

Calendar No. 636

104TH CONGRESS
2^D SESSION

H. R. 3452

AN ACT

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

SEPTEMBER 28, 1996

Read the second time and placed on the calendar

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104TH CONGRESS
2^D SESSION**H. R. 3452**

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1996

Received

SEPTEMBER 27, 1996

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AN ACT

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

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

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Extension of certain rights and protections to presidential offices.
- Sec. 3. Amendments to title 28, United States Code.
- Sec. 4. Financial officers within the Executive Office of the President.
- Sec. 5. Amendment to definition of “special government employee”.
- Sec. 6. Applicability of future employment laws.
- Sec. 7. Repeal of section 320 of the Government Employee Rights Act of 1991.
- Sec. 8. Political affiliation.
- Sec. 9. Establishment of Inspector General for Executive Office of the President.

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

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

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

“SUBCHAPTER I—GENERAL PROVISIONS

“Sec.

“401. Definitions.

“402. Application of laws.

“SUBCHAPTER II—EXTENSION OF RIGHTS AND PROTECTIONS

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

“411. Rights and protections under title VII of the Civil Rights Act of 1964,
 the Age Discrimination in Employment Act of 1967, the Reha-
 bilitation Act of 1973, and title I of the Americans with Dis-
 abilities Act of 1990.

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

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

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

“415. Rights and protections under the Worker Adjustment and Retraining No-
 tification Act.

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

“417. Prohibition of intimidation or reprisal.

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

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

“PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

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

“PART D—LABOR-MANAGEMENT RELATIONS

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

“PART E—GENERAL

“435. Generally applicable remedies and limitations.

“SUBCHAPTER III—ADMINISTRATIVE AND JUDICIAL DISPUTE-
RESOLUTION PROCEDURES

“451. Procedure for consideration of alleged violations.

“452. Counseling and mediation.

“453. Election of proceeding.

“454. Appropriate agencies.

“455. Effect of failure to issue regulations.

“456. Confidentiality.

“457. Definitions.

“SUBCHAPTER IV—WHITE HOUSE COMPLIANCE BOARD

“471. Establishment of White House Compliance Board.

“472. Personnel.

“473. Facilities.

“SUBCHAPTER V—EFFECTIVE DATE

“481. Effective date.

1 **“Subchapter I—General Provisions**

2 **“SEC. 401. DEFINITIONS.**

3 “Except as otherwise specifically provided in this

4 chapter, as used in this chapter:

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

4 “(2) COVERED EMPLOYEE.—The term ‘covered
5 employee’ means any employee of an employing of-
6 fice.

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

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

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

13 “(B) the Executive Residence at the White
14 House; and

15 “(C) the official residence (temporary or
16 otherwise) of the Vice President.

17 **“SEC. 402. APPLICATION OF LAWS.**

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

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

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

24 “(3) The Americans with Disabilities Act of
25 1990.

1 “(4) The Age Discrimination in Employment
2 Act of 1967.

3 “(5) The Family and Medical Leave Act of
4 1993.

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

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

9 “(8) The Employee Polygraph Protection Act of
10 1988.

11 “(9) The Worker Adjustment and Retraining
12 Notification Act.

13 “(10) The Rehabilitation Act of 1973.

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

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

3 “(b) REMEDY.—

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

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

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

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

18 “(A) such damages as would be appro-
19 priate if awarded under section 15(c) of the
20 Age Discrimination in Employment Act of
21 1967; and

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

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

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

5 “(A) such damages as would be appro-
6 priate if awarded under section 505(a)(1) of the
7 Rehabilitation Act of 1973 or section 107(a) of
8 the Americans with Disabilities Act of 1990;
9 and

10 “(B) such compensatory damages as would
11 be appropriate if awarded under sections
12 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and,
13 irrespective of the size of the employing office,
14 1977A(b)(3)(D) of the Revised Statutes.

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

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

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

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

6 “(C) who is a member of the uniformed
7 services.

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

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

18 **“SEC. 412. RIGHTS AND PROTECTIONS UNDER THE FAMILY**

19 **AND MEDICAL LEAVE ACT OF 1993.**

20 “(a) FAMILY AND MEDICAL LEAVE RIGHTS AND
21 PROTECTIONS PROVIDED.—

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

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

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

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

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

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

19 “(a) FAIR LABOR STANDARDS.—

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

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

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

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

13 “(c) REGULATIONS TO IMPLEMENT SECTION.—

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

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

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

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

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

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

22 “(c) REGULATIONS TO IMPLEMENT SECTION.—

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

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

11 **“SEC. 415. RIGHTS AND PROTECTIONS UNDER THE WORK-**
12 **ER ADJUSTMENT AND RETRAINING NOTIFI-**
13 **CATION ACT.**

14 “(a) WORKER ADJUSTMENT AND RETRAINING NOTI-
15 FICATION RIGHTS.—

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

25 “(2) EXCEPTION.—

1 “(A) IN GENERAL.—In the event that a
2 President (hereinafter in this paragraph re-
3 ferred to as the ‘previous President’) does not
4 succeed himself in office as a result of the elec-
5 tion of a new President—

6 “(i) no notice or waiting period shall
7 be required under paragraph (1) with re-
8 spect to the separation of any individual
9 described in subparagraph (B), if such sep-
10 aration occurs pursuant to a closure or
11 mass layoff ordered after the term of the
12 new President commences; and

13 “(ii) if any individual is separated
14 from service, or begins a period of leave
15 under the Family and Medical Leave Act
16 of 1993, before such term commences,
17 nothing in this chapter shall require rein-
18 statement or restoration to employment of
19 the individual after such term commences.

20 “(B) DESCRIPTION OF INDIVIDUALS.—An
21 individual described in this subparagraph is any
22 covered employee serving pursuant to an ap-
23 pointment made during—

24 “(i) the term of office of the previous
25 President; or

1 “(ii) any term, earlier than the term
2 referred to in clause (i), during which such
3 previous President served as President or
4 Vice President.

5 “(b) REMEDY.—The remedy for a violation of sub-
6 section (a) shall be such damages as would be appropriate
7 if awarded under paragraphs (1), (2), and (4) of section
8 5(a) of the Worker Adjustment and Retraining Notifica-
9 tion Act.

10 “(c) REGULATIONS TO IMPLEMENT SECTION.—

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

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

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

3 “(a) EMPLOYMENT AND REEMPLOYMENT RIGHTS OF
4 MEMBERS OF THE UNIFORMED SERVICES.—

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

7 “(A) discriminate, within the meaning of
8 subsections (a) and (b) of section 4311 of title
9 38, against an eligible employee;

10 “(B) deny to an eligible employee reem-
11 ployment rights within the meaning of sections
12 4312 and 4313 of title 38; or

13 “(C) deny to an eligible employee benefits
14 within the meaning of sections 4316, 4317, and
15 4318 of title 38.

16 “(2) DEFINITION.—For purposes of this sec-
17 tion, the term ‘eligible employee’ means a covered
18 employee performing service in the uniformed serv-
19 ices, within the meaning of section 4303(13) of title
20 38, whose service has not been terminated upon the
21 occurrence of any of the events enumerated in sec-
22 tion 4304 of such title.

23 “(b) REMEDY.—The remedy for a violation of sub-
24 section (a) shall be such damages as would be appropriate
25 if awarded under paragraphs (1) and (2)(A) of section
26 4323(c) of title 38.

1 “(c) REGULATIONS TO IMPLEMENT SECTION.—

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

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

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

15 “(a) IN GENERAL.—It shall be unlawful for an em-
16 ploying office to intimidate, take reprisal against, or other-
17 wise discriminate against, any covered employee because
18 the covered employee has opposed any practice made un-
19 lawful by this chapter, or because the covered employee
20 has initiated proceedings, made a charge, or testified, as-
21 sisted, or participated in any manner in a hearing or other
22 proceeding under this chapter.

23 “(b) REMEDY.—A violation of subsection (a) may be
24 remedied by any legal remedy available to redress the
25 practice opposed by the covered employee or other viola-

1 tion of law as to which the covered employee initiated pro-
2 ceedings, made a charge, or engaged in other conduct pro-
3 tected under subsection (a).

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

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

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

13 “(a) RIGHTS AND PROTECTIONS.—The rights and
14 protections against discrimination in the provision of pub-
15 lic services and accommodations established by sections
16 201, 202, and 204, and sections 302, 303, and 309, of
17 the Americans with Disabilities Act of 1990 shall apply,
18 to the extent that public services, programs, or activities
19 are provided, with respect to the White House and its ap-
20 purtenant grounds and gardens, the Old Executive Office
21 Building, the New Executive Office Buildings, and any
22 other facility to the extent that offices are provided for
23 employees of the Executive Office of the President.

24 “(b) REMEDY.—The remedy for a violation of sub-
25 section (a) shall be such remedy as would be appropriate

1 sions of section 5 of the Occupational Safety and
2 Health Act of 1970.

3 “(2) DEFINITIONS.—For purposes of the appli-
4 cation under this section of the Occupational Safety
5 and Health Act of 1970—

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

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

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

15 “(c) PROCEDURES.—

16 “(1) REQUESTS FOR INSPECTIONS.—Upon writ-
17 ten request of any employing office or covered em-
18 ployee, the Secretary of Labor shall have the author-
19 ity to inspect and investigate places of employment
20 under the jurisdiction of employing offices in accord-
21 ance with subsections (a), (d), (e), and (f) of section
22 8 of the Occupational Safety and Health Act of
23 1970.

24 “(2) CITATIONS, NOTICES, AND NOTIFICA-
25 TIONS.—The Secretary of Labor shall have the au-

1 thority, in accordance with sections 9 and 10 of the
2 Occupational Safety and Health Act of 1970, to
3 issue—

4 “(A) a citation or notice to any employing
5 office responsible for correcting a violation of
6 subsection (a); or

7 “(B) a notification to any employing office
8 that the Secretary of Labor believes has failed
9 to correct a violation for which a citation has
10 been issued within the period permitted for its
11 correction.

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

15 “(A) the citation and notification shall be
16 deemed a final order (within the meaning of
17 section 10(b) of the Occupational Safety and
18 Health Act of 1970) if the employer fails to no-
19 tify the Secretary of Labor within 15 days (ex-
20 cluding Saturdays, Sundays, and Federal holi-
21 days) after receipt of the notice that he intends
22 to contest the citation or notification; or

23 “(B) opportunity for a hearing before the
24 Occupational Safety and Health Review Com-
25 mission shall be afforded in accordance with

1 section 10(c) of the Occupational Safety and
2 Health Act of 1970, if the employer gives time-
3 ly notice to the Secretary that he intends to
4 contest the citation or notification.

5 “(4) VARIANCE PROCEDURES.—An employing
6 office may request from the Secretary of Labor an
7 order granting a variance from a standard made ap-
8 plicable by this section, in accordance with sections
9 6(b)(6) and 6(d) of the Occupational Safety and
10 Health Act of 1970.

11 “(5) JUDICIAL REVIEW.—Any person or em-
12 ploying office aggrieved by a final decision of the Oc-
13 cupational Safety and Health Review Commission
14 under paragraph (3) or the Secretary of Labor
15 under paragraph (4) may file a petition for review
16 with the appropriate United States circuit court of
17 appeals under section 1296 of title 28.

18 “(6) COMPLIANCE DATE.—If new appropriated
19 funds are necessary to correct a violation of sub-
20 section (a) for which a citation is issued, or to com-
21 ply with an order requiring correction of such a vio-
22 lation, correction or compliance shall take place as
23 soon as possible, but not later than the end of the
24 fiscal year following the fiscal year in which the cita-

1 tion is issued or the order requiring correction be-
2 comes final and not subject to further review.

3 “(d) REGULATIONS TO IMPLEMENT SECTION.—

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

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

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

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

2 **“SEC. 430. APPLICATION OF CHAPTER 71 OF TITLE 5, RE-**
3 **LATING TO FEDERAL SERVICE LABOR-MAN-**
4 **AGEMENT RELATIONS; PROCEDURES FOR**
5 **REMEDY OF VIOLATIONS.**

6 “(a) LABOR-MANAGEMENT RIGHTS.—Subject to sub-
7 section (d), chapter 71 of title 5 shall apply to employing
8 offices and to covered employees and representatives of
9 those employees, except that covered employees shall not
10 have a right to reinstatement pursuant to section
11 7118(a)(7)(C) or 7123 of title 5.

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

15 “(c) REGULATIONS TO IMPLEMENT SECTION.—

16 “(1) IN GENERAL.—The Federal Labor Rela-
17 tions Authority shall issue regulations to implement
18 this section.

19 “(2) AGENCY REGULATIONS.—Except as pro-
20 vided in subsection (d), the regulations issued under
21 paragraph (1) shall be the same as substantive regu-
22 lations promulgated by the Authority to implement
23 the statutory provisions referred to in subsection (a),
24 except—

25 “(A) to the extent the Authority may de-
26 termine, for good cause shown and stated to-

1 gether with the regulation, that a modification
2 of such regulations would be more effective for
3 the implementation of the rights and protec-
4 tions under this section; or

5 “(B) as the Authority deems necessary to
6 avoid a conflict of interest or appearance of a
7 conflict of interest.

8 “(d) SPECIFIC REGULATIONS REGARDING APPLICA-
9 TIONS TO CERTAIN EMPLOYING OFFICES.—

10 “(1) REGULATIONS REQUIRED.—The Authority
11 shall issue regulations on the manner and the extent
12 to which the requirements and exemptions of chap-
13 ter 71 of title 5 should apply to covered employees
14 who are employed in the offices listed in paragraph
15 (2). The regulations shall, to the greatest extent
16 practicable, be consistent with the provisions and
17 purposes of chapter 71 of title 5 and of this chapter,
18 and shall be the same as the substantive regulations
19 issued by the Federal Labor Relations Authority
20 under such chapter, except—

21 “(A) to the extent the Authority may de-
22 termine, for good cause shown and stated to-
23 gether with the regulation, that a modification
24 of such regulations would be more effective for

1 the implementation of the rights and protec-
2 tions under this section; and

3 “(B) that the Authority shall exclude from
4 coverage under this section any covered employ-
5 ees who are employed in offices listed in para-
6 graph (2) if the Authority determines that such
7 exclusion is required because of—

8 “(i) a conflict of interest or appear-
9 ance of a conflict of interest; or

10 “(ii) the President’s or Vice Presi-
11 dent’s constitutional responsibilities.

12 “(2) OFFICES REFERRED TO.—The offices re-
13 ferred to in paragraph (1) include—

14 “(A) the White House Office;

15 “(B) the Executive Residence at the White
16 House;

17 “(C) the Office of the Vice President;

18 “(D) the Office of Policy Development;

19 “(E) the Council of Economic Advisors;

20 “(F) the National Security Council;

21 “(G) the Office of Management and Budg-

22 et;

23 “(H) the Office of National Drug Control
24 Policy; and

1 “(I) the Office of the Inspector General of
2 the Executive Office of the President.

3 **“PART E—GENERAL**

4 **“SEC. 435. GENERALLY APPLICABLE REMEDIES AND LIM-**
5 **TATIONS.**

6 “(a) ATTORNEY’S FEES.—If a covered employee,
7 with respect to any claim under this chapter, or a qualified
8 person with a disability, with respect to any claim under
9 section 420, is a prevailing party in any proceeding under
10 section 453(1), the administrative agency may award at-
11 torney’s fees, expert fees, and any other costs as would
12 be appropriate if awarded under section 706(k) of the Civil
13 Rights Act of 1964.

14 “(b) INTEREST.—In any proceeding under section
15 453(1), the same interest to compensate for delay in pay-
16 ment shall be made available as would be appropriate if
17 awarded under section 717(d) of the Civil Rights Act of
18 1964.

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

23 “(d) EXCLUSIVE PROCEDURE.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2), no person may commence an administra-

1 tive or judicial proceeding to seek a remedy for the
2 rights and protections afforded by this chapter ex-
3 cept as provided in this chapter and in sections 1296
4 and 1346(g) and chapter 179 of title 28.

5 “(2) VETERANS.—A covered employee under
6 section 416 may also utilize any provisions of chap-
7 ter 43 of title 38 that are applicable to that em-
8 ployee.

9 “(e) SCOPE OF REMEDY.—Only a covered employee
10 who has undertaken and completed the procedures de-
11 scribed in section 452 may be granted a remedy under
12 part A of this subchapter.

13 “(f) CONSTRUCTION.—

14 “(1) DEFINITIONS AND EXEMPTIONS.—Except
15 where inconsistent with definitions and exemptions
16 provided in this chapter, the definitions and exemp-
17 tions in the laws made applicable by this chapter
18 shall apply under this chapter.

19 “(2) SIZE LIMITATIONS.—Notwithstanding
20 paragraph (1), provisions in the laws made applica-
21 ble under this chapter (other than paragraphs (2)
22 and (3) of section 2(a) of the Worker Adjustment
23 and Retraining Notification Act) determining cov-
24 erage based on size, whether expressed in terms of
25 numbers of employees, amount of business trans-

1 acted, or other measure, shall not apply in determin-
2 ing coverage under this chapter.

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

8 **“Subchapter III—Administrative and Judicial**
9 **Dispute-Resolution Procedures**

10 **“SEC. 451. PROCEDURE FOR CONSIDERATION OF ALLEGED**
11 **VIOLATIONS.**

12 “The procedure for consideration of alleged violations
13 of part A of subchapter II consists of—

14 “(1) counseling and mediation as provided in
15 section 452; and

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

18 “(A) an administrative proceeding as pro-
19 vided in section 453(1) and judicial review as
20 provided in section 1296 of title 28; or

21 “(B) a civil action in a district court of the
22 United States as provided in section 1346(g) of
23 title 28.

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

2 “(a) IN GENERAL.—The President shall by regula-
3 tion establish procedures substantially similar to those
4 under sections 402 and 403 of the Congressional Account-
5 ability Act of 1995 for the counseling and mediation of
6 alleged violations of a law made applicable under part A
7 of subchapter II.

8 “(b) EXHAUSTION REQUIREMENT.—A covered em-
9 ployee who has not exhausted counseling and mediation
10 under subsection (a) shall be ineligible to make any elec-
11 tion under section 453 or otherwise pursue any further
12 form of relief under this subchapter.

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

14 “Not later than 90 days after a covered employee re-
15 ceives notice of the end of the period of mediation, but
16 no sooner than 30 days after receipt of such notification,
17 such covered employee may either—

18 “(1) file a complaint with the appropriate ad-
19 ministrative agency, as determined under section
20 454; or

21 “(2) file a civil action under section 1346(g) of
22 title 28.”.

23 **“SEC. 454. APPROPRIATE AGENCIES.**

24 “(a) IN GENERAL.—Except as provided in subsection
25 (b), the appropriate agency under this section with respect

1 to an alleged violation of part A of subchapter II shall
2 be the Board.

3 “(b) EXCEPTIONS.—

4 “(1) DISCRIMINATION.—For purposes of any
5 action arising under section 411 (or any action al-
6 leging intimidation, reprisal, or discrimination under
7 section 417 relating to any practice made unlawful
8 under section 411), the appropriate agency shall be
9 the Equal Employment Opportunity Commission,
10 and the complaint in any such action shall be proc-
11 essed under the same administrative procedures as
12 any such complaint filed by any other Federal em-
13 ployee.

14 “(2) MIXED CASES.—However, in the case of
15 any covered employee (within the meaning of section
16 411(c)(1)) who has been affected by an action which
17 an employee of an executive agency may appeal to
18 the Board and who alleges that a basis for the ac-
19 tion was discrimination prohibited by section 411 (or
20 any action alleging intimidation, reprisal, or dis-
21 crimination under section 417 relating to any prac-
22 tice made unlawful under section 411), the initial
23 appropriate agency shall be the Board, and such
24 matter shall thereafter be processed in accordance

1 with section 7702 (a)–(d) (disregarding paragraph
2 (2) of such subsection (a)) and (f) of title 5.

3 “(3) JUDICIAL REVIEW.—Notwithstanding any
4 other provision of law (including any provision of
5 law referenced in paragraph (1) or (2)), judicial re-
6 view of any administrative decision under this sub-
7 section shall be by appeal to the appropriate circuit
8 court of appeals under section 1296 of title 28.

9 **“SEC. 455. EFFECT OF FAILURE TO ISSUE REGULATIONS.**

10 “In any proceeding under section 453(1), if the Presi-
11 dent has not issued a regulation on a matter for which
12 this chapter requires a regulation to be issued, the admin-
13 istrative agency shall apply, to the extent necessary and
14 appropriate, the most relevant substantive executive agen-
15 cy regulation promulgated to implement the statutory pro-
16 vision at issue in the proceeding.

17 **“SEC. 456. CONFIDENTIALITY.**

18 “(a) COUNSELING.—All counseling under section 452
19 shall be strictly confidential, except that, with the consent
20 of the covered employee, the employing office may be noti-
21 fied.

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

1 **“SEC. 457. DEFINITIONS.**

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

6 **“SUBCHAPTER IV—WHITE HOUSE**
7 **COMPLIANCE BOARD**

8 **“§ 471. Establishment of White House Compliance**
9 **Board**

10 “(a) **ESTABLISHMENT.**—There is established, as an
11 independent establishment within the executive branch of
12 the Federal Government, the White House Compliance
13 Board.

14 “(b) **APPOINTMENT.**—The Board shall consist of 5
15 individuals appointed by the President. Appointments of
16 the first 5 members of the Board shall be completed not
17 later than 90 days after the effective date of this section.

18 “(c) **BOARD QUALIFICATIONS.**—

19 “(1) **SPECIFIC QUALIFICATIONS.**—Selection and
20 appointment of members of the Board shall be with-
21 out regard to political affiliation and solely on the
22 basis of fitness to perform the duties of the Board.
23 Members of the Board shall have training or experi-
24 ence in the application of the rights, protections, and
25 remedies under 1 or more of the laws made applica-
26 ble under this chapter.

1 “(2) DISQUALIFICATION FOR APPOINTMENTS.—

2 No member of the Board appointed under subsection
3 (b) may hold or may have held a position in the ex-
4 ecutive branch of the Federal Government within 4
5 years of the date of appointment.

6 “(3) VACANCIES.—A vacancy on the Board
7 shall be filled in the manner in which the original
8 appointment was made.

9 “(d) TERM OF OFFICE.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), membership on the Board shall be for 5
12 years. A member of the Board who is appointed to
13 a term of office of more than 3 years shall only be
14 eligible for appointment for a single term of office.

15 “(2) FIRST APPOINTMENTS.—Of the members
16 first appointed to the Board—

17 “(A) 1 shall have a term of office of 3
18 years;

19 “(B) 2 shall have a term of office of 4
20 years; and

21 “(C) 2 shall have a term of office of 5
22 years;

23 as designated at the time of appointment by the
24 President.

25 “(e) REMOVAL.—

1 “(1) AUTHORITY.—Any member of the
2 Board may be removed from office by the President,
3 but only for—

4 “(A) disability that substantially prevents
5 the member from carrying out the duties of the
6 member;

7 “(B) incompetence;

8 “(C) neglect of duty;

9 “(D) malfeasance, including a felony or
10 conduct involving moral turpitude; or

11 “(E) holding an office or employment that
12 disqualifies the individual from service as a
13 member of the Board under subsection (c)(2).

14 “(2) STATEMENT OF REASONS FOR RE-
15 MOVAL.—In removing a member of the Board, the
16 President shall state in writing to the member of the
17 Board being removed the specific reasons for the re-
18 moval.

19 “(f) COMPENSATION.—

20 “(1) PER DIEM.—Each member of the Board
21 shall be compensated at a rate equal to the daily
22 equivalent of the annual rate of basic pay prescribed
23 for level V of the Executive Schedule under section
24 5316 of title 5 for each day (including travel time)
25 during which such member is engaged in the per-

1 performance of the duties of the Board. The rate of pay
2 of a member may be prorated based on the portion
3 of the day during which the member is engaged in
4 the performance of Board duties.

5 “(2) TRAVEL EXPENSES.—Each member of the
6 Board shall receive travel expenses, including per
7 diem in lieu of subsistence, at rates authorized for
8 employees of agencies under subchapter I of chapter
9 57 of title 5 for each day the member is engaged in
10 the performance of duties away from the home or
11 regular place of business of the member.

12 “(g) FINANCIAL DISCLOSURE REPORTS.—Members
13 of the Board shall file the financial disclosure reports re-
14 quired under title I of the Ethics in Government Act of
15 1978.

16 **“§ 472. Personnel**

17 “(a) EXECUTIVE DIRECTOR.—

18 “(1) APPOINTMENT AND REMOVAL.—

19 “(A) IN GENERAL.—There shall be an Ex-
20 ecutive Director of the Board.

21 “(B) APPOINTMENT.—The initial Execu-
22 tive Director shall be appointed by the Presi-
23 dent, and shall serve for a 6-month term. After
24 the end of the term of the initial Executive Di-

1 rector, the Board shall appoint and may remove
2 the Executive Director.

3 “(C) QUALIFICATIONS.—The Executive
4 Director shall be an individual with training or
5 expertise in the application of laws referred to
6 in section 402. Selection and appointment of
7 the Executive Director shall be without regard
8 to political affiliation and solely on the basis of
9 fitness to perform the duties of the Executive
10 Director.

11 “(D) DISQUALIFICATION.—The disquali-
12 fication specified in section 471(c)(2) shall
13 apply to the appointment of the Executive Di-
14 rector.

15 “(2) COMPENSATION.—The Board (or the
16 President in the case of the initial Executive Direc-
17 tor) may fix the compensation of the Executive Di-
18 rector. The rate of pay for the Executive Director
19 may not exceed the annual rate of basic pay pre-
20 scribed for level V of the Executive Schedule under
21 section 5316 of title 5.

22 “(3) DUTIES.—The Executive Director shall
23 serve as the chief operating officer of the Board.

24 “(b) OTHER STAFF.—The Executive Director shall
25 appoint, and fix the compensation of, and may remove,

1 such other additional staff, including hearing officers, as
2 may be essential to enable the Board to perform its duties.

3 “(c) DETAILED PERSONNEL.—Upon request of the
4 Executive Director, the head of any Federal agency shall
5 detail any of the personnel of that agency, including mem-
6 bers or personnel of the General Accounting Office Per-
7 sonnel Appeals Board, to the Board to assist the Board
8 in carrying out its duties. Such detail may be on a reim-
9 bursable or nonreimbursable basis. Such detail shall be
10 without interruption or loss of civil service status or privi-
11 lege.

12 “(d) CONSULTANTS.—In carrying out the functions
13 of the Board, the Executive Director may procure the tem-
14 porary (not to exceed 1 year) or intermittent services of
15 consultants.

16 **“§ 473. Facilities**

17 “The Equal Employment Opportunity Commission
18 shall supply such office facilities, office supplies, support
19 services, and related expenses as may be necessary to en-
20 able the Board to carry out the functions of the Board.

21 **“Subchapter V—Effective Date**

22 **“SEC. 481. EFFECTIVE DATE.**

23 “This chapter shall take effect 1 year after the date
24 of the enactment of the Presidential and Executive Office
25 Accountability Act.”.

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

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

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

9 **SEC. 3. AMENDMENTS TO TITLE 28, UNITED STATES CODE.**

10 (a) CIRCUIT COURT JURISDICTION.—(1) Chapter 83
 11 of title 28, United States Code, is amended by adding at
 12 the end the following:

13 **“§ 1296. Review of certain agency actions**

14 “(a) JURISDICTION.—Subject to the provisions of
 15 chapter 179, the courts of appeals (other than the United
 16 States Court of Appeals for the Federal Circuit) shall have
 17 jurisdiction over a petition for review of a final decision
 18 under chapter 5 of title 3 of—

19 “(1) an appropriate agency (as determined
 20 under section 454 of title 3);

21 “(2) the Federal Labor Relations Authority
 22 under chapter 71 of title 5, notwithstanding section
 23 7123 of such title; or

1 “(3) the Secretary of Labor or the Occupational
2 Safety and Health Review Commission, made under
3 part C of subchapter II of chapter 5 of title 3.

4 “(b) FILING OF PETITION.—Any petition for review
5 under this section must be filed within 30 days after the
6 date the petitioner receives notice of the final decision.

7 “(c) VENUE.—The venue of a proceeding under thi
8 section is in the judicial circuit in which the petitioner re-
9 sides or has its principal office, or in the United States
10 Court of Appeals for the District of Columbia Circuit.”.

11 (2) The table of sections for chapter 158 of title 28,
12 United States Code, is amended by adding at the end the
13 following:

 “1296. Review of certain agency actions.”.

14 (b) DISTRICT COURT ACTIONS.—

15 (1) JURISDICTION.—Section 1346 of title 28,
16 United States Code, is amended by adding at the
17 end the following:

18 “(g) Subject to the provisions of chapter 179, the dis-
19 trict courts of the United States shall have exclusive juris-
20 diction over any civil action commenced under section
21 453(2) of title 3, by a covered employee under chapter
22 5 of such title.”.

23 (2) VENUE.—(A) Chapter 37 of title 28, United
24 States Code, relating to venue, is amended by add-
25 ing at the end the following:

1 **“§ 1413. Venue of cases under chapter 5 of title 3**

2 “Notwithstanding the preceding provisions of this
3 chapter, a civil action under section 1346(g) may be
4 brought in the United States district court for the district
5 in which the employee is employed or in the United States
6 district court for the District of Columbia.”.

7 (B) The table of sections for chapter 37 of title
8 28, United States Code, relating to venue, is amend-
9 ed by adding at the end the following:

“1413. Venue of cases under chapter 5 of title 3.”.

10 (3) JURY TRIALS.—(A) Section 2402 of title
11 28, United States Code, (relating to jury trials) is
12 amended by striking “Any action” and inserting
13 “Subject to chapter 179 of this title, any action”.

14 (c) PROCEDURE.—

15 (1) IN GENERAL.—Part VI of title 28, United
16 States Code, is amended by adding at the end the
17 following new chapter:

18 **“CHAPTER 179—JUDICIAL REVIEW OF**
19 **CERTAIN ACTIONS BY PRESIDENTIAL**
20 **OFFICES**

“Sec.

“3901. Civil actions.

“3902. Judicial review of regulations.

“3903. Effect of failure to issue regulations.

“3904. Expedited review of certain appeals.

“3905. Attorney’s fees and interest.

“3906. Payments.

“3907. Other judicial review prohibited.

“3908. Definitions.

1 **“§ 3901. Civil actions**

2 (a) PARTIES.—In an action under section 1346(g) of
3 this title, the defendant shall be the employing office al-
4 leged to have committed the violation involved.

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

13 **“§ 3902. Judicial review of regulations**

14 “In any proceeding under section 1296 or 1346(g)
15 of this title in which the application of a regulation issued
16 under chapter 5 of title 3 is at issue, the court may review
17 the validity of the regulation in accordance with the provi-
18 sions of subparagraphs (A) through (D) of section 706(2)
19 of title 5. If the court determines that the regulation is
20 invalid, the court shall apply, to the extent necessary and
21 appropriate, the most relevant substantive executive agen-
22 cy regulation promulgated to implement the statutory pro-
23 visions with respect to which the invalid regulation was
24 issued. Except as provided in this section, the validity of
25 regulations issued under this chapter is not subject to ju-
26 dicial review.

1 **“§ 3903. Effect of failure to issue regulations**

2 “In any proceeding under section 1296 or 1346(g)
3 of this title, if the President has not issued a regulation
4 on a matter for which chapter 5 of title 3 requires a regu-
5 lation to be issued, the court shall apply, to the extent
6 necessary and appropriate, the most relevant substantive
7 executive agency regulation promulgated to implement the
8 statutory provision at issue in the proceeding.

9 **“§ 3904. Expedited review of certain appeals**

10 “(a) IN GENERAL.—An appeal may be taken directly
11 to the Supreme Court of the United States from any inter-
12 locutory or final judgment, decree, or order of a court
13 upon the constitutionality of any provision of chapter 5
14 of title 3.

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

20 **“§ 3905. Attorney’s fees and interest**

21 “(a) ATTORNEY’S FEES.—If a covered employee,
22 with respect to any claim under chapter 5 of title 3, or
23 a qualified person with a disability, with respect to any
24 claim under section 420 of title 3, is a prevailing party
25 in any proceeding under section 1296 or section 1346(g),
26 the court may award attorney’s fees, expert fees, and any

1 other costs as would be appropriate if awarded under sec-
2 tion 706(k) of the Civil Rights Act of 1964.

3 “(b) INTEREST.—In any proceeding under section
4 1296 or section 1346(g), the same interest to compensate
5 for delay in payment shall be made available as would be
6 appropriate if awarded under section 717(d) of the Civil
7 Rights Act of 1964.

8 **“§ 3906. Payments**

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

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

15 “(2) out of amounts otherwise appropriated or
16 available to such office, if it arises out of an appeal
17 from an administrative proceeding under chapter 5
18 of title 3.

19 **“§ 3907. Other judicial review prohibited**

20 “Except as expressly authorized by this chapter and
21 chapter 5 of title 3, the compliance or noncompliance with
22 the provisions of chapter 5 of title 3, and any action taken
23 pursuant to chapter 5 of title 3, shall not be subject to
24 judicial review.

1 **“§ 3908. Definitions.**

2 “For purposes of applying this chapter, the terms
3 ‘employing office’ and ‘covered employee’ have the mean-
4 ings given those terms in section 401 of title 3, except
5 that the terms ‘employing office’ and ‘covered employee’
6 shall each, to the extent that section 411 of title 3 is in-
7 volved, be considered to have the meaning given to it by
8 such section.”.

9 (d) **EFFECTIVE DATE.**—The amendments made by
10 this section shall take effect 1 year after the date of the
11 enactment of the Presidential and Executive Office Ac-
12 countability Act.

13 (e) **CONFORMING AMENDMENTS.**—(1) The table of
14 chapters for part VI of title 28, United States Code, is
15 amended by adding at the end the following:

**“179. Judicial Review of Certain Actions by Presidential
Offices 3901”.**

16 **SEC. 4. FINANCIAL OFFICERS WITHIN THE EXECUTIVE OF-**
17 **FICE OF THE PRESIDENT.**

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

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

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

5 “(3) The Director of the Office of Management and
6 Budget shall prescribe any regulations which may be nec-
7 essary to ensure that, for purposes of implementing para-
8 graph (2), the Executive Office of the President shall, to
9 the extent practicable and appropriate, be treated (includ-
10 ing for purposes of financial statements under section
11 3515) in the same way as an agency described in sub-
12 section (b).”.

13 (b) DEPUTY CHIEF FINANCIAL OFFICER.—Section
14 903 of title 31, United States Code, is amended by adding
15 at the end the following:

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

21 “(2) The Deputy Chief Financial Officer under this
22 subsection shall have the same authority and shall perform
23 the same functions as apply in the case of the Deputy
24 Chief Financial Officer of an agency described in sub-
25 section (b).”.

1 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

2 (1) TITLE 31, UNITED STATES CODE.—Section
3 503(a) of title 31, United States Code, is amend-
4 ed—

5 (A) in paragraph (7) by striking “respec-
6 tively.” and inserting “respectively (excluding
7 any officer appointed under section 901(c) or
8 903(c)).”; and

9 (B) in paragraph (8) by striking “Offi-
10 cers.” and inserting “Officers (excluding any
11 officer appointed under section 901(c) or
12 903(c)).”.

13 (2) DESIGNATION OF AGENCY HEAD.—The
14 President shall designate an employee of the Execu-
15 tive Office of the President (other than the Chief Fi-
16 nancial Officer or Deputy Chief Financial Officer
17 appointed under the amendments made by sub-
18 sections (a) and (b), respectively), who shall be
19 deemed “the head of the agency” for purposes of
20 carrying out section 902 of title 31, United States
21 Code, with respect to the Executive Office of the
22 President.

1 **SEC. 5. AMENDMENT TO DEFINITION OF “SPECIAL GOV-**
2 **ERNMENT EMPLOYEE”.**

3 (a) AMENDMENT TO SECTION 202(a).—Subsection
4 (a) of section 202 of title 18, United States Code, is
5 amended to read as follows:

6 “(a) For the purpose of sections 203, 205, 207, 208,
7 and 209 of this title the term ‘special Government em-
8 ployee’ shall mean—

9 “(1) an officer or employee as defined in sub-
10 section (c) who is retained, designated, appointed, or
11 employed in the legislative or executive branch of the
12 United States Government, in any independent
13 agency of the United States, or in the government
14 of the District of Columbia, and who, at the time of
15 retention, designation, appointment or employment,
16 is expected to perform temporary duties on a full-
17 time or intermittent basis for not to exceed one hun-
18 dred and thirty days during any period of three hun-
19 dred and sixty five consecutive days;

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

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

22 “(4) an independent counsel appointed under
23 chapter 40 of title 28 and any person appointed by
24 that independent counsel under section 594(c) of
25 title 28;

1 “(5) a person serving as a part-time local rep-
2 resentative of a Member of Congress in the Mem-
3 ber’s home district or State; and

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

8 “(A) on active duty solely for training
9 (notwithstanding section 2105(d) of title 5);

10 “(B) serving voluntarily for not to exceed
11 one hundred and thirty days during any period
12 of three hundred and sixty five consecutive
13 days; or

14 “(C) serving involuntarily.”.

15 (b) AMENDMENT TO SECTION 202(c).—Subsection
16 (c) of 202 of title 18, United States Code, is amended
17 to read as follows:

18 “(c) The terms ‘officer’ and ‘employee’ in sections
19 203, 205, 207 through 209, and 218 of this title shall
20 include—

21 “(1) an individual who is retained, designated,
22 appointed or employed in the United States Govern-
23 ment or in the government of the District of Colum-
24 bia, to perform, with or without compensation and
25 subject to the supervision of the President, the Vice

1 President, a Member of Congress, a Federal judge
2 or an officer or employee of the United States or of
3 the government of the District of Columbia, a Fed-
4 eral or District of Columbia function under author-
5 ity of law or an Executive act. As used in this sec-
6 tion, a Federal or District of Columbia function
7 shall include, but not be limited to—

8 “(A) supervising, managing, directing or
9 overseeing a Federal or District of Columbia of-
10 ficer or employee in the performance of such of-
11 ficer’s or employee’s official duties;

12 “(B) providing regular advice, counsel, or
13 recommendations to the President, the Vice
14 President, a Member of Congress, or any Fed-
15 eral or District of Columbia officer or employee,
16 or conducting meetings involving any of those
17 individuals, as part of the Federal or District of
18 Columbia government’s internal deliberative
19 process; or

20 “(C) obligating funds of the United States
21 or the District of Columbia;

22 “(2) a Reserve officer of the Armed Forces or
23 an officer of the National Guard of the United
24 States who is serving voluntarily in excess of one

1 hundred and thirty days during any period of three
2 hundred and sixty-five consecutive days; and

3 “(3) the President, the Vice President, a Mem-
4 ber of Congress or a Federal judge only if specified
5 in the section.”.

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

9 “(f) The terms ‘officer or employee’ and ‘special Gov-
10 ernment employee’ as used in sections 203, 205, 207
11 through 209, and 218, shall not include enlisted members
12 of the Armed Forces, nor shall they include an individual
13 who is retained, designated or appointed without com-
14 pensation specifically to act as a representative of a non-
15 Federal (or non-District of Columbia) interest on an advi-
16 sory committee established pursuant to the Federal Advi-
17 sory Committee Act or any similarly established committee
18 whose meetings are generally open to the public. The non-
19 Federal interest to be represented must be specifically set
20 forth in the statute, charter, or Executive act establishing
21 the committee.”.

22 **SEC. 6. APPLICABILITY OF FUTURE EMPLOYMENT LAWS.**

23 Each Federal law governing employment in the pri-
24 vate sector, enacted later than 12 months after the date
25 of the enactment of this Act, shall be deemed to apply

1 with respect to “employing offices” and “covered employ-
2 ees” (within the meaning of section 401 of title 3, United
3 States Code, as amended by this Act), unless such law
4 specifically provides otherwise and expressly cites this sec-
5 tion.

6 **SEC. 7. REPEAL OF SECTION 320 OF THE GOVERNMENT EM-**
7 **EMPLOYEE RIGHTS ACT OF 1991.**

8 (a) **IN GENERAL.**—Section 320 of the Government
9 Employee Rights Act of 1991 is repealed.

10 (b) **EFFECTIVE DATE.**—This section shall take effect
11 1 year after the date of the enactment of this Act.

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

17 **SEC. 8. POLITICAL AFFILIATION.**

18 It shall not be a violation of any provision of section
19 411 of title 3, United States Code, as amended by this
20 Act, to consider the party affiliation, or political compat-
21 ibility with the employing office, of an employee who is
22 a “covered employee” for purposes of such section 411
23 with respect to employment decisions.

1 **SEC. 9. ESTABLISHMENT OF INSPECTOR GENERAL FOR EX-**
2 **ECUTIVE OFFICE OF THE PRESIDENT.**

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

6 (1) in paragraph (1) by inserting “the Presi-
7 dent (with respect only to the Executive Office of
8 the President),” after “means”; and

9 (2) in paragraph (2) by inserting “the Execu-
10 tive Office of the President,” after “means”.

11 (b) APPOINTMENT OF INSPECTOR GENERAL.—Not
12 later than 120 days after the effective date of this section,
13 the President shall nominate an individual as the Inspec-
14 tor General of the Executive Office of the President pursu-
15 ant to the amendments made by subsection (a).

16 (c) SPECIAL PROVISIONS CONCERNING INSPECTOR
17 GENERAL OF THE EXECUTIVE OFFICE OF THE PRESI-
18 DENT.—The Inspector General Act of 1978 (5 U.S.C.
19 App.) is amended—

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

22 (2) by inserting after the first section 8G (re-
23 garding requirements for Federal entities and des-
24 ignated Federal entities) the following:

1 **“SEC. 8H. SPECIAL PROVISIONS CONCERNING INSPECTOR**
2 **GENERAL OF THE EXECUTIVE OFFICE OF**
3 **THE PRESIDENT.**

4 “(a) AUTHORITY, DIRECTION, AND CONTROL OF
5 PRESIDENT.—Notwithstanding the last 2 sentences of
6 section 3(a), the Inspector General of the Executive Office
7 of the President shall be under the authority, direction,
8 and control of the President with respect to audits or in-
9 vestigations, or the issuance of subpoenas, which require
10 access to information concerning—

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

13 “(2) undercover operations;

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

16 “(4) deliberations and decisions on policy mat-
17 ters, including documented information used as a
18 basis for making policy decisions;

19 “(5) intelligence or counterintelligence matters;
20 or

21 “(6) other matters the disclosure of which
22 would constitute a serious threat to the national se-
23 curity, or would cause significant impairment to the
24 national interests (including interests in foreign
25 trade negotiations), of the United States.

1 “(b) PROHIBITING ACTIVITIES OF INSPECTOR GEN-
2 ERAL.—With respect to information described in sub-
3 section (a), the President may prohibit the Inspector Gen-
4 eral of the Executive Office of the President from carrying
5 out or completing any audit or investigation, or issuing
6 any subpoena, after the Inspector General has decided to
7 initiate, carry out, or complete such audit or investigation
8 or to issue such subpoena, if the President determines
9 that—

10 “(1) the disclosure of that information would
11 interfere with the core functions of the constitutional
12 responsibilities of the President; and

13 “(2) the prohibition is necessary to prevent the
14 disclosure of that information.

15 “(c) NOTICE.—

16 “(1) NOTICE TO INSPECTOR GENERAL.—If the
17 President makes a determination referred to in sub-
18 section (b)(1) or (2), the President shall within 30
19 days notify the Inspector General in writing stating
20 the reasons for that determination.

21 “(2) NOTICE TO CONGRESS.—Within 30 days
22 after receiving a notice under paragraph (1), the In-
23 spector General shall transmit a copy of the notice
24 to each of the Chairman and the ranking minority
25 party member of the Committee on Government Re-

1 form and Oversight of the House of Representatives,
2 the Committee on Governmental Affairs of the Sen-
3 ate, and other appropriate committees or sub-
4 committees of the Congress.

5 “(d) SEMIANNUAL REPORTS.—

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

10 “(A) a list of the title or subject of each
11 inspection, investigation, or audit conducted
12 during the reporting period;

13 “(B) a statement of whether corrective ac-
14 tion has been completed on each significant rec-
15 ommendation described in previous semiannual
16 reports, and, in a case where corrective action
17 has been completed, a description of such cor-
18 rective action;

19 “(C) a certification that the Inspector Gen-
20 eral has had full and direct access to all infor-
21 mation relevant to the performance of functions
22 of the Inspector General;

23 “(D) a description of all cases occurring
24 during the reporting period in which the Inspec-
25 tor General could not obtain documentary evi-

1 dence relevant to any inspection, audit, or in-
2 vestigation due to a determination of the Presi-
3 dent under subsection (b); and

4 “(E) such recommendations as the Inspec-
5 tor General considers appropriate concerning
6 legislation to promote economy and efficiency in
7 the administration of programs and operations
8 undertaken by the Executive Office of the
9 President, and to detect and eliminate fraud,
10 waste, and abuse in such programs and oper-
11 ations.

12 “(2) TRANSMISSION TO CONGRESS.—Within 30
13 days after receiving a semiannual report under sec-
14 tion 5 from the Inspector General of the Executive
15 Office of the President, the President shall transmit
16 the report to each of the Chairman and the ranking
17 minority party member of the Committee on Govern-
18 ment Reform and Oversight of the House of Rep-
19 resentatives and the Committee on Governmental
20 Affairs of the Senate with any comments the Presi-
21 dent considers appropriate.”.

1 (d) EFFECTIVE DATE.—This section shall take effect
2 on January 21, 1997.

Passed the House of Representatives September 24,
1996.

Attest:

ROBIN H. CARLE,
Clerk.