

107TH CONGRESS
1ST SESSION

S. 201

To require that Federal agencies be accountable for violations of
antidiscrimination and whistleblower protection laws, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 29, 2001

Mr. WARNER introduced the following bill; which was read twice and referred
to the Committee on Governmental Affairs

A BILL

To require that Federal agencies be accountable for violations
of antidiscrimination and whistleblower protection laws,
and for other purposes.

1 Be it enacted by the Senate and House of Representatives
2 of the United States of America in Congress assembled,

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Federal Employee Protection
5 Act of 2001".

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) Federal agencies cannot be run effectively if
9 those agencies practice or tolerate discrimination;

1 (2) in August 2000, a jury found that the Envi-
2 ronmental Protection Agency had discriminated
3 against a senior social scientist, and awarded th
4 scientist \$600,000;

5 (3) in October 2000, an Occupational Safety
6 and Health Administration investigation found that
7 the Environmental Protection Agency had retaliated
8 against a senior scientist for disagreeing with t
9 agency on a matter of science and for helping Con
10 gress to carry out its oversight responsibilities;

11 (4) notifying Federal employees of their rights
12 under discrimination and whistleblower statutes
13 should increase agency compliance with the law;

14 (5) requiring annual reports to Congress on the
15 number and severity of discrimination and whistle-
16 blower cases brought against each Federal agency
17 should enable Congress to improve its oversight ove
18 agencies' compliance with the law; and

19 (6) penalizing a Federal agency by requiring
20 that agency to pay for any discrimination or whistl
21 blower judgment, award, or settlement should im-
22 prove agency accountability with respect to whistl
23 blower and discrimination laws.

24 **SEC. 3. DEFINITIONS.**

25 In this Act—

1 (1) the term ``applicant for Federal employ-
2 ment'' means an individual applying for employment
3 in or under a Federal agency;

4 (2) the term ``Federal agency'' means an Exec-
5 utive agency as defined under section 105 of title
6 United States Code;

7 (3) the term ``Federal employee'' means an in-
8 dividual employed in or under a Federal agency; and

9 (4) the term ``former Federal employee'' means
10 an individual formerly employed in or under a Fed-
11 eral agency.

12 **SEC. 4. REIMBURSEMENT REQUIREMENT.**

13 (a) APPLICABILITY.—This section applies with re-
14 spect to any payment made in accordance with section
15 2414, 2517, 2672, or 2677 of title 28, United States
16 Code, and under section 1304 of title 31, United States
17 Code (relating to judgments, awards, and compromise set-
18 tlements) to any Federal employee, former Federal em-
19 ployee, or applicant for Federal employment, in connect-
20 ion with any proceeding brought by or on behalf of such em-
21 ployee, former employee, or applicant under—

22 (1) any provision of law cited in subsection (c)
23 or

1 (2) any other provision of law which prohibits
2 any form of discrimination, as identified under reg
3 lations prescribed under section 8.

4 (b) REQUIREMENT.—An amount equal to the amount
5 of each payment described in subsection (a) shall be r
6 bursed to the fund described in section 1304 of title
7 United States Code, out of any appropriation, fund,
8 other account available for operating expenses of the
9 eral agency to which the discriminatory or prohibited
10 duct involved is attributable, as determined under sec
11 8.

12 (c) SCOPE.—The provisions of law cited in this sub-
13 section are section 2302 of title 5, United States C
14 section 322(a) of the Clean Air Act (42 U.S.C. 7622(a
15 section 110(a) of the Comprehensive Environmental Re-
16 sponse, Compensation, and Liability Act (42 U.S.C.
17 9610(a)), section 507(a) of the Federal Water Polluti
18 Control Act (33 U.S.C. 1367(a)), section 1450(i)(1) of
19 Safe Drinking Water Act (42 U.S.C. 300j-9(i)(1)), sec
20 tion 7001(a) of the Solid Waste Disposal Act (42 U.S.
21 6971(a)), and section 23(a) of the Toxic Substances Co
22 trol Act (15 U.S.C. 2622(a)).

23 **SEC. 5. NOTIFICATION REQUIREMENT.**

24 (a) IN GENERAL.—Written notification of the rights
25 and protections available to Federal employees, form

1 Federal employees, and applicants for Federal employ-
 2 ment in connection with the respective provisions of
 3 covered under section 4(a) (1) and (2) shall be provi-
 4 to such employees, former employees, and applicants—

5 (1) in accordance with otherwise applicable pro-
 6 visions of law; or

7 (2) if to the extent that no such notificatio-
 8 would otherwise be required, in such time, form, and
 9 manner as shall under section 8 be required in order
 10 to carry out this section.

11 (b) POSTING ON THE INTERNET.—Any written noti-
 12 fication under this section shall include the posting
 13 information required under subsection (a) (1) or (2)
 14 the Internet site of the Federal agency involved.

15 **SEC. 6. REPORTING REQUIREMENT.**

16 (a) ANNUAL REPORT.—Each Federal agency shall
 17 submit to Congress and the Attorney General an annual
 18 report that shall include, with respect to the prior ca-
 19 year—

20 (1) the number of cases arising under each of
 21 the respective provisions of law covered under se-
 22 tion 4(a) (1) or (2) in which discrimination or p-
 23 hibited conduct on the part of such agency was al-
 24 leged;

1 (2) the status or disposition of cases described
2 under paragraph (1);

3 (3) the amount of money required to be reim-
4 bursed by such agency under section 4 in connection
5 with each of those cases; and

6 (4) the number of employees disciplined for dis-
7 crimination, retaliation, harassment, or any other
8 fraction of any provision of law referred to under
9 paragraph (1).

10 (b) 10-YEAR REPORT.—Not later than March 1,
11 2002, each Federal agency shall submit to Congress and
12 the Attorney General a report that shall include, with
13 respect to the 10-year period preceding the date of enact-
14 ment of this Act, the information described under sub-
15 section (a) (1), (2), and (4).

16 **SEC. 7. CLARIFICATION OF REMEDIES.**

17 Consistent with Federal law, nothing in this Act shall
18 prevent any Federal employee, former Federal employee
19 or applicant for Federal employment from exercising any
20 right otherwise available under law.

21 **SEC. 8. REGULATIONS.**

22 The President or the designee of the President shall
23 prescribe regulations necessary to carry out this Act.