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2^D SESSION

H. R. 4822

IN THE SENATE OF THE UNITED STATES

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Received; read twice and referred to the Committee on Governmental Affairs

AN ACT

To make certain laws applicable to the legislative branch
of the Federal Government.

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 “Congressional Ac-
5 countability Act”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act:

8 (1) CONGRESSIONAL EMPLOYEE.—The term
9 “congressional employee” means—

1 (A) an individual on the payroll of an em-
2 ploying office of the House of Representatives;

3 (B) an individual on the payroll of an em-
4 ploying office of the Senate;

5 (C) an individual on the payroll of an em-
6 ploying office of the Architect of the Capitol;
7 and

8 (D) an individual on the payroll of an em-
9 ploying office of an instrumentality.

10 (2) EMPLOYEE IN THE HOUSE OF REPRESENT-
11 ATIVES.—The term “individual on the payroll of an
12 employing office in the House of Representatives”
13 means—

14 (A) an individual who is covered under rule
15 LI of the House of Representatives, as in effect
16 on the day before the date of enactment of this
17 Act;

18 (B) any applicant for a position that is to
19 be occupied by an individual described in sub-
20 paragraph (A); or

21 (C) any individual who was formerly an
22 employee described in subparagraph (A) and
23 whose claim of a violation arises out of the indi-
24 vidual’s employment.

1 (3) EMPLOYEE IN THE SENATE.—The term
2 “individual on the payroll of an employing office in
3 the Senate” means—

4 (A) any employee whose pay is disbursed
5 by the Secretary of the Senate;

6 (B) any applicant for a position that is to
7 be occupied by an individual described in sub-
8 paragraph (A)); or

9 (C) any individual who was formerly an
10 employee described in subparagraph (A) and
11 whose claim of a violation arises out of the indi-
12 vidual’s employment.

13 (4) EMPLOYEE OF THE ARCHITECT OF THE
14 CAPITOL.—The term “individual on the payroll of an
15 employing office of the Architect of the Capitol”
16 means—

17 (A) an employee of the Architect of the
18 Capitol or an individual within the administra-
19 tive jurisdiction of the Architect of the Capitol
20 if such employee or individual is paid from
21 funds under a law providing appropriations for
22 the legislative branch;

23 (B) any applicant for a position that is to
24 be occupied by an employee or individual de-
25 scribed in subparagraph (A); or

1 (C) any individual who was formerly an
2 employee or individual described in subpara-
3 graph (A) and whose claim of a violation arises
4 out of the individual's employment.

5 (5) EMPLOYEE OF AN INSTRUMENTALITY.—
6 The term “individual on the payroll of an employing
7 office of an instrumentality” means—

8 (A) any individual on the payroll of an in-
9 strumentality of the legislative branch of the
10 Federal Government;

11 (B) any applicant for a position that is to
12 be occupied by an individual described in sub-
13 paragraph (A); or

14 (C) any individual who was formerly an
15 employee described in subparagraph (A) and
16 whose claim of a violation arises out of the indi-
17 vidual's instrumentality employment.

18 (6) HEAD OF AN EMPLOYING OFFICE.—The
19 term “head of an employing office” means the indi-
20 vidual who has final authority to appoint, hire, dis-
21 charge, and set the terms, conditions, or privileges
22 of the Congressional employment of an employee.

1 **SEC. 3. APPLICATION OF LAWS.**

2 (a) LAWS WHICH WILL APPLY.—The following laws
3 shall apply, as prescribed by this subsection, to the legisla-
4 tive branch of the Federal Government:

5 (1) The Fair Labor Standards Act of 1938 (29
6 U.S.C. 201 et seq.), effective on the earlier of the ef-
7 fective date of applicable regulations of the Office of
8 Compliance under section 5 or 1 year after the date
9 of the enactment of this Act.

10 (2) Title VII of the Civil Rights Act of 1964
11 (42 U.S.C. 2000e et seq.), effective on the earlier of
12 the effective date of applicable regulations of the Of-
13 fice of Compliance under section 5 or 1 year after
14 the date of the enactment of this Act.

15 (3) The Americans With Disabilities Act of
16 1990 (42 U.S.C. 12101 et seq.), effective on the ear-
17 lier of the effective date of applicable regulations of
18 the Office of Compliance under section 5 or 1 year
19 after the date of the enactment of this Act.

20 (4) The Age Discrimination in Employment Act
21 of 1967 (29 U.S.C. 621 et seq.) (including remedies
22 available to private employees), effective on the ear-
23 lier of the effective date of applicable regulations of
24 the Office of Compliance under section 5 or 1 year
25 after the date of the enactment of this Act.

1 (5) Titles I and V of the Family and Medical
2 Leave Act of 1993 (29 U.S.C. 2611 et seq.), effec-
3 tive on the earlier of the effective date of applicable
4 regulations of the Office of Compliance under sec-
5 tion 5 or 1 year after the date of the enactment of
6 this Act.

7 (6) The Occupational Safety and Health Act of
8 1970 (other than section 19) (29 U.S.C. 651 et seq.)
9 (subject to subsection (c)), effective on the earlier of
10 the effective date of applicable regulations of the Of-
11 fice of Compliance under section 5 or 2 years after
12 the date of the enactment of this Act.

13 (7) Chapter 71 (relating to Federal labor man-
14 agement relations) of title 5, United States Code, ef-
15 fective on the earlier of the effective date of applica-
16 ble regulations of the Office of Compliance under
17 section 5 or 2 years after the date of the enactment
18 of this Act.

19 (8) The Employee Polygraph Protection Act of
20 1988 (29 U.S.C. 2001 et seq.), effective on the ear-
21 lier of the effective date of applicable regulations of
22 the Office of Compliance under section 5 or 1 year
23 after the date of the enactment of this Act, except
24 that this Act shall not apply to the United States
25 Capitol Police.

1 (9) The Worker Adjustment and Retraining
2 Notification Act (29 U.S.C. 2101 et seq.), effective
3 on the earlier of the effective date of applicable regu-
4 lations of the Office of Compliance under section 5
5 or 1 year after the date of the enactment of this
6 Act.

7 (10) The Rehabilitation Act of 1973 (29 U.S.C.
8 791), effective on the earlier of the effective date of
9 applicable regulations of the Office of Compliance
10 under section 5 or 1 year after the date of the enact-
11 ment of this Act.

12 The laws referred to in this subsection which apply now
13 to congressional employees shall continue to apply to such
14 employees until the effective date such laws are made ap-
15 plicable in accordance with this subsection.

16 (b) LAWS WHICH MAY BE MADE APPLICABLE.—Any
17 provision of Federal law shall, to the extent that it relates
18 to the terms and conditions of employment (including hir-
19 ing, promotion or demotion, salary and wages, overtime
20 compensation, benefits, work assignments or
21 reassignments, termination, protection from discrimina-
22 tion in personnel actions, health and safety of employees,
23 and family and medical leave) of employees apply to the
24 legislative branch of the Federal Government in accord-
25 ance with this Act or, to the extent that it relates to any

1 standard benefits package approved as part of the national
2 health care reform enacted by Congress in the 103d Con-
3 gress, apply to Members of Congress, as defined in section
4 2106 of title 5, United States Code, in accordance with
5 this Act.

6 (c) COMPLIANCE WITH OSHA.—The legislative
7 branch of the Federal Government shall comply with the
8 Occupational Safety and Health Act of 1970 as follows:
9 If a citation of a violation of such Act is received, action
10 to abate the violation shall take place as soon as possible,
11 but no later than the fiscal year following the fiscal year
12 in which the citation is issued.

13 **SEC. 4. OFFICE OF COMPLIANCE.**

14 (a) ESTABLISHMENT.—There is established in the
15 legislative branch an Office of Compliance (hereinafter in
16 this Act referred to as the “Office”).

17 (b) COMPOSITION.—

18 (1) BOARD OF DIRECTORS.—The Office shall
19 have a Board of Directors. The Board of Directors
20 shall consist of 8 individuals appointed jointly by the
21 Speaker of the House of Representatives, the Major-
22 ity Leader of the Senate, and the Minority Leaders
23 of the House of Representatives and the Senate. Ap-
24 pointments of the first 8 members of the Board of

1 Directors shall be completed not later than 120 days
2 after the date of the enactment of this Act.

3 (2) EXECUTIVE DIRECTOR.—

4 (A) IN GENERAL.—The Chairperson of the
5 Board of Directors shall appoint, may establish
6 the compensation of, and may terminate, sub-
7 ject to the approval of the Board of Directors,
8 an Executive Director (referred to in this Act
9 as the “executive director”). The compensation
10 of the executive director may not exceed the
11 compensation for level V of the Executive
12 Schedule under section 5316 of title 5, United
13 States Code. The executive director shall be an
14 individual with training or expertise in the ap-
15 plication of the laws referred to in section 3 to
16 employment. The appointment of the first exec-
17 utive director shall be completed no later than
18 120 days after the initial appointment of the
19 Board of Directors.

20 (B) OFFICE.—The executive director may
21 not be an individual who holds or may have
22 held the position of Member of the House of
23 Representatives or Senator. The executive direc-
24 tor may not be an individual who holds the po-
25 sition of employee of the House of Representa-

1 tives or the Senate but the executive director
2 may be an individual who held such a position
3 at least 4 years before appointment as executive
4 director. The term of office of the executive di-
5 rector shall be a single term of 5 years.

6 (c) BOARD OF DIRECTORS QUALIFICATIONS.—

7 (1) SPECIFIC QUALIFICATIONS.—

8 (A) LOBBYING.—No individual who en-
9 gages in, or is otherwise employed in, lobbying
10 of the Congress and who is required under the
11 Federal Regulation of Lobbying Act to register
12 with the Clerk of the House of Representatives
13 or the Secretary of the Senate shall be consid-
14 ered eligible for appointment to, or service on,
15 the Board of Directors.

16 (B) OFFICE.—No member of the Board of
17 Directors appointed under subsection (b)(1)
18 may hold or may have held the position of
19 Member of the House of Representatives or
20 Senator, may hold the position of employee of
21 the House of Representatives or Senate, or may
22 have held such a position within 4 years of the
23 date of appointment.

24 (2) HOLDING OFFICE.—If during a term of of-
25 fice a member of the Board of Directors engages in

1 an activity described in paragraph (2)(A), such posi-
2 tion shall be declared vacant and a successor shall
3 be selected in accordance with subsection (b)(1).

4 (3) VACANCIES.—A vacancy in the Board of
5 Directors shall be filled in the manner in which the
6 original appointment was made.

7 (d) BOARD OF DIRECTORS TERM OF OFFICE.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), membership on the Board of Directors
10 shall be for 5 years. A member shall only be eligible
11 for appointment for a single term of office.

12 (2) FIRST APPOINTMENTS.—Of the members
13 first appointed to the Board of Directors—

14 (A) 2 shall have a term of office of 2
15 years,

16 (B) 2 shall have a term of office of 3
17 years,

18 (C) 2 shall have a term of office of 4
19 years, and

20 (D) 2 shall have a term of office of 5
21 years,

22 as designated at the time of appointment by the per-
23 sons specified in subsection (b)(1).

24 (3) REMOVAL.—Any member of the Board of
25 Directors may be removed from office by a majority

1 decision of the appointing authorities described in
2 subsection (b)(1) and only for—

3 (A) disability that substantially prevents
4 the member from carrying out the duties of the
5 member,

6 (B) incompetence,

7 (C) neglect of duty,

8 (D) malfeasance, or

9 (E) a felony or conduct involving moral
10 turpitude.

11 (e) CHAIRPERSON.—The Chairperson of the Board of
12 Directors shall be appointed from the members of the
13 Board of Directors by the members of the Board.

14 (f) COMPENSATION OF MEMBERS.—

15 (1) PER DIEM.—Each member of the Board of
16 Directors shall be compensated at a rate equal to
17 the daily equivalent of the annual rate of basic pay
18 prescribed for level V of the Executive Schedule
19 under section 5316 of title 5, United States Code,
20 for each day (including travel time) during which
21 such member is engaged in the performance of the
22 duties of the Board.

23 (2) TRAVEL EXPENSES.—Each member of the
24 Board of Directors shall receive travel expenses, in-
25 cluding per diem in lieu of subsistence, at rates au-

1 thorized for employees of agencies under subchapter
2 I of chapter 57 of title 5, United States Code, for
3 each day the member is engaged in the performance
4 of duties away from the home or regular place of
5 business of the member.

6 (g) OFFICE STAFF.—The executive director may ap-
7 point and fix the compensation of such staff, including
8 hearing officers, as are necessary to carry out this Act.

9 (h) DETAILEES.—The executive director may, with
10 the prior consent of the Government department or agency
11 concerned, use the services of any such department or
12 agency, including the services of members or personnel of
13 the General Accounting Office Personnel Appeals Board.

14 (i) CONSULTANTS.—In carrying out this Act, the ex-
15 ecutive director may procure the temporary (not to exceed
16 1 year) or intermittent services of individual consultants
17 or organizations thereof.

18 **SEC. 5. STUDY AND REGULATIONS.**

19 (a) INITIAL ACTION.—

20 (1) IN GENERAL.—The Board of Directors shall
21 conduct a study of the manner in which the laws
22 made applicable to the legislative branch of the Fed-
23 eral Government under section 3(a) should apply.
24 The Board of Directors shall complete such study
25 and report the results to Congress not later than

1 180 days after the date of the first appointment of
2 the first executive director.

3 (2) INSTRUMENTALITIES.—The Board of Direc-
4 tors shall include in its study under paragraph (1)
5 an examination of the procedures used by the instru-
6 mentalities to enforce the application of laws appli-
7 cable to the legislative branch of the Federal Gov-
8 ernment and a determination as to whether to direct
9 the instrumentality to make improvements in its reg-
10 ulations and procedures so as to assure that proce-
11 dures as effective as the procedures set forth in sec-
12 tions 7 through 12 will apply. If the instrumentality
13 has no such regulations and procedures, the Board
14 may direct the instrumentality to adopt the requisite
15 regulations and procedures, or, if deemed necessary,
16 in lieu thereof may itself adopt regulations pursuant
17 to this section or authorize use of the procedures
18 pursuant to sections 7 through 12.

19 (b) CONTINUING ACTION.—On an ongoing basis the
20 Board of Directors—

21 (1) shall determine which of the laws referred
22 to in section 3(b) should apply to the legislative
23 branch of the Federal Government and if it should,
24 the manner in which it should be made applicable;

1 (2) shall study the application to the legislative
2 branch of the Federal Government of provisions of
3 Federal law referred to in section 3 that are enacted
4 after the date of the enactment of this Act;

5 (3) may propose regulations with respect to
6 such application in accordance with subsection (c);
7 and

8 (4) may review the regulations in effect under
9 subsection (e)(1) and make such amendments as
10 may be appropriate in accordance with subsection
11 (c).

12 (c) REGULATIONS.—

13 (1) LAWS MADE APPLICABLE.—

14 (A) GENERAL RULE.—Not later than 180
15 days after the date of the completion of the
16 study under subsection (a), the Board of Direc-
17 tors shall, in accordance with section 553 of
18 title 5, United States Code, propose regulations
19 to implement the requirements of the laws
20 made applicable to the legislative branch of the
21 Federal Government under section 3(a). The
22 Board of Directors shall provide a period of at
23 least 30 days for comment on the proposed reg-
24 ulations.

1 (B) CONGRESSIONAL NOTICE.— In addi-
2 tion to publishing a general notice of proposed
3 rulemaking under section 553(b) of title 5,
4 United States Code, the Board of Directors
5 shall concurrently submit such notice for publi-
6 cation in the Congressional Record.

7 (C) AMENDMENTS AND REPEALS.—When
8 proposing regulations under subparagraph (A)
9 to implement the requirements of a law referred
10 to in section 3(a), the Board of Directors shall
11 recommend to the Congress changes in or re-
12 peals of existing law to accommodate the appli-
13 cation of such law to the legislative branch of
14 the Federal Government.

15 (D) FINAL REGULATIONS.—The Board of
16 Directors shall, in accordance with such section
17 553, issue final regulations not later than 60
18 days after the end of the comment period on
19 the proposed regulations.

20 (2) CONTINUING ACTION.—

21 (A) GENERAL RULE.—Not later than 180
22 days after the date of the completion of the
23 study or a determination under subsection (b),
24 the Board of Directors shall, in accordance with
25 section 553 of title 5, United States Code, pro-

1 pose regulations that specify which of the provi-
2 sions of Federal law considered in such study
3 shall apply to the legislative branch of the Fed-
4 eral Government. The Board of Directors shall
5 provide a period of at least 30 days for com-
6 ment on the proposed regulations.

7 (B) CONGRESSIONAL NOTICE.— In addi-
8 tion to publishing a general notice of proposed
9 rulemaking under section 553(b) of title 5,
10 United States Code, the Board of Directors
11 shall concurrently submit such notice for publi-
12 cation in the Congressional Record.

13 (C) AMENDMENTS AND REPEALS.—When
14 proposing regulations under subparagraph (A)
15 specifying which of the provisions of Federal
16 law referred to in section 3(b) shall apply to the
17 legislative branch of the Federal Government,
18 the Board of Directors shall recommend to the
19 Congress changes in or repeals of existing law
20 to accommodate the application of such law to
21 the legislative branch of the Federal Govern-
22 ment.

23 (D) FINAL REGULATIONS.— The Board of
24 Directors shall, in accordance with such section
25 553, issue final regulations not later than 60

1 days after the end of the comment period on
2 the proposed regulations.

3 (3) REGULATION REQUIREMENTS.—Regulations
4 under paragraphs (1) and (2) shall be consistent
5 with the regulations issued by an agency of the execu-
6 tive branch of the Federal Government under the
7 provision of law made applicable to the legislative
8 branch of the Federal Government, including por-
9 tions relating to remedies.

10 (4) ACTION IF DISAPPROVAL.—If a regulation
11 is disapproved by a concurrent resolution considered
12 under subsection (e), not later than 60 days after
13 the date of the disapproval, the Board of Directors
14 shall propose a new regulation to replace the regula-
15 tion disapproved. The action of the Board of Direc-
16 tors under this paragraph shall be in accordance
17 with the applicable requirements of this subsection.

18 (d) TRANSMITTAL.—A final regulation issued under
19 subsection (c) shall be transmitted to the Congress for
20 consideration under subsection (e).

21 (e) TAKING EFFECT OF REGULATIONS.—

22 (1) GENERAL RULE.—Subject to subsection (f),
23 a final regulation which is issued under subsection
24 (c) shall take effect upon the expiration of 60 days
25 from the date the final regulation is issued unless

1 disapproved by the Congress by concurrent resolu-
2 tion.

3 (2) CONCURRENT RESOLUTION.—A concurrent
4 resolution referred to in paragraph (1) may be intro-
5 duced in the House of Representatives or the Senate
6 within 5 days of session after the date on which the
7 Board of Directors issues the final regulation to
8 which the concurrent resolution applies. The matter
9 after the resolving clause of the resolution shall be
10 as follows: “That Congress disapproves the issuance
11 of final regulations of the Office of Compliance as is-
12 sued on _____ (the blank space being ap-
13 propriately filled in).”.

14 (3) PROCEDURE.—A concurrent resolution re-
15 ferred to in paragraph (1) shall be referred to the
16 appropriate committee of the House involved. If no
17 concurrent resolution is reported within 15 days of
18 session after the Board of Directors issues final reg-
19 ulations under subsection (c)(1)(D) or (c)(2)(D), the
20 committee to which the concurrent resolution was
21 referred shall be discharged from further consider-
22 ation of the first such concurrent resolution intro-
23 duced and the concurrent resolution shall be placed
24 on the appropriate calendar of the House involved.
25 Any meeting of a committee on a concurrent resolu-

1 tion shall be open to the public. Within 5 days of
2 session after the concurrent resolution is reported or
3 discharged, it shall be in order as a matter of high-
4 est privilege to move to proceed to its consideration
5 and such motion shall not be debatable. The concur-
6 rent resolution shall be debatable for not to exceed
7 4 hours equally divided between proponents and op-
8 ponents and it shall not be subject to amendment.
9 If, prior to the adoption of a concurrent resolution
10 by one House, that House receives a concurrent res-
11 olution of the other House with respect to the same
12 regulations, then the procedure in that House shall
13 be the same as if no concurrent resolution had been
14 received from the other House, but vote on final
15 adoption shall be on the concurrent resolution of the
16 other House. If a concurrent resolution is received
17 by a House in which no identical concurrent resolu-
18 tion has been introduced, it shall be referred to the
19 appropriate committee and the same procedures and
20 20-day period for action shall apply to the consider-
21 ation of the concurrent resolution by that House as
22 would apply to an introduced concurrent resolution.

23 (f) RULEMAKING POWER.—The provisions of sub-
24 section (e) of this section are enacted by the Congress—

1 (1) as an exercise of the rulemaking power of
2 the House of Representatives and the Senate, re-
3 spectively, and as such they shall be considered as
4 part of the rules of each House, respectively, or of
5 that House to which they specifically apply, and
6 such rules shall supersede other rules only to the ex-
7 tent that they are inconsistent therewith; and

8 (2) with full recognition of the constitutional
9 right of either House to change such rules (so far
10 as relating to such House) at any time, in the same
11 manner, and to the same extent as in the case of
12 any other rule of such House.

13 (g) OPEN TO THE PUBLIC.—Any meeting of the
14 Board of Directors held in connection with a study under
15 subsection (a) or (b) shall be open to the public. Any meet-
16 ing of the Board of Directors in connection with a regula-
17 tion under subsection (c) shall be open to the public.

18 **SEC. 6. OTHER FUNCTIONS.**

19 (a) RULES OF THE OFFICE.—The executive director
20 shall adopt rules governing the procedures of the Office,
21 subject to the approval of the Board of Directors, includ-
22 ing the procedures of hearing boards, which shall be sub-
23 mitted for publication in the Congressional Record. The
24 rules may be amended in the same manner. The executive
25 director may consult with the Chairman of the Adminis-

1 trative Conference of the United States, the Legal Counsel
2 of the Senate, and the General Counsel of the House of
3 Representatives on the adoption of rules.

4 (b) INVESTIGATIVE AUTHORITY.—The executive di-
5 rector shall have authority to conduct such investigations
6 as the executive director requires to implement sections
7 8 through 10 and section 12.

8 (c) DUTIES.—The Office shall—

9 (1) carry out a program of education for Mem-
10 bers of Congress and other employing authorities of
11 the legislative branch of the Federal Government re-
12 specting the laws made applicable to them and a
13 program to inform individuals of their rights under
14 laws applicable to the legislative branch of the Fed-
15 eral Government and under sections 7 through 12,

16 (2) in carrying out the program under para-
17 graph (1), distribute the telephone number and ad-
18 dress of the Office, procedures for action under sec-
19 tions 7 through 12, and any other information the
20 executive director deems appropriate for distribution,
21 distribute such information to Members of Congress
22 and other employing authorities of the legislative
23 branch of the Federal Government in a manner suit-
24 able for posting, provide such information to new
25 employees of the legislative branch of the Federal

1 Government, distribute such information to the resi-
2 dences of congressional employees, and conduct sem-
3 inars and other activities designed to educate em-
4 ployers and employees in such information,

5 (3) compile and publish statistics on the use of
6 the Office by congressional employees, including the
7 number and type of contacts made with the Office,
8 on the reason for such contacts, on the number of
9 employees who initiated proceedings with the Office
10 under sections 7 through 12 and the result of such
11 proceedings, and on the number of employees who
12 filed a complaint under section 10, the basis for the
13 complaint, and the action taken on the complaint,
14 and

15 (4) within 180 days of the initial appointment
16 of the executive director and in conjunction with the
17 Clerk of the House of Representatives and the Sec-
18 retary of the Senate, develop a system for the collec-
19 tion of demographic data respecting the composition
20 of the congressional employees, including race, sex,
21 and wages, and a system for the collection of infor-
22 mation on employment practices, including family
23 leave and flexible work hours, in Congressional
24 offices.

1 (d) REPORT.—Within one year of the date the system
2 referred to in subsection (c)(4) is developed and annually
3 thereafter, the Board of Directors shall submit to Con-
4 gress a report on the information collected under such sys-
5 tem. Each report after the first report shall contain a com-
6 parison and evaluation of data contained in the previous
7 report.

8 **SEC. 7. PROCEDURE FOR CONSIDERATION OF ALLEGED**
9 **VIOLATIONS.**

10 The procedure for consideration of alleged violations
11 of laws made applicable to the legislative branch of the
12 Federal Government under this Act consists of 4 steps as
13 follows:

14 (1) Step I, counseling, as set forth in section 8.

15 (2) Step II, mediation, as set forth in section
16 9.

17 (3) Step III, formal complaint and hearing by
18 a hearing board, as set forth in section 10.

19 (4) Step IV, judicial review if a congressional
20 employee is aggrieved by a dismissal of a claim
21 under section 10(c), a final decision under section
22 10(g), or an order under section 10(h) or if a head
23 of an employing office is aggrieved by a final deci-
24 sion under section 10(g) or would be subject to an
25 order issued under section 10(h).

1 (5) Step V, as an alternative to steps III and
2 IV, a civil action in a district court of the United
3 States in accordance with section 12.

4 A congressional employee may elect the procedure de-
5 scribed in paragraph (3) or (5) but not both procedures.

6 **SEC. 8. STEP I: COUNSELING.**

7 (a) IN GENERAL.—A congressional employee alleging
8 a violation of a law made applicable to the legislative
9 branch of the Federal Government under this Act may re-
10 quest counseling through the Office. The Office shall pro-
11 vide the employee with all relevant information with re-
12 spect to the rights of the employee. A request for counsel-
13 ing shall be made not later than 180 days after the alleged
14 violation forming the basis of the request for counseling
15 occurred.

16 (b) PERIOD OF COUNSELING.—The period for coun-
17 seling shall be 30 days unless the employee and the Office
18 agree to reduce the period. The period shall begin on the
19 date the request for counseling is received.

20 **SEC. 9. STEP II: MEDIATION.**

21 (a) IN GENERAL.—Not later than 15 days after the
22 end of the counseling period under section 8, the employee
23 who alleged a violation of a law made applicable to the
24 legislative branch of the Federal Government under this

1 Act may file a request for mediation with the Office. Medi-
2 ation—

3 (1) may include the Office, the employee, the
4 employing office, and individuals who are rec-
5 ommended by organizations composed primarily of
6 individuals experienced in adjudicating or arbitrating
7 personnel matters, and

8 (2) shall be a process involving meetings with
9 the parties separately or jointly for the purpose of
10 resolving the dispute between the employee and the
11 employing office.

12 (b) **MEDIATION PERIOD.**—The mediation period shall
13 be 30 days beginning on the date the request for mediation
14 is received and may be extended for an additional 30 days
15 at the discretion of the Office. The Office shall notify the
16 employee and the head of the employing office when the
17 mediation period has ended.

18 **SEC. 10. STEP III: FORMAL COMPLAINT AND HEARING.**

19 (a) **FORMAL COMPLAINT AND REQUEST FOR HEAR-**
20 **ING.**—Not later than 30 days after receipt by the congres-
21 sional employee of notice from the Office of the end of
22 the mediation period under section 9, the congressional
23 employee may file a formal complaint with the Office
24 against the head of the employing office involved. No com-
25 plaint may be filed unless the employee has made a timely

1 request for counseling and has completed the procedures
2 set forth in sections 8 and 9.

3 (b) HEARING BOARD.—A board of 3 independent
4 hearing officers (hereinafter in this Act referred to as a
5 “hearing board”), who are not Members of the House of
6 Representatives, Senators, or officers or employees of the
7 House of Representatives or Senate, chosen by the execu-
8 tive director (one of whom shall be designated by the exec-
9 utive director as the presiding hearing officer) shall be as-
10 signed to consider each complaint filed under subsection
11 (a). The executive director shall appoint hearing officers
12 from candidates who are recommended by the Federal Me-
13 diation and Conciliation Service or the Administrative
14 Conference of the United States. A hearing board shall
15 act by majority vote.

16 (c) DISMISSAL OF FRIVOLOUS CLAIMS.—Prior to a
17 hearing under subsection (d), a hearing board may dismiss
18 any claim that it finds to be frivolous.

19 (d) HEARING.—A hearing shall be conducted—

20 (1) in closed session on the record by a hearing
21 board; and

22 (2) no later than 30 days after filing of the
23 complaint under subsection (a), except that the Of-
24 fice may, for good cause, extend up to an additional
25 60 days the time for conducting a hearing.

1 (e) DISCOVERY.—Reasonable prehearing discovery
2 may be permitted at the discretion of the hearing board.

3 (f) SUBPOENA POWER.—

4 (1) IN GENERAL.—A hearing board may au-
5 thorize subpoenas, which shall be issued by the pre-
6 siding hearing officer on behalf of the hearing board
7 for the attendance of witnesses at proceedings of the
8 hearing board and for the production of correspond-
9 ence, books, papers, documents, and other records.
10 The attendance of witnesses and the production of
11 evidence may be required from any place within the
12 United States.

13 (2) FAILURE TO OBEY A SUBPOENA.—If a per-
14 son refuses to obey a subpoena issued under para-
15 graph (1), the hearing board may apply to a United
16 States district court for an order requiring that per-
17 son to appear before the hearing board to give testi-
18 mony, produce evidence, or both, relating to the
19 matter under investigation. The application may be
20 made within the judicial district where the hearing
21 is conducted or where that person is found, resides,
22 or transacts business. Any failure to obey the order
23 of the court may be punished by the court as civil
24 contempt.

1 (3) SERVICE OF SUBPOENAS.—The subpoenas
2 of the hearing board shall be served in the manner
3 provided for subpoenas issued by a United States
4 district court under the Federal Rules of Civil Pro-
5 cedure for the United States district courts.

6 (4) SERVICE OF PROCESS.—All process of any
7 court to which application is to be made under para-
8 graph (2) may be served in the judicial district in
9 which the person required to be served resides or
10 may be found.

11 (5) IMMUNITY.—The hearing board is an agen-
12 cy of the United States for the purpose of part V
13 of title 18, United States Code (relating to immunity
14 of witnesses).

15 (g) HEARING BOARD DECISION.—As expeditiously as
16 possible, but in no case more than 45 days after the con-
17 clusion of the hearing, the hearing board shall make a de-
18 cision in the matter for which the hearing was held. The
19 decision of the hearing board shall be transmitted by the
20 Office to the employee and the employing office. The deci-
21 sion shall state the issues raised by the complaint, describe
22 the evidence in the record, and contain a determination
23 as to whether a violation of a law made applicable to the
24 legislative branch of the Federal Government under this
25 Act has occurred. Any decision of the hearing board shall

1 contain a written statement of the reasons for the hearing
2 board's decision. A final decision of the hearing board
3 shall be made available to the public by the Office.

4 (h) REMEDY ORDER.—If the decision of the hearing
5 board under subsection (g) is that a violation of a law
6 made applicable to the legislative branch of the Federal
7 Government under this Act, it shall order the remedies
8 under such law as made applicable to the legislative
9 branch of the Federal Government under this Act, except
10 that no Member of the House of Representatives, Senator,
11 any other head of an employing office, or agent of such
12 a Member or Senator, shall be personally liable for the
13 payment of compensation. The hearing board shall have
14 no authority to award punitive damages. The entry of an
15 order under this subsection shall constitute a final decision
16 for purposes of judicial review under section 11.

17 (i) FUNDS.—There shall be established in the House
18 of Representatives and in the Senate a fund from which
19 compensation (including attorney's fees) may be paid in
20 accordance with an order under subsection (h) or as a re-
21 sult of judicial review under section 11 or a civil action
22 under section 12. From the outset of any proceeding in
23 which compensation may be paid from a fund of the House
24 of Representatives, the General Counsel of the House of

1 Representatives may provide the respondent with rep-
2 resentation.

3 **SEC. 11. JUDICIAL REVIEW.**

4 (a) IN GENERAL.—

5 (1) TYPES OF REVIEW.—Following any hearing
6 under section 10 on a complaint relating to a provi-
7 sion of law described in section 3, any congressional
8 employee aggrieved by a dismissal of a claim under
9 section 10(c), a final decision under section 10(g), a
10 final order under section 10(h), or any head of an
11 employing office aggrieved by a final decision under
12 section 10(g) or a final order under section 10(h),
13 may petition for review by the United States Court
14 of Appeals for the Federal Circuit in accordance
15 with paragraph (2).

16 (2) PROVISIONS APPLICABLE TO REVIEW.—The
17 following provisions apply to a review under para-
18 graph (1):

19 (A) LAW APPLICABLE.—Chapter 158 of
20 title 28, United States Code, shall apply—

21 (i) with respect to section 2344 of
22 title 28, United States Code, service of the
23 petition shall be on the House or Senate
24 Legal Counsel, or the appropriate entity of

1 an instrumentality, as the case may be,
2 rather than on the Attorney General;

3 (ii) the provisions of section 2348 of
4 title 28, United States Code, on the au-
5 thority of the Attorney General, shall not
6 apply;

7 (iii) the petition for review shall be
8 filed not later than 90 days after the entry
9 in the Office of a final decision under sec-
10 tion 10(g), an order under section 10(h);
11 and

12 (iv) the Office shall be an “agency” as
13 that term is used in chapter 158 of title
14 28, United States Code.

15 (B) STANDARD OF REVIEW.—To the ex-
16 tent necessary for decision and when presented,
17 the court shall decide all relevant questions of
18 law and interpret constitutional and statutory
19 provisions. The court shall set aside a dismissal
20 under section 10(c), a final decision under sec-
21 tion 10(g), or an order under section 10(h) if
22 it is determined that the dismissal, decision, or
23 order was—

1 (i) arbitrary, capricious, an abuse of
2 discretion, or otherwise not consistent with
3 law;

4 (ii) not made consistent with required
5 procedures; or

6 (iii) unsupported by substantial evi-
7 dence.

8 (C) RECORD.—In making determinations
9 under subparagraph (B), the court shall review
10 the whole record, or those parts of it cited by
11 a party, and due account shall be taken of the
12 rule of prejudicial error. The record on review
13 shall include the record before the hearing
14 board, the decision of the hearing board, and
15 the order of the hearing board.

16 (b) ATTORNEY'S FEES.—If a congressional employee
17 is the prevailing party in a proceeding under this section,
18 attorney's fees for the judicial proceeding may be allowed
19 by the court in accordance with the standards prescribed
20 under section 706(k) of the Civil Rights Act of 1964 (42
21 U.S.C. 2000e-5(k)).

22 **SEC. 12. CIVIL ACTION.**

23 (a) IN GENERAL.—

24 (1) CIVIL ACTION.—A congressional employee
25 may within 30 days after receipt of notice from the

1 Office of the end of the mediation period under sec-
2 tion 9 for a violation of a law made applicable to the
3 legislative branch of the Federal Government bring
4 a civil action in a district court of the United States
5 seeking relief from the alleged violation of law if
6 such a civil action is available under such law. In
7 any such civil action, any party may demand a jury
8 trial.

9 (2) EXHAUSTION REQUIREMENT.—No civil ac-
10 tion may be filed under paragraph (1) unless the
11 employee has made a timely request for counseling
12 and has completed the procedures set forth in sec-
13 tions 8 and 9.

14 (3) COURT ORDER.—If a court determines that
15 a violation of law occurred, the court may only enter
16 an order described in section 10(h).

17 (b) ATTORNEY'S FEES.—If a congressional employee
18 is the prevailing party in a proceeding under this section,
19 attorney's fees may be allowed by the court in accordance
20 with any standards prescribed under Federal law for the
21 award of such fees in the event of a violation of such provi-
22 sion.

23 **SEC. 13. RESOLUTION OF COMPLAINT.**

24 If, after a formal complaint is filed under section 10,
25 the employee and the head of the employing office resolve

1 the issues involved, the employee may withdraw the com-
2 plaint or the parties may enter into a written agreement,
3 subject to the approval of the executive director.

4 **SEC. 14. PROHIBITION OF INTIMIDATION.**

5 Any intimidation of, or reprisal against, any employee
6 by any Member of the House of Representatives, Senator,
7 or officer or employee of the House of Representatives or
8 Senate, by the Architect of the Capitol or anyone employed
9 by the Architect of the Capitol, or by an instrumentality
10 of the legislative branch of the Federal Government be-
11 cause of the exercise of a right under this Act constitutes
12 an unlawful employment practice, which may be remedied
13 in the same manner under this Act as is a violation of
14 a law made applicable to the legislative branch of the Fed-
15 eral Government under this Act.

16 **SEC. 15. CONFIDENTIALITY.**

17 (a) COUNSELING.—All counseling shall be strictly
18 confidential except that the Office and the employee may
19 agree to notify the head of the employing office of the
20 allegations.

21 (b) MEDIATION.—All mediation shall be strictly
22 confidential.

23 (c) HEARINGS.—Except as provided in subsections
24 (d) and (e), the hearings and deliberations of the hearing
25 board shall be confidential.

1 (d) RELEASE OF RECORDS FOR JUDICIAL ACTION.—
2 The records of hearing boards may be made public if re-
3 quired for the purpose of judicial action under section 9.

4 (e) ACCESS BY COMMITTEES OF CONGRESS.—At the
5 discretion of the executive director, the executive director
6 may provide to the Committee on Standards of Official
7 Conduct of the House of Representatives and the Select
8 Committee on Ethics of the Senate access to the records
9 of the hearings and decisions of the hearing boards, in-
10 cluding all written and oral testimony in the possession
11 of the hearing boards, concerning a decision under section
12 10(g). The executive director shall not provide such access
13 until the executive director has consulted with the individ-
14 ual filing the complaint at issue in the hearing, and until
15 the hearing board has issued the decision.

16 (f) COORDINATION.—The executive director shall co-
17 ordinate the proceedings with the Committee on Stand-
18 ards and Official Conduct of the House of Representatives
19 and the Select Committee on Ethics of the Senate to en-
20 sure effectiveness, to avoid duplication, and to prevent pe-
21 nalizing cooperation by respondents in the respective pro-
22 ceedings.

1 **SEC. 16. POLITICAL AFFILIATION AND PLACE OF RESI-**
2 **DENCE.**

3 (a) IN GENERAL.—It shall not be a violation of a law
4 made applicable to the legislative branch of the Federal
5 Government under this Act to consider the—

6 (1) party affiliation,

7 (2) domicile, or

8 (3) political compatibility with the employing
9 office,

10 of a congressional employee with respect to employment
11 decisions.

12 (b) DEFINITION.—For purposes of subsection (a),
13 the term “employee” means—

14 (1) an employee on the staff of the House of
15 Representatives or Senate leadership,

16 (2) an employee on the staff of a committee or
17 subcommittee,

18 (3) an employee on the staff of a Member of
19 the House of Representatives or Senate,

20 (4) an officer or employee of the House of Rep-
21 resentatives or Senate elected by the House of Rep-
22 resentatives or Senate or appointed by a Member of
23 the House of Representatives or Senate, other than
24 those described in paragraphs (1) through (3), or

1 (5) an applicant for a position that is to be oc-
2 cupied by an individual described in paragraphs (1)
3 through (4).

4 **SEC. 17. OTHER REVIEW PROHIBITED.**

5 No congressional employee may commence a judicial
6 proceeding to redress practices prohibited under section
7 5, except as provided in this Act.

8 **SEC. 18. STUDY.**

9 (a) STUDY.—The Office shall conduct a study—

10 (1) of the ways that access by the public to in-
11 formation held by the Congress may be improved,
12 streamlined, and made consistent between the House
13 of Representatives and the Senate and of the appli-
14 cation of section 552 of title 5, United States Code
15 to the legislative branch of the Federal Government;
16 and

17 (2) of the application of the requirement of sec-
18 tion 552a of title 5, United States Code, to the legis-
19 lative branch of the Federal Government.

20 (b) STUDY CONTENT.—The study conducted under
21 subsection (a) shall examine—

22 (1) information that is currently made available
23 under such section 552 by Federal agencies and not
24 by the legislative branch of the Federal Government;

1 (2) information held by the non-legislative of-
2 fices of the legislative branch of the Federal Govern-
3 ment, including—

4 (A) the instrumentalities,

5 (B) the Architect of the Capitol,

6 (C) the Director of Non-Legislative and
7 Financial Services of the House of Representa-
8 tives,

9 (D) the Clerk of the House of Representa-
10 tives,

11 (E) the Secretary of the Senate,

12 (F) the Inspector General of the House of
13 Representatives,

14 (G) the Sergeant at Arms of the House of
15 Representatives and the Sergeant at Arms of
16 the Senate,

17 (H) the Doorkeeper of the House of Rep-
18 resentatives,

19 (I) the United States Capitol Police, and

20 (J) the House Commission on Congres-
21 sional Mailing Standards;

22 (3) financial expenditure information of the leg-
23 islative branch of the Federal Government; and

