Calendar No. 346

107TH CONGRESS, 2d Session | SENATE | REPORT 107–143

NOTIFICATION AND FEDERAL EMPLOYEE ANTIDISCRIMINATION AND RETALIATION ACT OF 2001

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

H.R. 169

TO REQUIRE THAT FEDERAL AGENCIES BE ACCOUNTABLE FOR VIOLATIONS OF ANTIDISCRIMINATION AND WHISTLEBLOWER PROTECTION LAWS; TO REQUIRE THAT EACH FEDERAL AGENCY POST QUARTERLY ON ITS PUBLIC WEB SITE, CERTAIN STATISTICAL DATA RELATING TO FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS FILED WITH SUCH AGENCY; AND FOR OTHER PURPOSES

APRIL 15, 2002.—Ordered to be printed

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APRIL 15, 2002.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Governmental Affairs, submitted the following

R E P O R T

[To accompany H.R. 169]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 169), an act to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes, having considered the same, report favorably thereon with amendments and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

H.R. 169, the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," commonly referred to as the No FEAR Act, seeks to hold Federal agencies financially accountable for violations of discrimination and whistleblower protection laws. The No FEAR Act requires Federal agencies to reimburse the Treasury for settlements and judgments paid to employees as a result of antidiscrimination and whistleblower protection complaints. Agencies now pay these costs when complaints are resolved admin-

istratively, but if a lawsuit is filed, any subsequent monetary relief (whether by settlement or judicial judgment) is generally paid by the Judgment Fund, a permanently authorized fund administered by the Treasury. The No FEAR Act makes agencies financially accountable for their actions by requiring each agency to reimburse the Treasury for amounts paid from the Judgment Fund for settlements and judgments against the agency in antidiscrimination and whistleblower cases. The legislation also requires agencies to notify employees of their rights under antidiscrimination and whistleblower protection laws, and it strengthens agency reporting requirements. In short, the intent of the No FEAR Act is that Federal agencies will pay more attention to their EEO and whistleblower complaint activity and act more expeditiously to resolve complaints at the administrative level when it is appropriate to do so.

II. BACKGROUND AND NEED FOR LEGISLATION

H.R. 169 originated in response to an investigation conducted by the House Science Committee into complaints of discrimination and retaliation at the Environmental Protection Agency. The Committee held hearings in March and October 2000 and concluded that problems at the agency stemmed primarily from a lack of financial accountability, an absence of awareness of the extent of discrimination problems, and a lack of knowledge of the whistleblower and discrimination laws protecting employees.[1] The Committee discovered that settlements and judgments against the agency—and against other Federal agencies—were often paid out of the general treasury, and not agency appropriations. The No FEAR Act (H.R. 169) was introduced after the October hearing by Chairman James Sensenbrenner and Representatives Sheila Jackson Lee and Connie Morella to address the aforementioned problems.

On May 9, 2001 the House Judiciary Committee held a legislative hearing on H.R. 169. Employees and several organizations representing employees provided testimony in support of the legislation. These included the National Association for the Advancement of Colored People (NAACP), the American Federation of Government Employees (AFGE), the National Taxpayers Union (NTU), the National Treasury Employees Union (NTEU) and the National Whistleblower Center. The AFGE expressed concern about the possibility that, in meeting the reimbursement requirements, agencies might penalize employees through reductions in force, furloughs, or other actions which impede their ability to fulfill their missions.[2] The NTEU submitted written testimony expressing a similar concern.[3]

The General Accounting Office (GAO) testified at the May 9, 2001 hearing that there is a need for accountability, reporting, and notification in regard to discrimination and retaliation against Federal employees, and that H.R.169 addresses these needs. With re-

[1] Committee on the Judiciary, United States House of Representatives, Report [to accompany H.R. 169], "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2001," p. 7.

[2] Bobby L. Harnage, Sr., President, American Federation of Government Employees, before the House Judiciary Committee, on H.R. 169, the Notification and Federal Employee Antidiscrimination Act of 2001, May 9, 2001.

[3] Colleen M. Kelley, President, National Treasury Employees Union, Statement on the Notification and Federal Employee Antidiscrimination Act, May 9, 2001.

spect to the central accountability provision in the No FEAR Act, GAO testified that "another possible means for promoting accountability might be to have agencies bear more fully the costs of payments to complainants and their lawyers made in resolving cases of discrimination and reprisal for whistleblowing." GAO noted that in FY 2000, agencies made payments totaling about $26 million for discrimination complaints. At the same time, agencies were relieved of paying almost $43 million for cases because of the existence of the Judgment Fund.

GAO pointed out that, while it can be argued that the Judgment Fund provides a safety net to help ensure that agency operations are not disrupted in the event of a large financial settlement or judgment, it can also be argued that:

> the fund discourages accountability by being a disincentive to agencies to resolve matters promptly in the administrative processes; by not pursuing resolution, an agency could shift the cost of resolution from its budget to the Judgment Fund and escape the scrutiny that would accompany a request for a supplemental appropriation. Congress dealt with a somewhat similar situation when it enacted the Contract Disputes Act in 1978, which requires agencies to either reimburse the Judgment Fund for judgments awarded in contract claims from available appropriations or to obtain an additional appropriation for such purposes. This provision was intended to counter the incentive for an agency to avoid settling and prolong litigation in order to have the final judgment against the agency in court. . . . In reconciling these viewpoints on financial accountability, Congress will need to balance accountability with the needs of the public to receive expected services.[4]

III. LEGISLATIVE HISTORY

H.R. 169 was introduced on January 3, 2001 by Congressman James Sensenbrenner and was jointly referred to the Committees on Government Reform, the Transportation and Infrastructure Committee, the Energy and Commerce Committee and the Judiciary Committee. On May 23, 2001, the House Committee on the Judiciary ordered favorably reported the bill, as amended, by a voice vote. On October 2, 2001, the House unanimously (420–0) passed the legislation. On October 3, 2001, H.R. 169 was referred to the Senate Governmental Affairs Committee.

Similar legislation, the Federal Employees Protection Act of 2001, was introduced on January 29, 2001 by Senator John Warner as S. 201 and was referred to the Governmental Affairs Committee. The Subcommittee on International Security, Proliferation, and Federal Services considered both bills and reported H.R. 169 and S. 201 to the full committee on March 19, 2002.

Senator Warner wrote to Senator Lieberman requesting that the Committee report out H.R. 169, and, at its business meeting on March 21, 2002, the Committee considered H.R. 169.

Four amendments offered by Senator Lieberman were adopted by voice vote. In addition to updating the findings, the first amend-

[4] J. Christopher Mihm, General Accounting Office, Testimony Before the Committee on the Judiciary, House of Representatives, May 9, 2001, p. 8.

ment also adds a new section expressing the sense of the Congress that agencies should not use a reduction in force or furloughs as a means of funding a reimbursement under the Act, and that accountability in enforcing employee rights is not furthered by terminating employment or employee benefits. The new section further states that accountability is also not furthered if agencies react to this Act by taking unfounded disciplinary actions against managers, and that agencies should ensure that managers have adequate training in the management of a diverse workforce and in communication skills. Finally, the new section recognizes that Federal agencies may need to extend reimbursement under the Act over several years to avoid reductions in force, furloughs, reductions in employee compensation or benefits, or other adverse effects on agency mission.

The second amendment strengthens the bill's reporting requirements by: specifying that the reports must be sent to the Governmental Affairs Committee, the House Government Reform Committee, and other committees of jurisdiction; requiring agencies to report on their policies relating to disciplining employees who commit prohibited personnel practices revealed in the investigation of a discrimination complaint; requiring agencies to include in their annual reports an analysis of the complaint data; and requiring that agencies report on any budget adjustments (if ascertainable) to comply with the Act's requirements.

The third amendment requires GAO to study the methods that could be used by the Justice Department to determine its costs of defending each discrimination and whistleblower case, and the extent of any administrative burden that making such determinations would entail. The final amendment makes a series of technical corrections.

At the meeting, the Committee ordered the bill reported by voice vote, with no members present dissenting. Senators present were Levin, Akaka, Thompson, Stevens, Cochran, Bennett, Cleland, Voinovich, and Lieberman.

IV. REGULATORY IMPACT

Paragraph 11(b)(1) of the Standing rules of the Senate requires that each report accompanying a bill evaluate the "regulatory impact which would be incurred in carrying out this bill." The Committee has determined that the enactment of this legislation will not have significant regulatory impact.

V. CBO COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 3, 2002.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 169, the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

BARRY B. ANDERSEN
(For Dan L. Crippen, Director).

Enclosure.

H.R. 169—Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002

H.R. 169 would require federal agencies to provide training to employees that notifies them of their employment rights and responsibilities in an attempt to reduce incidents of discrimination and retaliation in the federal government. Subject to the availability of appropriated funds, CBO estimates that implementing H.R. 169 would cost up to $5 million a year. Enactment could cause an insignificant increase in offsetting receipts (a form of direct spending), so pay-as-you-go procedures would apply. H.R. 169 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Under current law, court-ordered monetary settlements in favor of employees who sue federal agencies in discrimination or reprisal complaints are paid from the judgment fund of the Treasury. H.R. 169 would require agencies to reimburse the Treasury for any such payments. Payments by most agencies to the Treasury would be intragovernmental transfers and would have no net effect on the federal budget. However, agencies that are not funded through annual appropriations, such as the Bonneville Power Administration and the Tennessee Valley Authority, would reimburse the Treasury by increasing collections from the private sector. This could result in a small net decrease in direct spending, so pay-as-you-go procedures would apply; but CBO estimates that any such decreases in direct spending would be less than $500,000 a year.

The act also would require agencies to notify and train employees about their rights and protections under discrimination law and to prepare annual statistical summaries of the discrimination actions and equal employment opportunity (EEO) complaints they face. H.R. 169 would direct the Administration to conduct a study to determine the best ways to discipline employees who engage in discriminatory actions. The act also would require the Equal Employment Opportunity Commission (EEOC) to post on its Internet web site certain statistics regarding EEO complaints. Finally, the legislation would direct the General Accounting Office (GAO) to prepare a report on the effects of eliminating the current requirement that federal employees exhaust administrative remedies before filing complaints with the EEOC, as well as, a study regarding costs to the Department of Justice of defending whistleblower and discrimination cases.

CBO estimates that it would cost the EEOC up to $500,000 in each fiscal year to collect and post on its Internet web site the statistics relating to EEO complaints. Based on information from GAO, CBO estimates that it would cost that agency about $300,000 in 2003 to prepare the reports required by the legislation. We estimate that it would cost about $150,000 in fiscal year 2003 for the

Administration, probably led by the Office of Personnel Management (OPM), to complete the study mandated by H.R. 169.

CBO expects that most agencies would meet the act's requirements to provide notification and training to employees through their Internet web sites and would not incur significant costs to do so. We expect that the cost to prepare annual reports and statistical summaries for discrimination and EEO cases would be minimal because much of this information is already maintained, according to OPM and GAO. CBO estimates that the total costs for the 100 or so federal agencies to comply with the act's requirements would be no more than about $5 million annually.

On June 8, 2001, CBO prepared a cost estimate for H.R. 169, as ordered reported by the House Committee on the Judiciary on May 23, 2001. The two versions of legislation are similar, and their estimated costs are the same.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VI. SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 101. Findings

Section 101 details the findings motivating the enactment of the legislation. These findings include: Federal agencies cannot be run effectively if they practice or tolerate discrimination; some agencies still face problems with discrimination and retaliation against Federal employees; and notifying Federal employees of their rights under discrimination and whistleblower statutes should increase agency compliance with the law.

The findings also observe that requiring annual reports to Congress on the number and severity of discrimination and whistleblower cases brought against each Federal agency should enable Congress to improve its oversight of agencies' compliance with the law; requiring agencies to report on their analysis of the trends, patterns, and issues revealed in complaints should ensure that agencies systematically improve their complaint processes; and requiring Federal agencies to pay for any discrimination or whistleblower judgments, awards, or settlements should improve agency accountability with respect to whistleblower and discrimination laws.

Section 102. Sense of Congress

Section 102 expresses the Sense of the Congress that Federal agencies should not retaliate for court judgments or settlements relating to discrimination and whistleblower laws by targeting the claimant or other employees with reductions in compensation, benefits, or workforce to pay for such judgments or settlements; the mission of the Federal agency and the employment security of employees who are blameless in a whistleblower incident should not be compromised; and Federal agencies should not use a reduction in force or furloughs as a means of funding a payment under this Act. Section 102 also expresses the Sense of the Congress that accountability in the enforcement of employee rights is not furthered by terminating the employment of other employees or the benefits

to which those employees are entitled through statute or contract; and the No FEAR Act is not intended to authorize those actions.

This section also expresses the Sense of the Congress that accountability is not furthered if Federal agencies react to the increased accountability under this Act by taking unfounded disciplinary actions against managers or by violating the procedural rights of managers who have been accused of discrimination; and Federal agencies should ensure that managers have adequate training in the management of a diverse workforce and in dispute resolution and other essential communication skills.

Finally, this section expresses the Sense of the Congress that Federal agencies are expected to reimburse the General Fund of the Treasury within a reasonable time under the Act; and a Federal agency, particularly if the amount of the reimbursement is large relative to annual appropriations for that agency, may need to extend the reimbursement over several years in order to avoid reductions in force, furloughs, other reductions in compensation or benefits for the workforce of the agency, or an adverse effect on the mission of the agency. Thus, there is nothing in the No FEAR Act that would cause an agency to compromise its employees' rights and benefits or the agency's mission.

Section 103. Definitions

Section 103 defines "Federal agency," "Federal employee," "former Federal employee," and "applicant for Federal employment." The section also directs the Equal Employment Opportunity Commission to define the terms "basis of alleged discrimination" and "issue of alleged discrimination."

Section 104. Effective date

Section 104 provides that this Act and the amendments made by this Act shall go into effect on the 1st day of the 1st fiscal year beginning 180 days after the date of enactment.

Title II—Federal employee discrimination and retaliation

Section 201. Reimbursement requirement

Section 201 requires agencies to reimburse the Treasury for amounts paid from the Judgement Fund to employees and their attorneys as a result of antidiscrimination and whistleblower protection complaints. Currently, Federal agencies do not always bear the costs of settlements or judgments in discrimination or retaliation complaints. Agencies now pay these costs when a complaint is resolved administratively. But, in the case of most agencies, once a lawsuit is filed, any subsequent monetary relief is generally paid by the Judgment Fund. The Judgment Fund is a permanently authorized fund administered by the Treasury, created by Congress to avoid the need for a specific congressional appropriation for settlement and judgment costs and to allow for prompter payments.

Section 201 changes this by requiring each agency to bear the costs of judgments against it. The intent of this provision is to promote agency accountability and remove any financial incentive that may exist to prolong cases: i.e. as noted by GAO, under the current system, by not pursuing an administrative solution, the agency can shift the costs from the agency's budget to the Judgment Fund.

Further, requiring agencies to pay for complaints in the administrative and court processes will also encourage the agencies to work to improve their dispute resolution procedures and promote policies that encourage a fair and equitable workplace.[5]

Section 202. Notification requirement

Section 202(a)(b) requires that Federal agencies notify their employees in writing, and through the Internet, about any applicable discrimination and whistleblower protection laws. Agencies are not expected to provide written notification to former employees. Section 202(c) requires that each Federal agency provide its employees training regarding the rights and remedies applicable to such employees under antidiscrimination and whistleblower laws. The intent is to ensure that employees do not shy away from reporting problems because they have insufficient understanding of their rights. At the same time, workforce relations will improve if managers are more aware of their responsibilities and employees of their rights. To comply with this section, agencies should deploy a number of training techniques, including on-line training. Agencies should also measure the effectiveness of such training to ensure that it produces the desired results.

The written notification requirement is not intended to supersede any other provision of law, including 5 U.S.C. 2302(c).

Section 203. Reporting requirement

Section 203(a) requires that each Federal agency send an annual report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the relevant appropriations and authorizing committees, the Senate Governmental Affairs Committee, the House Government Reform Committee, the Equal Employment Opportunity Commission, and the Attorney General. Requiring agencies to report to their respective appropriations and authorizing committees will strengthen Congressional oversight and send a signal to agencies that the committees with appropriate jurisdiction will be reviewing their data.

Section 203(a) also requires agencies to report on the number of cases in which an agency was alleged to have violated any of the discrimination or whistleblower statutes; the disposition of each of these cases; the total of all monetary awards charged against the agency from these cases; the number of employees disciplined for discrimination, retaliation, or harassment; and a detailed description of the policy implemented by the agency to take appropriate disciplinary actions against any Federal employee who (1) discriminated against any individual in violation of discrimination and whistleblower statutes, or (2) committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited in Section 201(a)(1) or (2). Agencies would be required to report all cases that can be legally ascertained, including, for example, prohibited personnel practice matters reported to the agency by the U.S. Office of Special Counsel.

[5] In the case of those agencies where settlements and judgments are not paid out of the Judgment Fund, the reimbursement requirement is not relevant.

In addition, agencies are required to report on an analysis of the data in this section (in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with part 1614 of title 29 of the Code of Federal Regulations), including: (a) an examination of trends, (b) causal analysis, (c) practical knowledge gained through experience, and (d) any actions planned or taken to improve complaint or civil rights programs of the agency. This data, as well as the analysis, is essential to ensure that agencies systematically improve their processes. Agencies should view this reporting as an opportunity to understand whether a problem exists within its organization, to ascertain the nature and extent of the problem, and to develop effective solutions. This section also requires each agency to report on any adjustment (to the extent the adjustment can be ascertained) made in the budget of the agency to comply with the reimbursement requirements in Section 201.

Section 204. Rules and guidelines

Section 204 requires that any rules necessary to carry out this Act shall be prescribed by the President or his designee. The section includes a requirement that a study be conducted by the executive branch to determine best practices for disciplining employees who discriminate or commit another violation revealed in a discrimination case. In addition, the section requires each Federal agency to notify Congress as to whether it has adopted or will adopt the guidelines, and if not, why.

Section 205. Clarification of the remedies

Section 205 clarifies that making a claim under this bill does not affect remedies or rights under current law.

Section 206. Studies by the General Accounting Office on exhaustion of administrative remedies and on ascertainment of certain Department of Justice costs

Section 206(a)(1) requires, not later than 180 days after enactment of the Act, the GAO to conduct a study to determine the effects of eliminating the requirement that Federal employees exhaust administrative remedies within the Federal agency before filing complaints with the Equal Employment Opportunity Commission (EEOC). Under present law and regulations, Federal agencies must decide whether to dismiss or accept complaints employees file with them and investigate accepted complaints. After this investigation, a complainant has the option of requesting a hearing before an EEOC administrative judge, and the agency must render a final decision. The average time to process a complaint in FY 1999 was 423 days, up from 384 days in FY 1998.[6] In FY 1998, a case that goes through the entire EEOC hearing and appeal process could be expected to take 1,186 days or about three years and two months.[7] This length of time is too long and alternatives for improving this process need to be investigated. Therefore, section 206(a) requires the GAO to review how eliminating the requirement that the complainant exhaust the administrative process at

[6] Federal Sector Report on EEO Complaints Processing and Appeals, Fiscal Year 1999, United States Equal Employment Opportunity Commission.

[7] The United States General Accounting Office, Equal Employment Opportunity : Complaint Caseloads Rising with Effects of New Regulations on Future Trends Unclear, GGD–99–128 p.2.

the agencies before being allowed to file a complaint with the EEOC would: (1) expedite the handling of allegations of such violations within Federal agencies and streamline the complaint-filing process; (2) affect the workload of the EEOC; (3) affect the established alternative dispute resolution procedures in such agencies; and (4) affect any other matters determined by the GAO to be appropriate.

Section 206(a)(2) requires the GAO to report to the Speaker of the House, the President Pro Tempore, the President Pro Tempore of the Senate, and the Attorney General 90 days after the study is complete.

Section 206(b)(1) requires that not later than 180 days after the date of enactment of this Act, the GAO shall conduct a study of the methods that could be used for, and the extent of any administrative burden that would be imposed on, the Department of Justice to ascertain the personnel and administrative costs incurred in defending agencies in antidiscrimination and whistleblower cases. Section 206(b)(2) requires that the report be completed not later than 90 days after the completion of the study and submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

Title III—Equal employment opportunity complaint disclosure

Section 301—Data to be posted by employing Federal agencies

Section 301(a) requires that certain equal employment opportunity complaint data filed with such agency by employees, former employees and applicants for employment with such agency be disclosed on each Federal agency's web site in the time, form, and manner prescribed under the section.

Section 301(b) lists the contents to be included on the posting of data for the then-current fiscal year.

The data posted by a Federal agency under this section shall include, for the then current fiscal year: the number of complaints filed with the agency; the number of individuals filing those complaints (including as the agent of a class); the number of individuals who filed two or more complaints; the number of complaints in which each of the various bases of alleged discrimination is alleged; the number of complaints in which each of the various issues of alleged discrimination is alleged; and the average length of time, for each step of the process, it is taking the agency to process complaints (taking into account all complaints pending for any length of time in the fiscal year, whether first filed in the fiscal year or earlier).

Average times shall be posted for all such complaints, including all complaints for which a hearing before an administrative judge of the EEOC is, or is not, requested; the total number of final agency actions in the fiscal year involving a finding of discrimination, and of that number, the number rendered after or without a hearing at EEOC. Of the total number of final agency actions rendered involving findings of discrimination, agencies must also post the number and percentage involving a finding of discrimination based on each of the respective bases of alleged discrimination, and the number and percentage that were rendered after or without a hear-

ing before an administrative judge of EEOC. Similarly, of the total number of final agency actions involving a finding of discrimination, agencies are required to post the number and percentage involving a finding of discrimination in connection with each of the respective issues of alleged discrimination, and the number and percentage that were rendered after or without a hearing before the EEOC.

Of the total number of complaints pending in each fiscal year, agencies are required to post the number that were first filed before the start of the then current fiscal year. With respect to those pending complaints that were first filed before the start of the then current fiscal year, the agencies are to post the number of individuals who filed those complaints, and the number of those complaints which are at the various steps of the complaint process.

Agencies are also to post the total number of complaints with respect to which the agency violated the requirements of section 1614.106(e)(2) of title 29 of the Code of Federal Regulations (as in effect on July 1, 2000, and amended from time to time) by failing to conduct within 180 days of the filing of the complaints an impartial and appropriate investigation.

Section 301(c) provides the timing and other requirements for Federal agencies to post the data for the then current fiscal year. Section 301(c)(1) requires interim year-to-date data to be posted quarterly and final year-end data to be posted. Section 301(c)(2) requires that the data include year-end data for each of the five immediately preceding fiscal years, or, if not available, for however many of those five years for which data are available.

Section 302. Data to be posted by the Equal Employment Opportunity Commission

Section 302(a) requires the EEOC to post on its Web site summary statistical data related to the hearings requested before an EEOC administrative judge and the appeals filed with the Commission from final agency actions on complaints described in section 301. Section 302(b) requires that the data with respect to the hearings and appeals at the EEOC shall include summary statistical data corresponding to that described earlier. Section 302(c) requires that the data under this section shall be in addition to the data the Commission is required to post under section 301 as an employing Federal agency.

The lack of a complete accounting in the complex EEOC process makes it impossible for the Congress, the Federal agencies and the American public to have a clear and complete picture of the volume and nature of discrimination and retaliation that exists within the Federal workplace. This additional information will assist Congress and the agencies in assessing the extent of the problem throughout the Federal government, and will allow particular agencies to better understand if a problem exists within their organization that needs to be corrected.

Section 303. Rules

Section 303 requires that the Equal Employment Opportunity Commission issue any rules necessary to carry out this title.

VII. CHANGES TO EXISTING LAW

H.R. 169 does not repeal or amend an existing statute.

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