Appropriation Fund Symbol or fund account that exceed the lesser of 5 percent of total appropriations made available for that account or $100,000,000.”.

SEC. 512. CANCELLED BALANCE REPORTING IN THE PRESIDENT'S BUDGET.

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

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

“(A) identifying cancelled balances (pursuant to section 1552(a)) for the preceding 3 fiscal years by agency and Treasury Appropriation Fund Symbol or fund account;

“(B) providing an explanation of cancelled balances in any Treasury Appropriation Fund
Symbol or fund account that exceed the lesser of 5 percent of total appropriations made available for that account or $100,000,000; and

“(C) including a tabulation, by Treasury Appropriation Fund Symbol or fund account and appropriation, of all balances of appropriations available for an indefinite period in an appropriation account available for an indefinite period that do not meet the criteria for closure under section 1555, but for which either—

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

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

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

“(II) in the prior year and which the budget estimates zero disbursements in the current year.”.
Section 1105(a) of title 31, United States Code, as amended by section 512, is further amended by adding at the end the following:

“(42) a report—

“(A) identifying any obligation or expenditure made by a department or agency affected in whole or in part by any lapse in appropriations of 5 consecutive days or more during the preceding fiscal year for which amounts were not available; and

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

“(i) the amount so obligated or expended;

“(ii) the account affected;

“(iii) an explanation of the Antideficiency Act exception or other legal authority that permitted the department or agency, as the case may be, to incur such obligation or expenditure; and

“(iv) an explanation of any change in the application of any Antideficiency Act exception for a program, project, or activ-
ity from any explanations previously re-
ported on pursuant to this paragraph.”.

SEC. 514. TRANSFER AND OTHER REPURPOSING AUTHOR-
ITY REPORTING IN THE PRESIDENT'S BUDG-
ET.

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

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

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

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

SEC. 515. AUTHORIZING CANCELLATIONS IN INDEFINITE
ACCOUNTS BY APPROPRIATION.

(a) In General.—Subchapter IV of chapter 15 of
title 31, United States Code, is amended by inserting after
section 1555 the following:
“§ 1555a. Cancellation of appropriations available for indefinite periods within an account

“Any remaining balance (whether obligated or unobligated) from an appropriation available for an indefinite period in an appropriation account available for an indefinite period that does not meet the requirements for closure under section 1555 shall be canceled, and thereafter shall not be available for obligation or expenditure for any purpose, if—

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

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

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

“1555a. Cancellation of appropriations available for indefinite periods within an account.”.
PART 2—EMPOWERING CONGRESSIONAL REVIEW
THROUGH NONPARTISAN CONGRESSIONAL
AGENCIES AND TRANSPARENCY INITIATIVES

SEC. 521. REQUIREMENT TO RESPOND TO REQUESTS FOR
INFORMATION FROM THE COMPTROLLER
GENERAL FOR BUDGET AND APPROPRIATIONS LAW DECISIONS.

(a) In General.—Subchapter II of chapter 7 of title 31, United States Code, is amended by adding at the end the following:

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

“(a) If an executive agency or the District of Columbia government receives a written request for information, documentation, or views from the Comptroller General relating to a decision or opinion on budget or appropriations law, the executive agency or the District of Columbia government shall provide the requested information, documentation, or views not later than 20 days after receiving the written request, unless such written request specifically provides otherwise.

“(b) If an executive agency or the District of Columbia government fails to provide the requested information, documentation, or views within the time required by subsection (a)—
“(1) the Comptroller General shall notify, in writing, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Reform of the House of Representa-tives, and any other appropriate congressional com-mittee of such failure;

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

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

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

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 7 of title 31, United States Code, is amended by inserting after the item relating to section 721 the following:
SEC. 522. REPORTING REQUIREMENTS FOR ANTIDEFICIENCY ACT VIOLATIONS.

(a) Violations of section 1341 or 1342—Section 1351 of title 31, United States Code, is amended—

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

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

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

(4) by adding at the end the following:

“(b) Any such report shall include a statement of the provision violated, a summary of the facts pertaining to the violation, the title and Treasury Appropriation Fund Symbol of the appropriation or fund account, the amount involved for each violation, the date on which the violation occurred, the position of any officer or employee responsible for the violation, a statement of the administrative discipline imposed and any further action taken with respect to any officer or employee involved in the violation, a statement of any additional action taken to prevent recurrence of the same type of violation, a statement of any determination that the violation was not knowing and will-
ful that has been made by the executive agency or District of Columbia government, and any written response by any officer or employee identified by position as involved in the violation.

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

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

(1) in subsection (b)—

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

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

(C) by inserting “and the Attorney General” after “transmitted to the Comptroller General”; and

(2) by adding at the end the following:
“(c) Any such report shall include a statement of the provision violated, a summary of the facts pertaining to the violation, the title and Treasury Appropriation Fund Symbol of the appropriation or fund account, the amount involved for each violation, the date on which the violation occurred, the position of any officer or employee responsible for the violation, a statement of the administrative discipline imposed and any further action taken with respect to any officer or employee involved in the violation, a statement of any additional action taken to prevent recurrence of the same type of violation, a statement of any determination that the violation was not knowing and willful that has been made by the executive agency or District of Columbia government, and any written response by any officer or employee identified by position as involved in the violation.

“(d) If the Comptroller General issues a legal decision concluding that an officer or employee of an executive agency or of the District of Columbia government has violated subsection (a) and the executive agency or District of Columbia government, as applicable, does not agree that a violation has occurred, the report provided to the President, the Congress, and the Comptroller General will explain its position.”.
SEC. 523. DEPARTMENT OF JUSTICE REPORTING TO CONGRESS FOR ANTIDEFICIENCY ACT VIOLATIONS.

(a) Violations of Section 1341 or 1342.—Section 1350 of title 31, United States Code, is amended—

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

(2) by adding at the end the following:

“(b)(1) If an executive agency or the District of Columbia government reports, under section 1351, a violation of section 1341(a) or 1342, the Attorney General shall promptly review such report and investigate to the extent necessary to determine whether there are reasonable grounds to believe that the responsible officer or employee knowingly and willfully violated section 1341(a) or 1342, as applicable. If the Attorney General determines that there are such reasonable grounds, the Attorney General diligently shall investigate a criminal violation under this section.

“(2) The Attorney General shall submit to Congress and the Comptroller General on or before March 31 of each calendar year an annual report detailing separately for each executive agency and the District of Columbia government—
“(A) the number of reports under section 1351 transmitted to the President during the preceding calendar year;

“(B) the number of reports reviewed in accordance with paragraph (1) during the preceding calendar year;

“(C) without identification of any individual officer or employee of an executive agency or of the District of Columbia government, a description of each investigation undertaken in accordance with paragraph (1) during the preceding calendar year and an explanation of the status of any such investigation; and

“(D) without identification of any individual officer or employee of an executive agency or of the District of Columbia government, an explanation of any update to the status of any review or investigation previously reported pursuant to this paragraph.”.

(b) Violations of Section 1517.—Section 1519 of title 31, United States Code, is amended—

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

(2) by adding at the end the following:
“(b)(1) If an executive agency or the District of Columbia government reports, under section 1517(b), a violation of section 1517(a), the Attorney General shall promptly review such report and investigate to the extent necessary to determine whether there are reasonable grounds to believe that the responsible officer or employee knowingly and willfully violated section 1517(a). If the Attorney General determines that there are such reasonable grounds, the Attorney General diligently shall investigate a criminal violation under this section.

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

“(A) the number of reports under section 1517(b) transmitted to the President during the preceding calendar year;

“(B) the number of reports reviewed in accordance with paragraph (1) during the preceding calendar year;

“(C) without identification of any individual officer or employee of the United States Government or of the District of Columbia government, a description of each investigation undertaken in accord-
ance with paragraph (1) during the preceding calendar year and an explanation of the status of any such investigation; and

“(D) without identification of any individual officer or employee of the United States Government or of the District of Columbia government, an explanation of any update to the status of any review or investigation previously reported pursuant to this subsection.”.

SEC. 524. PUBLICATION OF BUDGET OR APPROPRIATIONS LAW OPINIONS OF THE DEPARTMENT OF JUSTICE OFFICE OF LEGAL COUNSEL.

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

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

(2) not later than 1 year after the date of enactment of this Act for an opinion issued on or after January 20, 1993;

(3) not later than 2 years after the date of enactment of this Act for an opinion issued on or after
January 20, 1981, and before or on January 19, 1993;

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

(5) not later than 4 years after the date of enactment of this Act for all other opinions.

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

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

(A) information contained in the opinion was—

(i) specifically authorized to be kept secret, under criteria established by an Executive order, in the interest of national defense or foreign policy;

(ii) properly classified, including all procedural and marking requirements, pursuant to such Executive order;

(iii) the Attorney General determines that the national defense or foreign policy interests protected outweigh the public’s interest in access to the information; and
(iv) put through declassification re-
view within the past two years;

(B) information contained in the opinion
relates to the appointment of a specific indi-

gual not confirmed to Federal office;

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

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

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

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

(E) the President, in his or her sole and
nondelegable determination, formally and per-
sonally claims in writing that executive privilege
prevents the release of the information and dis-
closure would cause specific identifiable harm to
an interest protected by an exception or the dis-
closure is prohibited by law; or

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

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

(A) in writing;

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

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

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

(3) FINAL OPINIONS.—For final OLC opinions
for which the text is withheld in full or in substan-
tial part, a detailed unclassified summary of the opinion shall be made available to the public, in the same timeframe as required of the final OLC opinion, that conveys the essence of the opinion, including any interpretations of a statute, the Constitution, or other legal authority. A notation shall be included in any published list of final OLC opinions regarding the extent of the withholdings.

(4) NO LIMITATION ON FREEDOM OF INFORMATION.—Nothing in this subsection shall be construed as limiting the availability of information under section 552 of title 5, United States Code or construed as an exemption under paragraph (3) of subsection (b) of such section.

(5) NO LIMITATION ON RELIEF.—A decision by the Attorney General to release or withhold information pursuant to this title shall not preclude any action or relief conferred by statutory or regulatory regime that empowers any person to request or demand the release of information.

(6) REASONABLY SEGREGABLE PORTIONS OF OPINIONS TO BE PUBLISHED.—Any reasonably segregable portion of an opinion shall be provided after withholding of the portions which are exempt under this section. The amount of information withheld,
and the exemption under which the withholding is made, shall be indicated on the released portion of the opinion, unless including that indication would harm an interest protected by the exemption in this paragraph under which the withholding is made. If technically feasible, the amount of the information withheld, and the exemption under which the withholding is made, shall be indicated at the place in the opinion where such withholding is made.

(c) Method of Publication.—The Attorney General shall publish each final OLC opinion to the extent the law permits, including by publishing the opinions on a publicly accessible website that—

(1) with respect to each opinion—

(A) contains an electronic copy of the opinion, including any transmittal letter associated with the opinion, in an open format that is platform independent and that is available to the public without restrictions;

(B) provides the public the ability to retrieve an opinion, to the extent practicable, through searches based on—

(i) the title of the opinion;

(ii) the date of publication or revision;

or
(iii) the full text of the opinion;

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

(D) provides a permanent means of accessing
the opinion electronically;

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

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

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

(d) DEFINITIONS.—In this section:

(1) OLC OPINION.—The term “OLC opinion”
means views on a matter of legal interpretation com-
municated by the Office of Legal Counsel of the De-
partment of Justice to any other office or agency, or
person in an office or agency, in the executive
branch, including any office in the Department of
Justice, the White House, or the Executive Office of
the President, and rendered in accordance with sec-
tions 511–513 of title 28, United States Code, and
relating to—

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

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

(C) the Congressional Budget and Impoundment Control Act of 1974; or

(D) any appropriations Act, continuing resolution, or other provision of law providing or governing appropriations or budget authority.

(2) Final OLC opinion.—The term “final OLC opinion” means an OLC opinion that—

(A) the Attorney General, Assistant Attorney General for the Office of Legal Counsel, or a Deputy Assistant Attorney General for the Office of Legal Counsel, has determined is final; or

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

(a) Requirements Relating to Declaration and Renewal of National Emergencies.—Title II of the National Emergencies Act (50 U.S.C. 1621 et seq.) is amended by striking sections 201 and 202 and inserting the following:

“SEC. 201. DECLARATIONS OF NATIONAL EMERGENCIES.

“(a) Authority To Declare National Emergencies.—With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such a national emergency by proclamation. Such proclamation shall immediately be transmitted to Congress and published in the Federal Register.

“(b) Specification of Provisions of Law To Be Exercised and Reporting.—No powers or authorities made available by statute for use during the period of a national emergency shall be exercised unless and until the President specifies the provisions of law under which the
President proposes that the President or other officers will act in—

“(1) a proclamation declaring a national emergency under subsection (a); or

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

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

“(1) SUBSEQUENT DECLARATIONS.—If a joint resolution of approval is not enacted under section 203 with respect to a national emergency before the expiration of the period described in section 202(a), or with respect to a national emergency proposed to be renewed under section 202(b), the President may not, during the remainder of the term of office of that President, declare a subsequent national emergency under subsection (a) with respect to the same circumstances.

“(2) EXERCISE OF AUTHORITIES.—If a joint resolution of approval is not enacted under section 203 with respect to a power or authority specified by the President in a proclamation under subsection (a) or an Executive order under subsection (b)(2) with respect to a national emergency, the President may
not, during the remainder of the term of office of that President, exercise that power or authority with respect to that emergency.

“(d) Effect of Future Laws.—No law enacted after the date of the enactment of the Congressional Power of the Purse Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

“SEC. 202. EFFECTIVE PERIODS OF NATIONAL EMERGENCIES.

“(a) Temporary Effective Periods.—

“(1) In General.—A declaration of a national emergency shall remain in effect for a period of 20 days from the issuance of the proclamation under section 201(a) (unless the declaration is terminated before the end of that period pursuant to an Act of Congress under subsection (c)(1)(C) or a proclamation of the President under subsection (c)(1)(D)) and shall terminate when that 20-day period expires unless there is enacted into law a joint resolution of approval under section 203 with respect to the proclamation.

“(2) Exercise of Powers and Authorities.—Any emergency power or authority made
available under a provision of law specified in a proclamation or Executive order pursuant to section 201(b) may be exercised pursuant to the declaration of a national emergency for a period of 20 days from the issuance of the proclamation or Executive order (unless the declaration is terminated before the end of that period pursuant to an Act of Congress under subsection (c)(1)(C) or a proclamation of the President under subsection (c)(1)(D)). That power or authority may not be exercised after that 20-day period expires unless there is enacted into law a joint resolution of approval under section 203 approving—

"(A) the proclamation of the national emergency or the Executive order; and

"(B) the exercise of the power or authority specified by the President in such proclamation or Executive order.

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

"(A) the days on which the Senate or the House of Representatives is not in session because of an adjournment of more than 3 days
to a day certain or an adjournment of the Congress sine die;

“(B) any Saturday and Sunday, not excluded under subparagraph (A), when the Senate or the House of Representatives is not in session; or

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

“(b) RENEWAL OF NATIONAL EMERGENCIES.—

“(1) IN GENERAL.—A national emergency declared by the President under section 201(a) or previously renewed under this subsection, and not already terminated pursuant to subsection (a) or (c), shall terminate on the date described in paragraph (2) unless—

“(A) the President publishes in the Federal Register and transmits to Congress an Executive order renewing the emergency; and

“(B) there is enacted into law a joint resolution of approval with respect to renewing the emergency pursuant to section 203 before the termination of the emergency or previous renewal of the emergency.
“(2) DATE DESCRIBED.—The date described in this paragraph is the date that is one year after, as applicable—

“(A) the date on which the President transmitted to Congress the proclamation declaring the emergency; or

“(B) the date of the enactment of a previous joint resolution of approval with respect to renewing the emergency pursuant to section 203.

“(c) TERMINATION OF NATIONAL EMERGENCIES.—

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

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

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

“(C) the date specified in an Act of Congress terminating the emergency; or

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

“(2) EFFECT OF TERMINATION.—Effective on the date of the termination of a national emergency under paragraph (1)—
“(A) any powers or authorities exercised by reason of the emergency shall cease to be exercised;

“(B) any amounts reprogrammed, repurposed, or transferred under any provision of law with respect to the emergency that remain unobligated on that date shall be returned and made available for the purpose for which such amounts were appropriated; and

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

“SEC. 203. REVIEW BY CONGRESS OF NATIONAL EMERGENCIES.

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

“(1) A provision approving one or more—

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

“(B) Executive orders issued under section 201(b)(2); or
"(C) Executive orders issued under section 202(b).

"(2) A provision approving a list of all or a portion of the provisions of law specified by the President under section 201(b) in the proclamations or Executive orders that are the subject of the joint resolution.

"(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS OF APPROVAL.—

"(1) INTRODUCTION.—After the President transmits to Congress a proclamation declaring a national emergency under section 201(a), or an Executive order specifying emergency powers or authorities under section 201(b)(2) or renewing a national emergency under section 202(b), a joint resolution of approval may be introduced in either House of Congress by any member of that House.

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

"(3) EXPEDITED CONSIDERATION IN SENATE.—In the Senate, the following shall apply:

"(A) COMMITTEE REFERRAL.—A joint resolution of approval shall be referred to the appropriate committee or committees.
“(B) REPORTING AND DISCHARGE.—If the committee to which a joint resolution of approval has been referred has not reported it at the end of 10 calendar days after its introduction, that committee shall be discharged from further consideration of the resolution and it shall be placed on the calendar.

“(C) PROCEEDING TO CONSIDERATION.—Notwithstanding Rule XXII of the Standing Rules of the Senate, when a committee to which a joint resolution of approval is referred has reported the resolution, or when that committee is discharged under subparagraph (B) from further consideration of the resolution, it is at any time thereafter in order to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against the motion to proceed to the consideration of the joint resolution) are waived. The motion to proceed shall be debatable for 4 hours evenly divided between proponents and opponents of the joint resolution of approval. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion
to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

If a motion to proceed to the consideration of a joint resolution of approval is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

“(D) Floor Consideration.—There shall be 10 hours of consideration on a joint resolution of approval, to be divided evenly between the proponents and opponents of the joint resolution. Of that 10 hours, there shall be a total of 2 hours of debate on any debatable motions in connection with the joint resolution, to be divided evenly between the proponents and opponents of the joint resolution.

“(E) Amendments.—No amendments shall be in order with respect to a joint resolution of approval in the Senate.

“(F) Motion to Reconsider Vote on Passage.—A motion to reconsider a vote on passage of a joint resolution of approval shall not be in order.

“(G) Appeals.—Points of order and appeals from the decision of the Presiding Officer shall be decided without debate.
“(4) Expedited Consideration in House of Representatives.—In the House of Representatives, the following shall apply:

“(A) Reporting and Discharge.—If any committee to which a joint resolution of approval has been referred has not reported it to the House within 7 legislative days after the date of referral such committee shall be discharged from further consideration of the joint resolution.

“(B)(i) Proceeding to Consideration.—Beginning on the third legislative day after each committee to which a joint resolution of approval has been referred reports it to the House or has been discharged from further consideration thereof, it shall be in order to move to proceed to consider the joint resolution of approval in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution of approval. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the
vote by which the motion is disposed of shall not be in order.

“(ii) MOTION.—A motion to proceed to the consideration of a joint resolution of approval with respect to an Executive order described in subparagraph (B) or (C) of subsection (a)(1) or a list described in subsection (a)(2) shall not be in order before the enactment of a joint resolution of approval with respect to the proclamation described in subsection (a)(1)(A) that is the subject of the Executive order or list.

“(C) CONSIDERATION.—The joint resolution of approval shall be considered as read. All points of order against the joint resolution of approval and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution of approval to final passage without intervening motion except 2 hours of debate equally divided and controlled by the sponsor of the joint resolution of approval (or a designee) and an opponent. A motion to reconsider the vote on passage of the joint resolution of approval shall not be in order.
“(5) Coordination with action by other house.—

“(A) In general.—If, before the passage by one House of Congress of a joint resolution of approval of that House, that House receives from the other House a joint resolution of approval with respect to the same proclamation described in section 201(a) or Executive order described in section 201(b)(2) or 202(b), then the following procedures shall apply:

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

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

“(I) the procedure in that House shall be the same as if no joint resolution of approval had been received from the other House; but

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

“(iii) Upon the failure of passage of the joint resolution of approval of the other
House, the question shall immediately occur on passage of the joint resolution of approval of the receiving House.

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

“(C) APPLICATION TO REVENUE MEASURES.—The provisions of this paragraph shall not apply in the House of Representatives to a joint resolution of approval that is a revenue measure.

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

“(c) RULE OF CONSTRUCTION.—The enactment of a joint resolution of approval under this section shall not be interpreted to serve as a grant or modification by Con-
gress of statutory authority for the emergency powers of
the President.

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

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

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

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

“(a) IN GENERAL.—In the case of a national emer-
gency described in subsection (b), the provisions of the
National Emergencies Act, as in effect on the day before
the date of the enactment of the Congressional Power of
the Purse Act, shall continue to apply on and after such
date of enactment.

“(b) NATIONAL EMERGENCY DESCRIBED.—

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

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

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

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

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

“(c) EFFECT OF ADDITIONAL POWERS AND AU-
THORITIES.—Subsection (a) shall not apply to a national
emergency or the exercise of emergency powers and au-

S 2921 IS
to the exercise of emergency powers and authorities de-
scribed in subsection (b), the President proposes to exer-
cise, pursuant to the national emergency, any emergency
powers and authorities under any other provision of law.”.

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

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

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

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

“(3) A summary of the actions the President or
other officers intend to take, including any re-
programming or transfer of funds and any contracts
anticipated to be entered into, and the statutory au-

thorities the President and such officers expect to rely on in addressing the national emergency.

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

“(e) Provision of Information to Congress.—The President shall provide to Congress such other infor-
mation as Congress may request in connection with any national emergency in effect under title II.

“(f) Periodic Reports on Status of Emergencies.—If the President declares a national emergency under section 201(a), the President shall, not less fre-

quently than every 90 days for the duration of the emergency, report to Congress on the status of the emergency and the actions the President or other officers have taken and authorities the President and such officers have relied on in addressing the emergency.”.

(e) Exclusion of Imposition of Duties and Impor-
(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

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

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

(d) CONFORMING AMENDMENTS.—

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

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

(A) in subsection (b), by striking “concurrent resolution” and inserting “joint resolution” each place it appears; and

(B) by adding at the end the following:

“(e) In this section, the term ‘National Emergencies Act’ means the National Emergencies Act, as in effect on
the day before the date of the enactment of the Congressional Power of the Purse Act.”

(c) Effective Date; Applicability.—

(1) In general.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to national emergencies declared under section 201 of the National Emergencies Act on or after that date.

(2) Applicability to renewals of existing emergencies.—When a national emergency declared under section 201 of the National Emergencies Act before the date of the enactment of the Congressional Power of the Purse Act would expire or be renewed under section 202(d) of that Act (as in effect on the day before such date of enactment), that national emergency shall be subject to the requirements for renewal under section 202(b) of that Act, as amended by subsection (a).

SEC. 532. NATIONAL EMERGENCIES ACT DECLARATION SPENDING REPORTING IN THE PRESIDENT’S BUDGET.

Section 1105(a) of title 31, United States Code, as amended by section 514 of this Act, is further amended by adding at the end the following:
“(A) a report on the proposed, planned, and actual obligations and expenditures of funds (for the prior fiscal year, the current fiscal year, and the fiscal year for which the budget is submitted) attributable to the exercise of powers and authorities made available by statute for each national emergency declared by the President, currently active or in effect during the applicable fiscal years.

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

“(i) be organized by Treasury Appropriation Fund Symbol or fund account and by program, project, and activity; and

“(ii) include—

“(I) a description of each such program, project, and activity;

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

“(III) the purpose and progress of such obligations and expenditures toward addressing the applicable national emergency.

“(C) The report under subparagraph (A) shall include, with respect to any transfer, reprogram-
ming, or repurposing of funds to address the applicable national emergency—

“(i) the amount of such transfer, reprogramming, or repurposing;

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

“(iii) a description of programs, projects, and activities affected by such transfer, reprogramming, or repurposing, including by a reduction in funding.”.

SEC. 533. DISCLOSURE TO CONGRESS OF PRESIDENTIAL EMERGENCY ACTION DOCUMENTS.

(a) In General.—Not later than 30 days after the conclusion of the process for approval, adoption, or revision of any presidential emergency action document, the President shall submit that document to the appropriate congressional committees.

(b) Documents in Existence Before Date of Enactment.—Not later than 15 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees all presidential emergency action documents in existence before such date of enactment.

(c) Definitions.—In this section:
(1) Appropriate congressional committees.—The term "appropriate congressional committees", with respect to a presidential emergency action document submitted under subsection (a) or (b), means—

(A) the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate;

(B) the Committee on Oversight and Reform, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(C) any other committee of the Senate or the House of Representatives with jurisdiction over the subject matter addressed in the presidential emergency action document.

(2) Presidential emergency action document.—The term "presidential emergency action document" refers to—

(A) each of the approximately 56 documents described as presidential emergency action documents in the budget justification materials for the Office of Legal Counsel of the Department of Justice submitted to Congress in...
support of the budget of the President for fiscal
year 2018; and

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

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

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

SEC. 534. EMERGENCY AND OVERSEAS CONTINGENCY OP-
ERATIONS DESIGNATIONS BY CONGRESS IN
STATUTE.

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

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

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

VERDATE Sep 11 2014 03:43 Oct 03, 2021 Jkt 029200 PO 00000 Frm 00083 Fmt 6652 Sfmt 6201 E:\BILLS\S2921.IS S2921kjohnson on DSK79L0C42PROD with BILLS
TITLE VI—SECURITY FROM POLITICAL INTERFERENCE IN JUSTICE

SEC. 601. SHORT TITLE.
This title may be cited as the “Security from Political Interference in Justice Act”.

SEC. 602. DEFINITIONS.

In this title:

(1) COMMUNICATIONS LOG.—The term “communications log” means the log required to be maintained under section 603(a).

(2) COVERED COMMUNICATION.—

(A) IN GENERAL.—The term “covered communication” means any communication relating to any contemplated or ongoing investigation or litigation conducted by the Department of Justice in any civil or criminal matter (regardless of whether a civil action or criminal indictment or information has been filed).

(B) EXCEPTIONS.—The term “covered communication” does not include a communication that is any of the following:

(i) A communication that involves contact between the President, the Vice President, the Counsel to the President, or
the Principal Deputy Counsel to the President, and the Attorney General, the Deputy Attorney General, or the Associate Attorney General, except to the extent that the communication concerns a contemplated or ongoing investigation or litigation in which a target or subject is one of the following:

(I) The President, the Vice President, or a member of the immediate family of the President or Vice President.

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

(III) The current or former chair or treasurer of any national campaign committee that sought the election or seeks the reelection of the President, or any officer of such a committee exercising authority at the national
level, during the tenure in office of the President.

(ii) A communication that involves contact between an officer or employee of the Department of Justice and an officer or employee of the Executive Office of the President on a particular matter, if any of the President, the Vice President, the Counsel to the President, or the Principal Deputy Counsel to the President, and if any of the Attorney General, the Deputy Attorney General, or the Associate Attorney General, have designated a subordinate to carry on such contact, and the person so designating monitors all subsequent communications and the person designated keeps the designating person informed of each such communication, except to the extent that the communication concerns a contemplated or ongoing investigation or litigation in which a target or subject is one of the following:

(I) The President, the Vice President, or a member of the immediate
family of the President or Vice President.

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

(III) The current or former chair or treasurer of any national campaign committee that sought the election or seeks the reelection of the President, or any officer of such a committee exercising authority at the national level, during the tenure in office of the President.

(iii) A communication that involves contact from or to the Deputy Counsel to the President for National Security Affairs, the staff of the National Security Council, or the staff of the Homeland Security Council that relates to a national security matter, except to the extent that the communication concerns a pending adver-
sarial case in litigation that may have na-
tional security implications.

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

(v) A communication that relates solely to policy, appointments, legislation, rule-
making, budgets, public relations or af-
fairs, programmatic matters, intergovern-
mental relations, administrative or per-
sonnel matters, appellate litigation, or re-
quests for legal advice.

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

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

(B) stands in loco parentis.
SEC. 603. COMMUNICATIONS LOGS.

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

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

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

   (2) the topic of the covered communication; and

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

(c) OVERSIGHT.—

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

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

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

       (B) notify the Committee on the Judiciary
of the Senate and the Committee on the Judici-
ary of the House of Representatives if the Inspector General determines that a covered communication described in the communications log—

(i) is inappropriate from a law enforcement perspective; or

(ii) raises concerns about improper political interference.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to limit the valid written assertion by the President of presidential communications privilege with regard to any material required to be submitted under this section.

SEC. 604. RULE OF CONSTRUCTION.

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

TITLE VII—PROTECTING INSPECTOR GENERAL INDEPENDENCE

Subtitle A—Requiring Cause for Removal

SEC. 701. SHORT TITLE.

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

S 2921 IS
SEC. 702. AMENDMENT.


(1) in section 3(b)—

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

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

(C) by adding at the end the following:

“(2) The President may remove an Inspector General only for any of the following grounds (and the documentation of any such ground shall be included in the communication required pursuant to paragraph (1)):

“(A) Documented permanent incapacity.

“(B) Documented neglect of duty.

“(C) Documented malfeasance.

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

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

“(F) Documented gross mismanagement.

“(G) Documented gross waste of funds.

“(H) Documented abuse of authority.

“(I) Documented inefficiency.”; and
in section 8G(e)(2), by adding at the end the following: “An Inspector General may be removed only for any of the following grounds (and the documentation of any such ground shall be included in the communication required pursuant to this paragraph):

“(A) Documented permanent incapacity.
“(B) Documented neglect of duty.
“(C) Documented malfeasance.
“(D) Documented conviction of a felony or conduct involving moral turpitude.
“(E) Documented knowing violation of a law or regulation.
“(F) Documented gross mismanagement.
“(G) Documented gross waste of funds.
“(H) Documented abuse of authority.
“(I) Documented inefficiency.”.

SEC. 703. REMOVAL OR TRANSFER REQUIREMENTS.

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

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

(2) by adding at the end the following:
“(3) If there is an open or completed inquiry into an Inspector General that relates to the removal or transfer of the Inspector General under paragraph (1), the written communication required under that paragraph shall—

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

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

(b) REASONS FOR REMOVAL OR TRANSFER FOR DESIGNATED FEDERAL ENTITIES.—Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

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

(2) by inserting at the end the following:

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

“(A) identify each entity that is conducting, or that conducted, the inquiry; and
“(B) in the case of a completed inquiry, contain
the findings made during the inquiry.”.

Subtitle B—Inspectors General of
Intelligence Community

SEC. 711. INDEPENDENCE OF INSPECTORS GENERAL OF
THE INTELLIGENCE COMMUNITY.

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

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

“Subtitle A—Inspectors General

“SEC. 1201. INDEPENDENCE OF INSPECTORS GENERAL.

“(a) Definitions.—In this section:

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

“(2) Appropriate congressional commit-
tees.—The term ‘appropriate congressional com-
mittees’ means—

“(A) the congressional intelligence commit-
tees; and
“(B) the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives.

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

“(A) with respect to the position of a covered Inspector General that requires appointment by the President, by and with the advice and consent of the Senate, the President; and

“(B) with respect to the position of a covered Inspector General that requires appointment by a head of a department or agency of the Federal Government, the head of such department or agency.

“(b) REMOVAL.—

“(1) IN GENERAL.—A covered Inspector General may be removed from office only by the head official.

“(2) GROUNDS.—The head official may remove a covered Inspector General only for any of the following grounds:

“(A) Documented permanent incapacity.

“(B) Documented neglect of duty.

“(C) Documented malfeasance.
“(D) Documented conviction of a felony or conduct involving moral turpitude.

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

“(F) Documented gross mismanagement.

“(G) Documented gross waste of funds.

“(H) Documented abuse of authority.

“(I) Documented Inefficiency.

“(e) ADMINISTRATIVE LEAVE.—

“(1) IN GENERAL.—A covered Inspector General may be placed on administrative leave only by the head official.

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

“(d) NOTIFICATION.—The head official may not remove a covered Inspector General under subsection (b) or place a covered Inspector General on administrative leave under subsection (e) unless—

“(1) the head official transmits in writing to the appropriate congressional committees a notification of such removal or placement, including an explanation of the documented grounds specified in subsection (b)(2) for such removal or placement; and
“(2) with respect to the removal of a covered
Inspector General, a period of 30 days elapses fol-
lowing the date of such transmittal.

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

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

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

“(f) RULE OF CONSTRUCTION.—Nothing in this sec-
tion shall be construed to prohibit a personnel action of
a covered Inspector General otherwise authorized by law,
other than transfer or removal.”.
(b) Definition.—Section 3 of such Act (50 U.S.C. 3003) is amended by adding at the end the following new paragraph:

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

“(A) The Inspector General of the Intelligence Community.

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


“(D) The Inspector General of the National Reconnaissance Office.

“(E) The Inspector General of the National Geospatial-Intelligence Agency.

“(F) The Inspector General of the National Security Agency.”.

(c) Clerical Amendments.—The table of sections at the beginning of the National Security Act of 1947 is amended by adding after the items relating to title XI the 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.”.
SEC. 712. AUTHORITY OF INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY TO DETERMINE MATTERS OF URGENT CONCERN.

(a) Determination.—

(1) In general.—Title XII of the National Security Act of 1947, as added by section 711, is amended by inserting after section 1201 the following new section:

``SEC. 1203. DETERMINATION OF MATTERS OF URGENT CONCERN.

“(a) Determination.—

“(1) In general.—Each covered Inspector General shall have sole authority to determine whether any complaint or information reported to the Inspector General is a matter of urgent concern.

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

“(b) Foreign interference in elections.—In addition to any other matter which is considered an urgent concern pursuant to section 103H(k)(5)(G), section 17(d)(5)(G) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517(d)(5)(G)), or other applicable provision of law, the term ‘urgent concern’ includes a serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to foreign interference in elections in the United States.’’.
(2) **Clerical Amendment.**—The table of sections at the beginning of the National Security Act of 1947 is amended by inserting after the item relating to section 1201, as added by section 711, the following new item:

"Sec. 1203. Determination of matters of urgent concern."

(b) **Conforming Amendments.**—

(1) **Intelligence Community.**—Section 103H(k)(5)(G) of the National Security Act of 1947 (50 U.S.C. 3033(k)(5)(G)) is amended by striking "In this paragraph" and inserting "In accordance with section 1203, in this paragraph".

(2) **Central Intelligence Agency.**—Section 17(d)(5)(G) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517(d)(5)(G)) is amended by striking "In this paragraph" and inserting "In accordance with section 1203 of the National Security Act of 1947, in this paragraph".

(c) **Reports on Unresolved Differences.**—

Paragraph (3) of section 103H(k) of the National Security Act of 1947 (50 U.S.C. 3033(k)) is amended by adding at the end the following new subparagraph:

"(C) With respect to each report submitted pursuant to subparagraph (A)(i), the Inspector General shall include in the report, at a minimum—"
“(i) a general description of the unresolved differences, the particular duties or responsibilities of the Inspector General involved, and, if such differences relate to a complaint or information under paragraph (5), a description of the complaint or information and the entities or individuals identified in the complaint or information; and

“(ii) to the extent such differences can be attributed not only to the Director but also to any other official, department, agency, or office within the executive branch, or a component thereof, the titles of such official, department, agency, or office.”.

(d) CLARIFICATION OF ROLE OF DIRECTOR OF NATIONAL INTELLIGENCE.—Section 102A(f)(1) of such Act (50 U.S.C. 3024(f)(1)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

“(B) The authority of the Director of National Intelligence under subparagraph (A) includes coordinating and supervising activities undertaken by elements of the intelligence community for the purpose of protecting the United States from any foreign interference in elections in the United States.”.
SEC. 713. CONFORMING AMENDMENTS AND COORDINATION WITH OTHER PROVISIONS OF LAW.

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

“(4) The provisions of title XII shall apply to the Inspector General with respect to the removal of the Inspector General and any other matter relating to the Inspector General as specifically provided for in such title.”.

(b) CENTRAL INTELLIGENCE AGENCY.—Paragraph (6) of section 17(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3517(b)) is amended to read as follows:

“(6) The provisions of title XII of the National Security Act of 1947 shall apply to the Inspector General with respect to the removal of the Inspector General and any other matter relating to the Inspector General as specifically provided for in such title.”.

(c) OTHER ELEMENTS.—

(1) IN GENERAL.—Title XII of the National Security Act of 1947, as added by section 711, is further amended by inserting after section 1203, as added by section 712(a), the following new section:
“SEC. 1205. COORDINATION WITH OTHER PROVISIONS OF LAW.

“No provision of law that is inconsistent with any provision of this title shall be considered to supersede, repeal, or otherwise modify a provision of this title unless such other provision of law specifically cites a provision of this title in order to supersede, repeal, or otherwise modify that provision of this title.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of the National Security Act of 1947 is amended by inserting after the item relating to section 1203, as added by section 712, the following new item:

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

Subtitle C—Congressional Notification

SEC. 721. SHORT TITLE.

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

SEC. 722. CHANGE IN STATUS OF INSPECTOR GENERAL OFFICES.

(a) CHANGE IN STATUS OF INSPECTOR GENERAL OF OFFICE.—Paragraph (1) of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.), as designated by section 702, is amended—
(1) by inserting “, is placed on paid or unpaid non-duty status,” after “is removed from office”;

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

(3) by inserting “, change in status,” after “before the removal”.


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

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

(3) by inserting “, change in status,” after “before the removal”.

(c) Exception to Requirement To Submit Communication Relating to Certain Changes in Status.—

(1) Communication relating to change in status of inspector general of office.—Section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.), as amended by section 702, is amended—
(A) in paragraph (1), by striking “If” and inserting “Except as provided in paragraph (4), if”; and

(B) by adding at the end the following:

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

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

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

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

“(iii) result in loss of or damage to Government property; and

“(B) in the communication, the President includes—

“(i) a specification of which clause the President relied on to make the determination under subparagraph (A);
“(ii) the substantive rationale, including detailed and case-specific reasons, for such determination;

“(iii) if the President relied on an inquiry to make such determination, an identification of each entity that is conducting, or that conducted, such inquiry; and

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

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

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

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

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

“(iii) result in loss of or damage to Government property; and

“(B) on or before the date on which the placement takes effect, submits to the committee in the Senate and the committee in the House of Rep-
resentatives that has jurisdiction over the Inspector General involved, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Reform of the House of Representatives a written communication that contains—

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

“(ii) the substantive rationale, including detailed and case-specific reasons, for such determination;

“(iii) if the President relied on an inquiry to make such determination, an identification of each entity that is conducting, or that conducted, such inquiry; and

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

(2) COMMUNICATION RELATING TO CHANGE IN STATUS OF INSPECTOR GENERAL OF DESIGNATED FEDERAL ENTITY.—Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.), as amended by section 702, is amended—
(A) in paragraph (2), by striking “If” and inserting “Except as provided in paragraph (4), if”; and

(B) by adding at the end the following:

“(4) If an Inspector General is placed on paid or unpaid non-duty status, the head of the designated Federal entity may submit the communication described in paragraph (2) to Congress later than 30 days before the Inspector General is placed on paid or unpaid non-duty status, but in any case not later than the date on which the placement takes effect, if—

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

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

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

“(iii) result in loss of or damage to Government property; and

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

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

Department

...
Federal entity relied on to make the determination under such subparagraph;

“(ii) the substantive rationale, including detailed and case-specific reasons, for such determination;

“(iii) if the head relied on an inquiry to make such determination, an identification of each entity that is conducting, or that conducted, such inquiry; and

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

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

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

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

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

“(iii) result in loss of or damage to Government property; and
“(B) on or before the date on which the placement takes effect, submits to the committee in the Senate and the committee in the House of Representatives that has jurisdiction over the Inspector General involved, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Oversight and Reform of the House of Representatives a written communication that contains—

“(i) a specification of which clause under subparagraph (A) the head of the designated Federal entity relied on to make the determination under such subparagraph;

“(ii) the substantive rationale, including detailed and case-specific reasons, for such determination;

“(iii) if the head of the designated Federal entity relied on an inquiry to make such determination, an identification of each entity that is conducting, or that conducted, such inquiry; and

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

(d) APPLICATION.—The amendments made by this section shall apply with respect to removals, transfers, and
changes of status occurring on or after the date that is
30 days after the date of enactment of this Act.

SEC. 723. PRESIDENTIAL EXPLANATION OF FAILURE TO

NOMINATE AN INSPECTOR GENERAL.

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

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

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

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

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

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

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

(c) Effective Date.—The amendment made by
subsection (a) shall take effect on the date of enactment
of this Act and shall apply to any vacancy first occurring on or after that date.

TITLE VIII—PROTECTING WHISTLEBLOWERS

SEC. 801. SHORT TITLE.

This title may be cited as the “Whistleblower Protection Improvement Act of 2021”.

Subtitle A—Whistleblower Protection Improvement

SEC. 811. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) INVESTIGATIONS AS PERSONNEL ACTIONS.—

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

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

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

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

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

“(I) the commencement, expansion, or extension of an investigation, but not including any investigation that is ministerial or nondiscretionary (including a ministerial or nondiscretionary investigation described
in section 1213) or any investigation that is conducted by an Inspector General of an entity of the Government of an employee not employed by the office of that Inspector General; and

“(II) a referral to an Inspector General of an entity of the Government, except for a referral that is ministerial or nondiscretionary; and”.

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

(b) RIGHT TO PETITION CONGRESS.—

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

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

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

(C) by adding at the end the following:
“(E) the exercise of any right protected
under section 7211;”.

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

(e) PROHIBITION ON DISCLOSURE OF WISTLE-
BLOWER IDENTITY.—

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

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

“(A) the other employee provides express writ-
ten consent prior to the communication or trans-
mission of their identity or personally identifiable in-
formation;
“(B) the communication or transmission is made in accordance with the provisions of section 552a;

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

“(D) the communication or transmission is required or permitted by any other provision of law.

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

“(A) the President;

“(B) a Member of Congress;

“(C) a member of the uniformed services;

“(D) an employee, as that term is defined in section 2105, including an employee of the United States Postal Service, the Postal Regulatory Commission, or the Department of Veterans Affairs (including any employee appointed pursuant to chapter 73 or 74 of title 38); and

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

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to any transmission or communication described in subsection (g) of section
2302 of title 5, United States Code, as added by such paragraph (1), made on or after the date of enactment of this Act.

(d) Right To Petition Congress.—

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

“§ 7211. Employees’ right to petition or furnish information or respond to Congress

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

“(1) petition Congress or a Member of Congress;

“(2) furnish information, documents, or testimony to either House of Congress, any Member of Congress, or any committee or subcommittee of Congress; or

“(3) respond to any request for information, documents, or testimony from either House of Congress or any Committee or subcommittee of Congress.

“(b) PROHIBITED ACTIONS.—No officer or employee of the Federal Government may interfere with or deny the right set forth in subsection (a), including by—
“(1) prohibiting or preventing, or attempting or threatening to prohibit or prevent, any other officer or employee of the Federal Government from engaging in activity protected in subsection (a); or

“(2) removing, suspending from duty without pay, demoting, reducing in rank, seniority, status, pay, or performance or efficiency rating, denying promotion to, relocating, reassigning, transferring, disciplining, or discriminating in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government or attempting or threatening to commit any of the foregoing actions protected in subsection (a).

“(c) APPLICATION.—This section shall not be construed to authorize disclosure of any information that is—

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

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

“(d) DEFINITION OF OFFICER OR EMPLOYEE OF THE FEDERAL GOVERNMENT.—For purposes of this sec-
tion, the term ‘officer or employee of the Federal Government’ includes—

“(1) the President;
“(2) a Member of Congress;
“(3) a member of the uniformed services;
“(4) an employee (as that term is defined in section 2105);
“(5) an employee of the United States Postal Service or the Postal Regulatory Commission; and
“(6) an employee appointed under chapter 73 or 74 of title 38.”.

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

“7211. Employees’ right to petition or furnish information or respond to Congress.”.

SEC. 812. ENHANCEMENT OF WHISTLEBLOWER PROTECTIONS.

(a) Disclosures Relating to Officers or Employees of an Office of Inspector General.—Section 1213(c) of title 5, United States Code, is amended by adding at the end the following:

“(3) If the information transmitted under this subsection disclosed a violation of law, rule, or regulation, or gross waste, gross mismanagement, abuse of authority, or
1 a substantial and specific danger to public health or safety, by any officer or employee of an Office of Inspector General, the Special Counsel may refer the matter to the Council of the Inspectors General on Integrity and Efficiency, which shall comply with the standards and procedures applicable to investigations and reports under this subsection.”.

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

“(3) In any case in which the Special Counsel determines that a referral to an Inspector General of an entity of the Federal Government was in retaliation for a disclosure or protected activity described in section 2302(b)(8) or in retaliation for exercising a right described in section 2302(b)(9)(A)(i), the Special Counsel shall transmit that finding in writing to the Inspector General within 7 days of making the finding. The Inspector General shall consider that finding and make a determination on whether to initiate an investigation or continue an investigation based on the referral that the Special Counsel found to be retaliatory.”.

(e) ENSURING TIMELY RELIEF.—

(1) INDIVIDUAL RIGHT OF ACTION.—Section 1221 of title 5, United States Code, is amended by
striking “section 2302(b)(8) or section 2302(b)(9)(A)(i), (B), (C), or (D),” each place it appears and inserting “section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g),”.

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

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

“(A) determines that there is a substantial likelihood that protected activity was a contributing factor to the personnel action involved; or

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

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

“(4) If any stay requested under paragraph (1) is denied, the employee, former employee, or applicant may, within 7 days after receiving notice of the denial, file an appeal for expedited review by the Board. The agency shall have 7 days thereafter to respond. The Board shall provide a decision not later than 21 days after receiving the ap-
peal. During the period of appeal, both parties may sup-
plement the record with information unavailable to them
at the time the stay was first requested.”.

(4) Access to District Court; Jury
Trials.—

(A) In General.—Section 1221(i) of title
5, United States Code, is amended—

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

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

“(2)(A) If, in the case of an employee, former em-
ployee, or applicant for employment who seeks corrective
action from the Merit Systems Protection Board based on
an alleged prohibited personnel practice described in sec-
section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D),
or (E), section 2302(b)(13), or section 2302(g), no final
order or decision is issued by the Board within 180 days
after the date on which a request for such corrective action
has been duly submitted to the Board, such employee,
former employee, or applicant may, after providing written
notice to the Special Counsel and the Board and only with-
in 20 days after providing such notice, bring an action
for review de novo before the appropriate United States
district court, and such action shall, at the request of ei-
ther party to such action, be tried before a jury. Upon filing of an action with the appropriate United States district court, any proceedings before the Board shall cease and the employee, former employee, or applicant for employment waives any right to refile with the Board.

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

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

“(i) shall apply the standards set forth in subsection (e); and

“(ii) may award any relief that the court considers appropriate, including any relief described in subsection (g).”.

(B) APPLICATION.—

(i) IN GENERAL.—The amendments made by subparagraph (A) shall apply to any corrective action duly submitted to the Merit Systems Protection Board, during the 5-year period preceding the date of enactment of this Act, by an employee, former employee, or applicant for employment based on an alleged prohibited per-
sonnel practice described in section 2302(b)(8), 2302(b)(9)(A)(i), (B), (C), or (D), or 2302(b)(13) of title 5, United States Code, with respect to which no final order or decision has been issued by the Board.

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

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

(II) brings such action not later than 20 days after providing such no-
tice.
(d) Recipients of Whistleblower Disclosures.—Section 2302(b)(8)(B) of title 5, United States Code, is amended by striking “or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures” and inserting “the Inspector General of an agency, a supervisor in the employee’s direct chain of command up to and including the head of the employing agency, or to an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures”.

(e) Attorney Fees.—

(1) In general.—Section 7703(a) of title 5, United States Code, is amended by adding at the end the following:

“(3) If an employee, former employee, or applicant for employment is the prevailing party under a proceeding brought under this section, the employee, former employee, or applicant for employment shall be entitled to attorney fees for all representation carried out pursuant to this section. In such an action for attorney fees, the agency responsible for taking the personnel action shall be the respondent and shall be responsible for paying the fees.”.

(2) Application.—In addition to any proceeding brought by an employee, former employee,
or applicant for employment on or after the date of enactment of this Act to a Federal court under section 7703 of title 5, United States Code, the amendment made by paragraph (1) shall apply to any proceeding brought by an employee, former employee, or applicant for employment under such section before the date of enactment of this Act with respect to which the applicable Federal court has not issued a final decision.

(f) EXTENDING WHISTLEBLOWER PROTECTION ACT TO CERTAIN EMPLOYEES.—

(1) In general.—Section 2302(a)(2)(A) of title 5, United States Code, is amended in the matter following clause (xiii), as so redesignated by section 811(a)(1)—

(A) by inserting “subsection (b)(9)(A)(i), (B), (C), (D), or (E), subsection (b)(13), or subsection (g),” after “subsection (b)(8),”; and

(B) by inserting after “title 31” the following: “, a commissioned officer or applicant for employment in the Public Health Service, an officer or applicant for employment in the commissioned officer corps of the National Oceanic and Atmospheric Administration, or a non-
career appointee in the Senior Executive Service”.

(2) Conforming Amendments.—Section 261 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071) is amended—

(A) in subsection (a)—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) through (26) as paragraphs (8) through (25), respectively;

(B) in subsection (b), by striking the second sentence; and

(C) by striking subsection (c).

(3) Application.—

(A) In General.—With respect to an officer or applicant for employment in the commissioned officer corps of the National Oceanic and Atmospheric Administration, the amendments made by paragraphs (1) and (2) shall apply to any personnel action taken against such officer or applicant on or after the date of enactment of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2020 (Public Law 116—
259) for making any disclosure protected under section 2302(b)(8) of title 5, United States Code.

(B) EXCEPTION.—Subparagraph (A) shall not apply to any personnel action with respect to which an allegation has been submitted pursuant to section 1034 of title 10, United States Code, and a final decision has been rendered regarding such allegation.

(C) DEFINITIONS.—In this paragraph, the terms “disclosure” and “personnel action” have the meanings given those terms in section 2302(a) of title 5, United States Code.

(g) RELIEF.—

(1) IN GENERAL.—Section 7701(b)(2)(A) of title 5, United States Code, is amended by striking “upon the making of the decision” and inserting “upon making of the decision, necessary to make the employee whole as if there had been no prohibited personnel practice, including training, seniority, and promotions consistent with the employee’s prior record”.

(2) APPLICATION.—In addition to any appeal made on or after the date of enactment of this Act to the Merit Systems Protection Board under section
7701 of title 5, United States Code, the amendment made by paragraph (1) shall apply to any appeal made under such section before the date of enactment of this Act with respect to which the Board has not issued a final decision.

SEC. 813. CLASSIFYING CERTAIN FURLOUGHS AS ADVERSE PERSONNEL ACTIONS.

(a) IN GENERAL.—Section 7512 of title 5, United States Code, is amended—

(1) in paragraph (4), by striking “and” at the end; and

(2) by striking paragraph (5) and inserting the following:

“(5) a furlough of more than 14 days but less than 30 days; and

“(6) a furlough of 13 days or less that is not due to a lapse in appropriations;”.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to any furlough covered by paragraph (5) or (6) of section 7512 of title 5, United States Code, as amended by such subsection, occurring on or after the date of enactment of this Act.
SEC. 814. CODIFICATION OF PROTECTIONS FOR DISCLOSURES OF CENSORSHIP RELATED TO RESEARCH, ANALYSIS, OR TECHNICAL INFORMATION.

(a) In General.—Section 2302 of title 5, United States Code, as amended by section 811(c)(1), is further amended by adding at the end the following:

```
(h)(1) In this subsection—
   (A) the term ‘applicant’ means an applicant for a covered position;
   (B) the term ‘censorship related to research, analysis, or technical information’ means any effort to distort, misrepresent, or suppress research, analysis, or technical information; and
   (C) the term ‘employee’ means an employee in a covered position in an agency.

(2)(A) Any disclosure of information by an employee or applicant for employment that the employee or applicant reasonably believes is evidence of censorship related to research, analysis, or technical information—
   (i) shall come within the protections of subsection (b)(8)(A) if—
      (I) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—
```
“(aa) any violation of law, rule, or regulation; or

“(bb) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

“(II) such disclosure is not specifically prohibited by law or such information is not specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs; and

“(ii) shall come within the protections of subsection (b)(8)(B) if—

“(I) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

“(aa) any violation of law, rule, or regulation; or

“(bb) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

“(II) the disclosure is made to the Special Counsel, or to the Inspector General of an
agency or another person designated by the 
head of the agency to receive such disclosures, 
consistent with the protection of sources and 
methods.

“(3) A disclosure shall not be excluded from para-
graph (2) for any reason described under paragraph (1) 
or (2) of subsection (f).

“(4) Nothing in this subsection shall be construed to 
imply any limitation on the protections of employees and 
applicants afforded by any other provision of law, includ-
ing protections with respect to any disclosure of informa-
tion believed to be evidence of censorship related to re-
search, analysis, or technical information.”.

(b) REPEAL.—

(1) IN GENERAL.—Section 110 of the Whistle-
blower Protection Enhancement Act of 2012 (5 
U.S.C. 2302 note) is hereby repealed.

(2) RULE OF CONSTRUCTION.—Nothing in this 
section shall be construed to limit or otherwise affect 
any action under section 110 of the Whistleblower 
Protection Enhancement Act of 2012 (5 U.S.C. 
2302 note) commenced before the date of enactment 
of this Act or any protections afforded by such sec-
tion with respect to such action.
SEC. 815. TITLE 5 TECHNICAL AND CONFORMING AMENDMENTS.

Title 5, United States Code, is amended—

(1) in section 1212(h), by striking “or (9)” each place it appears and inserting “, (b)(9), (b)(13), or (g)”;

(2) in section 1214—

(A) in subsections (a) and (b), by striking “section 2302(b)(8) or section 2302(b)(9)(A)(i), (B), (C), or (D)” each place it appears and inserting “section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)”;

(B) in subsection (i), by striking “section 2302(b)(8) or subparagraph (A)(i), (B), (C), or (D) of section 2302(b)(9)” and inserting “section 2302(b)(8), subparagraph (A)(i), (B), (C), (D), or (E) of section 2302(b)(9), section 2302(b)(13), or section 2302(g)”;

(3) in section 1215(a)(3)(B), by striking “section 2302(b)(8), or 2302(b)(9)(A)(i), (B), (C), or (D)” each place it appears and inserting “section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)”;

(4) in section 2302—

(A) in subsection (a)—
(i) in paragraph (1), by inserting “or (g)” after “subsection (b)”); and

(ii) in paragraph (2)(C)(i), by striking “subsection (b)(8) or section 2302(b)(9)(A)(i), (B), (C), or (D)” and inserting “section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)”;

and

(B) in subsection (c)(1)(B), by striking “paragraph (8) or subparagraph (A)(i), (B), (C), or (D) of paragraph (9) of subsection (b)” and inserting “paragraph (8), subparagraph (A)(i), (B), (C), or (D) of paragraph (9), or paragraph (13), of subsection (b), or subsection (g)”;

(5) in section 7515(a)(2), by striking “paragraph (8), (9), or (14) of section 2302(b)” and inserting “paragraph (8), (9), (13), or (14) of section 2302(b) or section 2302(g)”;

(6) in section 7701(c)(2)(B), by inserting “or section 2302(g)” after “section 2302(b)”; and

(7) in section 7703(b)(1)(B), by striking “section 2302(b)(8), or 2302(b)(9)(A)(i), (B), (C), or (D)” and inserting “section 2302(b)(8), section
Subtitle B—Whistleblowers of the
Intelligence Community

SEC. 821. LIMITATION ON SHARING OF INTELLIGENCE COMMUNITY WHISTLEBLOWER COMPLAINTS WITH PERSONS NAMED IN SUCH COMPLAINTS.

(a) IN GENERAL.—Title XII of the National Security Act of 1947, as added by section 711, is further amended by inserting after section 1205, as added by section 713(c), the following new subtitle:

“Subtitle B—Protections for Whistleblowers

“SEC. 1223. LIMITATION ON SHARING OF INTELLIGENCE COMMUNITY WHISTLEBLOWER COMPLAINTS WITH PERSONS NAMED IN SUCH COMPLAINTS.

“(a) WHISTLEBLOWER DISCLOSURE INFORMATION DEFINED.—In this section, the term ‘whistleblower disclosure information’ means, with respect to a whistleblower disclosure—

“(1) the disclosure;

“(2) confirmation of the fact of the existence of the disclosure; or
“(3) the identity, or other identifying information, of the whistleblower who made the disclosure.

“(b) IN GENERAL.—It shall be unlawful for any employee or officer of the Federal Government to knowingly and willfully share any whistleblower disclosure information with any individual named as a subject of the whistleblower disclosure and alleged in the disclosure to have engaged in misconduct, unless—

“(1) the whistleblower consented, in writing, to such sharing before the sharing occurs;

“(2) a covered Inspector General to whom such disclosure is made—

“(A) determines that such sharing is necessary to advance an investigation, audit, inspection, review, or evaluation by the Inspector General; and

“(B) notifies the whistleblower of such sharing before the sharing occurs; or

“(3) an attorney for the Government—

“(A) determines that such sharing is necessary to advance an investigation by the attorney; and

“(B) notifies the whistleblower of such sharing before the sharing occurs.”.

(b) TECHNICAL AND CLERICAL AMENDMENTS.—
(1) TRANSFER.—The National Security Act of 1947 (50 U.S.C. 3001 et seq.) is amended as follows:

(A) Section 1104 is—

(i) transferred to title XII of such Act, as added by section 711;

(ii) inserted before section 1223 of such Act, as added by this section; and

(iii) redesignated as section 1221.

(B) Section 1106 is—

(i) amended by striking “section 1104” each place it appears and inserting “section 1221”;

(ii) transferred to title XII of such Act, as added by section 711;

(iii) inserted after section 1223 of such Act, as added by this section; and

(iv) redesignated as section 1225.

(2) CLERICAL AMENDMENTS.—The table of sections at the beginning of the National Security Act of 1947 is amended—

(A) by striking the items relating to section 1104 and section 1106; and

(B) by inserting after the item relating to 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."

(e) DEFINITIONS.—Section 3 of such Act (50 U.S.C. 3003), as amended by section 711, is further amended by adding at the end the following new paragraphs:

“(9) The term ‘whistleblower’ means a person who makes a whistleblower disclosure.

“(10) The term ‘whistleblower disclosure’ means a disclosure that is protected under section 1221 of this Act or section 3001(j)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 3341(j)).”.


SEC. 822. DISCLOSURES TO CONGRESS.

(a) IN GENERAL.—Title XII of the National Security Act of 1947, as added by section 711, is further amended by inserting after section 1225, as designated by section 821(b), the following new section:
“SEC. 1227. PROCEDURES REGARDING DISCLOSURES TO CONGRESS.

“(a) Guidance.—

“(1) Obligation to provide security direction upon request.—Upon the request of a whistleblower, the head of the relevant element of the intelligence community, acting through the covered Inspector General for that element, shall furnish on a confidential basis to the whistleblower information regarding how the whistleblower may directly contact the congressional intelligence committees, in accordance with appropriate security practices, regarding a complaint or information of the whistleblower pursuant to section 103H(k)(5)(D) or other appropriate provision of law.

“(2) Nondisclosure.—Unless a whistleblower who makes a request under paragraph (1) provides prior consent, a covered Inspector General may not disclose to the head of the relevant element of the intelligence community—

“(A) the identity of the whistleblower; or

“(B) the element at which such whistleblower is employed, detailed, or assigned as a contractor employee.

“(b) Oversight of Obligation.—If a covered Inspector General determines that the head of an element
of the intelligence community denied a request by a whistleblower under subsection (a), directed the whistleblower not to contact the congressional intelligence committees, or unreasonably delayed in providing information under such subsection, the covered Inspector General shall notify the congressional intelligence committees of such denial, direction, or unreasonable delay.

“(c) PERMANENT SECURITY OFFICER.—The head of each element of the intelligence community may designate a permanent security officer in the element to provide to whistleblowers the information under subsection (a).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the National Security Act of 1947 is amended by inserting after the item relating to section 1225, as added by section 821(b), the following new item:

“Sec. 1227. Procedures regarding disclosures to Congress.”.

(e) CONFORMING AMENDMENT.—Section 103H(k)(5)(D)(i) of the National Security Act of 1947 (50 U.S.C. 3033(k)(5)(D)(i)) is amended by adding at the end the following: “The employee may request information pursuant to section 1227 with respect to contacting such committees.”.
SEC. 823. PROHIBITION AGAINST DISCLOSURE OF WHISTLEBLOWER IDENTITY AS REPRISAL AGAINST WHISTLEBLOWER DISCLOSURE BY EMPLOYEES AND CONTRACTORS IN INTELLIGENCE COMMUNITY.

(a) In General.—Paragraph (3) of subsection (a) of section 1221 of the National Security Act of 1947, as designated by section 821(b)(1)(A), is amended—

(1) in subparagraph (I), by striking “; or” and inserting a semicolon;

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following:

“(J) a knowing and willful disclosure revealing the identity or other personally identifiable information of such employee or such contractor employee without the express written consent of such employee or such contractor employee or if the Inspector General determines such disclosure is necessary for the exclusive purpose of investigating a complaint or information received under section 8H of the Inspector General Act of 1978 (5 U.S.C. App. 8H); or”.
(b) Applicability to Detainees.—Such subsection
is amended by adding at the end the following:

“(5) EMPLOYEE.—The term ‘employee’, with
respect to an agency or a covered intelligence com-
munity element, includes an individual who has been
detailed to such agency or covered intelligence com-
munity element.”.

(c) Private Right of Action for Unlawful Dis-
closure of Whistleblower Identity.—Subsection
(d) of such section is amended to read as follows:

“(d) Enforcement.—

“(1) In General.—Except as otherwise pro-
vided in this subsection, the President shall provide
for the enforcement of this section.

“(2) Private Right of Action for Unlaw-
ful, Willful Disclosure of Whistleblower
Identity.—In a case in which an employee of an
agency, or other employee or officer of the Federal
Government, takes a personnel action described in
subsection (a)(3)(J) against an employee of a cov-
ered intelligence community element as a reprisal in
violation of subsection (b) or in a case in which a
contractor employee takes a personnel action de-
scribed in such subsection against another con-
tractor employee as a reprisal in violation of sub-
section (c), the employee or contractor employee against whom the personnel action was taken may bring a private action for all appropriate remedies, including injunctive relief and compensatory and punitive damages, against the employee or contractor employee who took the personnel action, in a Federal district court of competent jurisdiction within 180 days of when the employee or contractor employee first learned of or should have learned of the violation.”.

TITLE IX—ACCOUNTABILITY FOR ACTING OFFICIALS

SEC. 901. SHORT TITLE.

This title may be cited as the “Accountability for Acting Officials Act”.

SEC. 902. CLARIFICATION OF FEDERAL VACANCIES REFORM ACT OF 1998.

(a) Eligibility Requirements.—Section 3345 of title 5, United States Code, is amended as follows:

(1) In subsection (a)—

(A) in paragraph (1), by adding before the semicolon at the end the following: “, but, and except as provided in subsection (e), only if the individual serving in the position of first assistant has occupied such position for a period of
at least 30 days during the 365-day period pre-
ceeding the date of the death, resignation, or be-
ginning of inability to serve of the applicable of-
ference”; and

(B) by striking subparagraph (A) of para-
graph (3) and inserting the following:

“(A) the officer or employee served in a
position in such agency for a period of at least
1 year preceding the date of death, resignation,
or beginning of inability to serve of the applica-
ble officer; and”.

(2) By adding at the end the following:

“(d) For purposes of this section, a position shall be
considered to be the first assistant to the office with re-
spect to which a vacancy occurs only if such position has
been designated, at least 30 days before the date of the
vacancy, by law, rule, or regulation as the first assistant
position. The previous sentence shall begin to apply on the
date that is 180 days after the date of enactment of the
Accountability for Acting Officials Act.

“(e) The 30-day service requirement in subsection
(a)(1) shall not apply to any individual who is a first as-
sistant if—

“(1)(A) the office of such first assistant is an
office for which appointment is required to be made
by the President, by and with the advice and consent
of the Senate; and

“(B) the Senate has approved the appointment
of such individual to such office; or

“(2) the individual began serving in the position
of first assistant during the 180-day period begin-
ing on a transitional inauguration day (as that
term is defined in section 3349a(a)).”).

(b) QUALIFICATIONS.—Section 3345(b) of title 5,
United States Code, is amended by adding at the end the
following:

“(3) Any individual directed to perform the functions
and duties of the vacant office temporarily in an acting
capacity under subsection (a)(2) or (f) shall possess the
qualifications (if any) set forth in law, rule, or regulation
that are otherwise applicable to an individual appointed
by the President, by and with the advice and consent of
the Senate, to occupy such office.”.

(c) APPLICATION TO INDIVIDUALS REMOVED FROM
OFFICE.—Paragraph (2) of section 3345(c) of title 5,
United States Code, is amended by inserting after “the
expiration of a term of office” the following: “or removal
(voluntarily or involuntarily) from office”.

(d) VACANCY OF INSPECTOR GENERAL POSITIONS.—
(1) IN GENERAL.—Section 3345 of title 5, United States Code, as amended by subsection (a)(2), is further amended by adding at the end the following:

“(f)(1) Notwithstanding subsection (a), if an Inspector General position that requires appointment by the President by and with the advice and consent of the Senate to be filled is vacant, the first assistant of such position shall perform the functions and duties of the Inspector General temporarily in an acting capacity subject to the time limitations of section 3346.

“(2) Notwithstanding subsection (a), if, for purposes of carrying out paragraph (1) of this subsection, by reason of absence, disability, or vacancy, the first assistant to the position of Inspector General is not available to perform the functions and duties of the Inspector General, an acting Inspector General shall be appointed by the President from among individuals serving in an office of any Inspector General, provided that—

“(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable Inspector General, the individual served in a position in an office of any Inspector General for not less than 90 days; and
“(B) the rate of pay for the position of such individual is equal to or greater than the minimum rate of pay payable for a position at GS–15 of the General Schedule.”.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to any vacancy first occurring with respect to an Inspector General position on or after the date of enactment of this Act.

(e) TESTIMONY OF ACTING OFFICIALS BEFORE CONGRESS.—Section 3345 of title 5, United States Code, as amended by subsection (d)(1), is further amended by adding at the end the following:

“(g)(1) Any individual serving as an acting officer due to a vacancy to which this section applies, or any individual who has served in such capacity and continues to perform the same or similar duties beyond the time limits described in section 3346, shall appear, at least once during any 60-day period that the individual is so serving, before the appropriate committees of jurisdiction of the Senate and the House of Representatives.

“(2) Paragraph (1) may be waived upon mutual agreement of the chairs and ranking members of such committees.”.

(f) TIME LIMITATION FOR PRINCIPAL OFFICES.—Section 3346 of title 5, United States Code, is amended—
(1) in subsection (a), by inserting “or as pro-
vided in subsection (d)” after “sickness”; and

(2) by adding at the end the following:

“(d) With respect to the vacancy of the position of
head of any agency listed in section 901(b) of title 31 (or
of any other Executive department) and to which this sec-
tion applies, subsections (a) through (e) of this section and
sections 3348(c), 3349(b), and 3349a(b) shall be applied
by substituting ‘120’ for ‘210’ in each instance.”.

(g) EXCLUSIVITY.—Section 3347 of title 5, United
States Code, is amended—

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

(2) by inserting after subsection (a) the fol-
lowing:

“(b) Notwithstanding subsection (a), any statutory
provision covered under paragraph (1) of such subsection
that contains a non-discretionary order or directive to des-
ignate an officer or employee to perform the functions and
duties of a specified office temporarily in an acting capac-
ity shall be the exclusive means for temporarily author-
izing an acting official to perform the functions and duties
of such office.”.

(h) REPORTING OF VACANCIES.—
(1) IN GENERAL.—Section 3349 of title 5, United States Code, is amended—

(A) in subsection (a)—

(i) by striking “immediately upon” in each instance and inserting “not later than 7 days after”;

(ii) in paragraph (3), by striking “and” at the end;

(iii) in paragraph (4), by striking the period at the end and inserting “; and”;

and

(iv) by adding at the end the following:

“(5) notification of the end of the term of service of any person serving in an acting capacity and the name of any subsequent person serving in an acting capacity and the date the service of such subsequent person began not later than 7 days after such date.”; and

(B) in subsection (b), by striking “immediately” and inserting “not later than 14 days after the date of such determination”.

(2) TECHNICAL CORRECTIONS.—Paragraphs (1) and (2) of subsection (b) of section 3349 of title
5, United States Code, are amended to read as follows:

“(1) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(2) the Committee on Oversight and Reform of the House of Representatives;”.

(i) VACANCIES DURING PRESIDENTIAL INAUGURAL TRANSITIONS.—Section 3349a(b) of title 5, United States Code, is amended to read as follows:

“(b) Notwithstanding section 3346 (except as provided in paragraph (2) of this subsection) or 3348(e), with respect to any vacancy that exists on a transitional inauguration day, or that arises during the 60-day period beginning on such day, the person serving as an acting officer as described under section 3345 may serve in the office—

“(1) for no longer than 300 days beginning on such day; or

“(2) subject to section 3346(b), once a first or second nomination for the office is submitted to the Senate, from the date of such nomination for the period that the nomination is pending in the Senate.”.
TITLE X—STRENGTHENING HATCH ACT ENFORCEMENT AND PENALTIES

SEC. 1001. SHORT TITLE.
This title may be cited as the “Hatch Act Accountability Act”.

SEC. 1002. STRENGTHENING HATCH ACT ENFORCEMENT AND PENALTIES AGAINST POLITICAL APPONEEES.

(a) INVESTIGATIONS BY OFFICE OF SPECIAL COUNSEL.—Section 1216 of title 5, United States Code, as amended by section 307, is amended—

(1) in subsection (c), by striking “(1),”; and

(2) by adding at the end the following:

“(e)(1) In addition to the authority otherwise provided in this chapter, the Special Counsel may, regardless of whether the Special Counsel has received an allegation, conduct any investigation as the Special Counsel considers necessary concerning political activity prohibited under such subchapter.

“(2) With respect to any investigation under paragraph (1), the Special Counsel may seek corrective action under section 1214 and disciplinary action under section 1215 in the same way as if a prohibited personnel practice were involved.
“(f)(1) Notwithstanding section 1215(b), consistent with paragraph (3) of this subsection, if, after an investigation under subsection (d)(1), the Special Counsel determines that a political appointee has violated section 7323 or 7324, the Special Counsel may present a complaint to the Merit Systems Protection Board under the process provided in section 1215, against such political appointee.

“(2) Notwithstanding section 7326, a final order of the Board on a complaint of a violation of section 7323 or 7324 by a political appointee may impose an assessment of a civil penalty not to exceed $50,000.

“(3) The Special Counsel may not present a complaint under paragraph (1) of this subsection—

“(A) unless no disciplinary action or civil penalty has been taken or assessed, respectively, against the political appointee pursuant to section 7326; and

“(B) until on or after the date that is 90 days after the date that the complaint regarding the political appointee was presented to the President under section 1215(b), notwithstanding whether the President submits a written statement pursuant to paragraph (4) of this subsection.

“(4)(A) Not later than 90 days after receiving from the Special Counsel a complaint recommending discipli-
nary action under section 1215(b) with respect to a polit-
ical appointee for a violation of section 7323 or 7324, the
President shall provide a written statement to the Special
Counsel on whether the President imposed the rec-
ommended disciplinary action, imposed another form of
disciplinary action and the nature of that disciplinary ac-
tion, or took no disciplinary action against the political
appointee.

“(B) Not later than 14 days after receiving a written
statement under subparagraph (A) of this paragraph—

“(i) the Special Counsel shall submit the writ-
ten statement to the Committee on Homeland Secu-
ritv and Governmental Affairs of the Senate and the
Committee on Oversight and Reform of the House
of Representatives; and

“(ii) publish the written statement on the public
website of the Office of Special Counsel.

“(5) Not later than 14 days after the date that the
Special Counsel determines a political appointee has vio-
lated section 7323 or 7324, the Special Counsel shall—

“(A) submit a report on the investigation into
such political appointee, and any communications
sent from the Special Counsel to the President re-
ommending discipline of such political appointee, to
the Committee on Homeland Security and Govern-
mental Affairs of the Senate and the Committee on
Oversight and Reform of the House of Representa-
tives; and
“(B) publish the report and such communica-
tions on the public website of the Office of Special Counsel.
“(6) In this subsection, the term ‘political appointee’
means any individual, other than the President and the
Vice-President, employed or holding office—
“(A) in the Executive Office of the President,
the Office of the Vice President, and any other office
of the White House, but not including any career
employee; or
“(B) in a confidential, policy-making, policy-de-
determining, or policy-advocating position appointed by
the President, by and with the advice and consent
of the Senate (other than an individual in the For-
eign Service of the United States).”.
(b) CLARIFICATION ON APPLICATION OF HATCH ACT
to EOP and OVP Employees.—Section 7322(1)(A) of
title 5, United States Code, is amended by inserting after
“Executive agency” the following: “, including the Execu-
tive Office of the President, the Office of the Vice Presi-
dent, and any other office of the White House,”.
TITLE XI—PROMOTING EFFICIENT PRESIDENTIAL TRANSITIONS

SEC. 1101. SHORT TITLE.

This title may be cited as the “Efficient Transition Act of 2021”.

SEC. 1102. ASCERTAINMENT OF SUCCESSFUL CANDIDATES IN GENERAL ELECTIONS FOR PURPOSES OF PRESIDENTIAL TRANSITION.

(a) In General.—Section 3(c) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by striking “The terms” and inserting “(1) The terms”; and

(2) by adding at the end the following:

“(2) The Administrator shall make the ascertainment under paragraph (1) as soon as practicable after the general elections.

“(3) If the Administrator does not make such ascertainment within 5 days after such elections, each eligible candidate (as defined in subsection (h)(4)) shall be treated as if the eligible candidate is the apparent successful candidate for purposes of this Act until the Administrator makes the ascertainment or until the House of Representatives and the Senate certify the results of the elections, whichever occurs first.”.
(b) Regulations.—Not later than 270 days after the date of enactment of this Act, the Administrator of General Services shall promulgate regulations that establish standards and procedures to be followed by the Administrator in making an ascertainment under section 3(c) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), as amended by subsection (a).

TITLE XII—PRESIDENTIAL AND VICE PRESIDENTIAL TAX TRANSPARENCY

SEC. 1201. PRESIDENTIAL AND VICE PRESIDENTIAL TAX TRANSPARENCY.

(a) Definitions.—In this section—

(1) The term “covered candidate” means a candidate of a major party in a general election for the office of President or Vice President.

(2) The term “income tax return” means, with respect to an individual, any return (as such term is defined in section 6103(b)(1) of the Internal Revenue Code of 1986, except that such term shall not include declarations of estimated tax) of—

(A) such individual, other than information returns issued to persons other than such individual; or
(B) of any corporation, partnership, or trust in which such individual holds, directly or indirectly, a significant interest as the sole or principal owner or the sole or principal beneficial owner (as such terms are defined in regulations prescribed by the Secretary).

(3) The term “major party” has the meaning given the term in section 9002 of the Internal Revenue Code of 1986.

(4) The term “Secretary” means the Secretary of the Treasury or the delegate of the Secretary.

(b) DISCLOSURE.—

(1) IN GENERAL.—

(A) Candidates for president and vice president.—Not later than the date that is 15 days after the date on which an individual becomes a covered candidate, the individual shall submit to the Federal Election Commission a copy of the individual’s income tax returns for the 10 most recent taxable years for which a return has been filed with the Internal Revenue Service.

(B) President and vice president.—With respect to an individual who is the President or Vice President, not later than the due
date for the return of tax for each taxable year, 
such individual shall submit to the Federal 
Election Commission a copy of the individual’s 
income tax returns for the taxable year and for 
the 9 preceding taxable years.

(C) Transition rule for sitting presidents and vice presidents.—Not later than 
the date that is 30 days after the date of enact-
ment of this section, an individual who is the 
President or Vice President on such date of en-
actment shall submit to the Federal Election 
Commission a copy of the income tax returns 
for the 10 most recent taxable years for which 
a return has been filed with the Internal Rev-

(2) Failure to disclose.—If any require-
ment under paragraph (1) to submit an income tax 
return is not met, the chairman of the Federal Elec-
tion Commission shall submit to the Secretary a 
written request that the Secretary provide the Fed-
eral Election Commission with the income tax re-

(3) Publicly available.—The chairman of 
the Federal Election Commission shall make publicly 
available each income tax return submitted under
paragraph (1) in the same manner as a return pro-
vided under section 6103(l)(23) of the Internal Rev-
ue Code of 1986 (as added by this section).

(4) Treatment as a report under the
Federal Election Campaign Act of 1971.—For
purposes of the Federal Election Campaign Act of
1971, any income tax return submitted under para-
graph (1) or provided under section 6103(l)(23) of
the Internal Revenue Code of 1986 (as added by
this section) shall, after redaction under paragraph
(3) or subparagraph (B)(ii) of such section, be treat-
ed as a report filed under the Federal Election Cam-
paign Act of 1971.

cDisclosure of Returns of Presidents and
Vice Presidents and Certain Candidates for
President and Vice President.—

(1) In General.—Section 6103(l) of the Inter-
nal Revenue Code of 1986 is amended by adding at
the end the following new paragraph:

“(23) Disclosure of Return Information
of Presidents and Vice Presidents and Cer-
tain Candidates for President and Vice Presi-
dent.—

“(A) In General.—Upon written request
by the chairman of the Federal Election Com-
mission under section 1201(b)(2) of the Protecting Our Democracy Act, not later than the date that is 15 days after the date of such request, the Secretary shall provide copies of any return which is so requested to officers and employees of the Federal Election Commission whose official duties include disclosure or redaction of such return under this paragraph.

“(B) DISCLOSURE TO THE PUBLIC.—

“(i) IN GENERAL.—The chairman of the Federal Election Commission shall make publicly available any return which is provided under subparagraph (A).

“(ii) REDACTION OF CERTAIN INFORMATION.—Before making publicly available under clause (i) any return, the chairman of the Federal Election Commission shall redact such information as the Federal Election Commission and the Secretary jointly determine is necessary for protecting against identity theft, such as social security numbers.”.

(2) CONFORMING AMENDMENTS.—Section 6103(p)(4) of such Code is amended—
(A) in the matter preceding subparagraph (A) by striking “or (22)” and inserting “(22), or (23)”;

(B) in subparagraph (F)(ii) by striking “or (22)” and inserting “(22), or (23)”.

(3) Effective date.—The amendments made by this subsection shall apply to disclosures made on or after the date of enactment of this Act.

DIVISION C—DEFENDING ELECTIONS AGAINST FOREIGN INTERFERENCE

TITLE XIII—REPORTING FOREIGN INTERFERENCE IN ELECTIONS

SEC. 1301. FEDERAL CAMPAIGN REPORTING OF FOREIGN CONTACTS.

(a) Initial notice.—

(1) In general.—Section 304 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30104) is amended by adding at the end the following new subsection:

“(j) Disclosure of Reportable Foreign Contacts.—

“(1) Committee obligation to notify.—

Not later than 1 week after a reportable foreign con-
tact, each political committee shall notify the Federal Bureau of Investigation and the Commission of the reportable foreign contact and provide a summary of the circumstances with respect to such reportable foreign contact. The Federal Bureau of Investigation, not later than 1 week after receiving a notification from a political committee under this paragraph, shall submit to the political committee, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives written or electronic confirmation of receipt of the notification.

“(2) INDIVIDUAL OBLIGATION TO NOTIFY.—
Not later than 3 days after a reportable foreign contact—

“(A) each candidate and each immediate family member of a candidate shall notify the treasurer or other designated official of the principal campaign committee of such candidate of the reportable foreign contact and provide a summary of the circumstances with respect to such reportable foreign contact; and

“(B) each official, employee, or agent of a political committee shall notify the treasurer or other designated official of the committee of the
reportable foreign contact and provide a summary of the circumstances with respect to such reportable foreign contact.

“(3) REPORTABLE FOREIGN CONTACT.—In this subsection:

“(A) IN GENERAL.—The term ‘reportable foreign contact’ means any direct or indirect contact or communication that—

“(i) is between—

“(I) a candidate, an immediate family member of the candidate, a political committee, or any official, employee, or agent of such committee; and

“(II) an individual that the person described in subclause (I) knows, has reason to know, or reasonably believes is a covered foreign national; and

“(ii) the person described in clause (i)(I) knows, has reason to know, or reasonably believes involves—

“(I) an offer or other proposal for a contribution, donation, expendi-
ture, disbursement, or solicitation described in section 319; or

“(II) coordination or collaboration with, an offer or provision of information or services to or from, or persistent and repeated contact with, a covered foreign national in connection with an election.

“(B) EXCEPTIONS.—

“(i) CONTACTS IN OFFICIAL CAPACITY AS ELECTED OFFICIAL.—The term ‘reportable foreign contact’ shall not include any contact or communication with a covered foreign national by an elected official or an employee of an elected official solely in an official capacity as such an official or employee.

“(ii) CONTACTS FOR PURPOSES OF ENABLING OBSERVATION OF ELECTIONS BY INTERNATIONAL OBSERVERS.—The term ‘reportable foreign contact’ shall not include any contact or communication with a covered foreign national by any person which is made for purposes of enabling the observation of elections in the United
States by a foreign national or the observation of elections outside of the United States by a candidate, political committee, or any official, employee, or agent of such committee.

“(iii) EXCEPTIONS NOT APPLICABLE IF CONTACTS OR COMMUNICATIONS INVOLVE PROHIBITED DISBURSEMENTS.—A contact or communication by an elected official or an employee of an elected official shall not be considered to be made solely in an official capacity for purposes of clause (i), and a contact or communication shall not be considered to be made for purposes of enabling the observation of elections for purposes of clause (ii), if the contact or communication involves a contribution, donation, expenditure, disbursement, or solicitation described in section 319.

“(C) COVERED FOREIGN NATIONAL DEFINED.—

“(i) IN GENERAL.—In this paragraph, the term ‘covered foreign national’ means—
“(I) a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b))) that is a government of a foreign country or a foreign political party;

“(II) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal described in subclause (I) or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal described in subclause (I); or

“(III) any person included in the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury pursuant to authorities relating to the imposition of sanctions relating to the
conduct of a foreign principal described in subclause (I).

“(ii) Clarification regarding application to citizens of the United States.—In the case of a citizen of the United States, subclause (II) of clause (i) applies only to the extent that the person involved acts within the scope of that person’s status as the agent of a foreign principal described in subclause (I) of clause (i).

“(4) Immediate family member.—In this subsection, the term ‘immediate family member’ means, with respect to a candidate, a parent, parent-in-law, spouse, adult child, or sibling.”.

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to reportable foreign contacts which occur on or after the date of the enactment of this Act.

(b) Information included on report.—

(1) In general.—Section 304(b) of such Act (52 U.S.C. 30104(b)) is amended—

(A) by striking “and” at the end of paragraph (7);
(B) by striking the period at the end of paragraph (8) and inserting ‘‘; and’’; and

(C) by adding at the end the following new paragraph:

“(9) for any reportable foreign contact (as defined in subsection (j)(3))—

“(A) the date, time, and location of the contact;

“(B) the date and time of when a designated official of the committee was notified of the contact;

“(C) the identity of individuals involved; and

“(D) a description of the contact, including the nature of any contribution, donation, expenditure, disbursement, or solicitation involved and the nature of any activity described in subsection (j)(3)(A)(ii)(II) involved.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to reports filed on or after the expiration of the 60-day period which begins on the date of the enactment of this Act.
SEC. 1302. FEDERAL CAMPAIGN FOREIGN CONTACT REPORTING COMPLIANCE SYSTEM.

(a) In general.—Section 302 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30102) is amended by adding at the end the following new subsection:

“(j) Reportable Foreign Contacts Compliance Policy.—

“(1) Reporting.—Each political committee shall establish a policy that requires all officials, employees, and agents of such committee (and, in the case of an authorized committee, the candidate and each immediate family member of the candidate) to notify the treasurer or other appropriate designated official of the committee of any reportable foreign contact (as defined in section 304(j)) not later than 3 days after such contact was made.

“(2) Retention and preservation of records.—Each political committee shall establish a policy that provides for the retention and preservation of records and information related to reportable foreign contacts (as so defined) for a period of not less than 3 years.

“(3) Certification.—

“(A) In general.—Upon filing its statement of organization under section 303(a), and with each report filed under section 304(a), the
treasurer of each political committee (other than an authorized committee) shall certify that—

“(i) the committee has in place policies that meet the requirements of paragraphs (1) and (2);

“(ii) the committee has designated an official to monitor compliance with such policies; and

“(iii) not later than 1 week after the beginning of any formal or informal affiliation with the committee, all officials, employees, and agents of such committee will—

“(I) receive notice of such policies;

“(II) be informed of the prohibitions under section 319; and

“(III) sign a certification affirming their understanding of such policies and prohibitions.

“(B) AUTHORIZED COMMITTEES.—With respect to an authorized committee, the candidate shall make the certification required under subparagraph (A).”.
(b) EFFECTIVE DATE.—

(1) In general.—The amendment made by subsection (a) shall apply with respect to political committees which file a statement of organization under section 303(a) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30103(a)) on or after the date of the enactment of this Act.

(2) Transition rule for existing committees.—Not later than 30 days after the date of the enactment of this Act, each political committee under the Federal Election Campaign Act of 1971 shall file a certification with the Federal Election Commission that the committee is in compliance with the requirements of section 302(j) of such Act (as added by subsection (a)).

SEC. 1303. CRIMINAL PENALTIES.

Section 309(d)(1) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30109(d)(1)) is amended by adding at the end the following new subparagraphs:

“(E) Any person who knowingly and willfully commits a violation of subsection (j) or (b)(9) of section 304 or section 302(j) shall be fined not more than $500,000, imprisoned not more than 5 years, or both.

“(F) Any person who knowingly and willfully conceals or destroys any materials relating to a reportable foreign
contact (as defined in section 304(j)) shall be fined not more than $1,000,000, imprisoned not more than 5 years, or both.”.

SEC. 1304. REPORT TO CONGRESSIONAL INTELLIGENCE COMMITTEES.

(a) In General.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director of the Federal Bureau of Investigation shall submit to the congressional intelligence committees a report relating to notifications received by the Federal Bureau of Investigation under section 304(j)(1) of the Federal Election Campaign Act of 1971 (as added by section 1301(a) of this Act).

(b) Elements.—Each report under subsection (a) shall include, at a minimum, the following with respect to notifications described in subsection (a):

(1) The number of such notifications received from political committees during the year covered by the report.

(2) A description of protocols and procedures developed by the Federal Bureau of Investigation relating to receipt and maintenance of records relating to such notifications.

(3) With respect to such notifications received during the year covered by the report, a description
of any subsequent actions taken by the Director re-
sulting from the receipt of such notifications.

(c) CONGRESSIONAL INTELLIGENCE COMMITTEES

Defined.—In this section, the term “congressional intel-
ligence committees” has the meaning given that term in
section 3 of the National Security Act of 1947 (50 U.S.C.
3003).

SEC. 1305. RULE OF CONSTRUCTION.

Nothing in this title or the amendments made by this
title shall be construed—

(1) to impede legitimate journalistic activities;
or

(2) to impose any additional limitation on the
right to express political views or to participate in
public discourse of any individual who—

(A) resides in the United States;

(B) is not a citizen of the United States or
a national of the United States, as defined in
section 101(a)(22) of the Immigration and Na-
tionality Act (8 U.S.C. 1101(a)(22)); and

(C) is not lawfully admitted for permanent
residence, as defined by section 101(a)(20) of
the Immigration and Nationality Act (8 U.S.C.
1101(a)(20)).
TITLE XIV—ELIMINATING FOREIGN INTERFERENCE IN ELECTIONS

SEC. 1401. CLARIFICATION OF APPLICATION OF FOREIGN MONEY BAN.

(a) Clarification of Treatment of Provision of Certain Information as Contribution or Donation of a Thing of Value.—Section 319 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121) is amended by adding at the end the following new subsection:

“(e) Clarification of Treatment of Provision of Certain Information as Contribution or Donation of a Thing of Value.—For purposes of this section, a ‘contribution or donation of money or other thing of value’ includes the provision of opposition research, polling, or other non-public information relating to a candidate for election for a Federal, State, or local office for the purpose of influencing the election, regardless of whether such research, polling, or information has monetary value, except that nothing in this subsection shall be construed to treat the mere provision of an opinion about a candidate as a thing of value for purposes of this section.”.
(b) **Clarification of Application of Foreign Money Ban to All Contributions and Donations of Things of Value and to All Solicitations of Contributions and Donations of Things of Value.**—Section 319(a) of such Act (52 U.S.C. 30121(a)) is amended—

(1) in paragraph (1)(A), by striking “promise to make a contribution or donation” and inserting “promise to make such a contribution or donation”;

(2) in paragraph (1)(B), by striking “donation” and inserting “donation of money or other thing of value, or to make an express or implied promise to make such a contribution or donation,”; and

(3) by amending paragraph (2) to read as follows:

“(2) a person to solicit, accept, or receive (directly or indirectly) a contribution or donation described in subparagraph (A) or (B) of paragraph (1), or to solicit, accept, or receive (directly or indirectly) an express or implied promise to make such a contribution or donation, from a foreign national.”.

(e) **Enhanced Penalty for Certain Violations.**—
(1) IN GENERAL.—Section 309(d)(1) of such Act (52 U.S.C. 30109(d)(1)), as amended by section 1303, is further amended by adding at the end the following new subparagraph:

“(G)(i) Any person who knowingly and willfully commits a violation of section 319 which involves a foreign national which is a government of a foreign country or a foreign political party, or which involves a thing of value consisting of the provision of opposition research, polling, or other non-public information relating to a candidate for election for a Federal, State, or local office for the purpose of influencing the election, shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

“(ii) In clause (i), each of the terms ‘government of a foreign country’ and ‘foreign political party’ has the meaning given such term in section 1 of the Foreign Agents Registration Act of 1938, as Amended (22 U.S.C. 611).”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to violations committed on or after the date of the enactment of this Act.
SEC. 1402. REQUIRING ACKNOWLEDGMENT OF FOREIGN
MONEY BAN BY POLITICAL COMMITTEES.

(a) Provision of Information by Federal Election Commission.—Section 303 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30103) is amended by adding at the end the following new subsection:

```
(e) Acknowledgment of Foreign Money Ban.—

(1) Notification by Commission.—Not later than 30 days after a political committee files its statement of organization under subsection (a), and biennially thereafter until the committee terminates, the Commission shall provide the committee with a written explanation of section 319.

(2) Acknowledgment by Committee.—

(A) In General.—Not later than 30 days after receiving the written explanation of section 319 under paragraph (1), the committee shall transmit to the Commission a signed certification that the committee has received such written explanation and has provided a copy of the explanation to all members, employees, contractors, and volunteers of the committee.

(B) Person Responsible for Signature.—The certification required under subparagraph (A) shall be signed—
```
“(i) in the case of an authorized committee of a candidate, by the candidate; or
“(ii) in the case of any other political committee, by the treasurer of the committee.”.

(b) Effective Date; Transition for Existing Committees.—

(1) In General.—The amendment made by subsection (a) shall apply with respect to political committees which file statements of organization under section 303 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30103) on or after the date of the enactment of this Act.

(2) Transition for Existing Committees.—

(A) Notification by Federal Election Commission.—Not later than 90 days after the date of the enactment of this Act, the Federal Election Commission shall provide each political committee under such Act with the written explanation of section 319 of such Act, as required under section 303(e)(1) of such Act (as added by subsection (a)).

(B) Acknowledgment by Committee.—

Not later than 30 days after receiving the written explanation under subparagraph (A), each
political committee under such Act shall transmit to the Federal Election Commission the signed certification, as required under section 303(e)(2) of such Act (as added by subsection (a)).

DIVISION D—SEVERABILITY

TITLE XV—SEVERABILITY

SEC. 1501. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or the application of a provision of this Act or an amendment made by this Act to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provisions to any person or circumstance, shall not be affected by the holding.