

116TH CONGRESS
2D SESSION

S. 4880

To protect our democracy by preventing abuses of Presidential power, restoring checks and balances and accountability and transparency in government, and defending elections against foreign interference, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 26 (legislative day, OCTOBER 19), 2020

Ms. KLOBUCHAR (for herself, Mr. BLUMENTHAL, Mr. COONS, Mrs. FEINSTEIN, Mr. MERKLEY, Mr. SANDERS, Ms. WARREN, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To protect our democracy by preventing abuses of Presidential power, restoring checks and balances and accountability and transparency in government, and defending elections against foreign interference, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Our Democ-
5 racy Act”.

1 **SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF**
 2 **CONTENTS.**

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

5 (1) Division A—Preventing Abuses of Presi-
 6 dential Power.

7 (2) Division B—Restoring Checks and Bal-
 8 ances, Accountability, and Transparency.

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

11 (4) Division D—Severability.

12 (b) TABLE OF CONTENTS.—The table of contents of
 13 this Act is as follows:

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—PREVENTING ABUSES OF PRESIDENTIAL POWER

TITLE I—ABUSE OF THE PARDON POWER PREVENTION

Sec. 101. Short title.

Sec. 102. Congressional oversight relating to certain pardons.

Sec. 103. Bribery in connection with pardons and commutations.

Sec. 104. Prohibition on Presidential self-pardon.

TITLE II—ENSURING NO PRESIDENT IS ABOVE THE LAW

Sec. 201. Short title.

Sec. 202. Tolling of statute of limitations.

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

Sec. 301. Short title.

Sec. 302. Definitions.

Sec. 303. Prohibition on acceptance of foreign and domestic emoluments.

Sec. 304. Civil actions by Congress concerning foreign emoluments.

Sec. 305. Disclosures concerning foreign and domestic emoluments.

Sec. 306. Enforcement authority of the Director of the Office of Government
 Ethics.

Sec. 307. Jurisdiction of the Office of Special Counsel.

DIVISION B—RESTORING CHECKS AND BALANCES,
ACCOUNTABILITY, AND TRANSPARENCY

TITLE IV—ENFORCEMENT OF CONGRESSIONAL SUBPOENAS

- Sec. 401. Short title.
- Sec. 402. Findings.
- Sec. 403. Enforcement of congressional subpoenas.
- Sec. 404. Compliance with congressional subpoenas.
- Sec. 405. Rule of construction.

TITLE V—REASSERTING CONGRESSIONAL POWER OF THE PURSE

- Sec. 500. Short title.

Subtitle A—Strengthening Congressional Control and Review To Prevent
Impoundment

- Sec. 501. Strengthening congressional control.
- Sec. 502. Strengthening congressional review.
- Sec. 503. Updated authorities for and reporting by the Comptroller General.
- Sec. 504. Advance congressional notification and litigation.
- Sec. 505. Penalties for failure to comply with the Impoundment Control Act of 1974.

Subtitle B—Strengthening Transparency and Reporting

PART 1—FUNDS MANAGEMENT AND REPORTING TO THE CONGRESS

- Sec. 511. Expired balance reporting in the President's budget.
- Sec. 512. Canceled balance reporting in the President's budget.
- Sec. 513. Lapse in appropriations—Reporting in the President's budget.
- Sec. 514. Transfer and other repurposing authority reporting in the President's budget.
- Sec. 515. Authorizing cancellations in indefinite accounts by appropriation.

PART 2—EMPOWERING CONGRESSIONAL REVIEW THROUGH NONPARTISAN
CONGRESSIONAL AGENCIES AND TRANSPARENCY INITIATIVES

- Sec. 521. Requirement to respond to requests for information from the Government Accountability Office for budget and appropriations law decisions.
- Sec. 522. Reporting requirements for Antideficiency Act violations.
- Sec. 523. Department of Justice reporting to Congress for Antideficiency Act violations.
- Sec. 524. Publication of budget or appropriations law opinions of the Department of Justice Office of Legal Counsel.

Subtitle C—Strengthening Congressional Role in and Oversight of Emergency
Declarations and Designations

- Sec. 531. Improving checks and balances on the use of the National Emergencies Act.
- Sec. 532. National Emergencies Act declaration spending reporting in the President's budget.
- Sec. 533. Disclosure to Congress of Presidential emergency action documents.
- Sec. 534. Emergency and overseas contingency operations designations by Congress in statute.

TITLE VI—SECURITY FROM POLITICAL INTERFERENCE IN
JUSTICE

- Sec. 601. Short title.
- Sec. 602. Definitions.
- Sec. 603. Communications logs.
- Sec. 604. Rule of construction.

TITLE VII—PROTECTING INSPECTOR GENERAL INDEPENDENCE

Subtitle A—Requiring Cause for Removal

- Sec. 701. Short title.
- Sec. 702. Amendment.

Subtitle B—Inspectors General of Intelligence Community

- Sec. 711. Independence of Inspectors General of the Intelligence Community.
- Sec. 712. Authority of Inspectors General of the Intelligence Community to determine matters of urgent concern.
- Sec. 713. Conforming amendments and coordination with other provisions of law.

Subtitle C—Congressional Notification

- Sec. 721. Short title.
- Sec. 722. Congressional notification of change in status of Inspector General.
- Sec. 723. Presidential explanation of failure to nominate an Inspector General.

TITLE VIII—PROTECTING WHISTLEBLOWERS

Subtitle A—Whistleblower Protection Improvement

- Sec. 801. Short title.
- Sec. 802. Additional whistleblower protections.
- Sec. 803. Enhancement of whistleblower protections.
- Sec. 804. Classifying certain furloughs as adverse personnel actions.
- Sec. 805. Codification of protections for disclosures of censorship related to research, analysis, or technical information.
- Sec. 806. Technical and conforming amendments.

Subtitle B—Reauthorization of Merit Systems Protection Board

- Sec. 811. Short title.
- Sec. 812. Reauthorization of Merit Systems Protection Board.
- Sec. 813. Authorization of Federal employee surveys for merit systems studies.
- Sec. 814. Whistleblower training for MSPB administrative judges.

Subtitle C—Whistleblowers of the Intelligence Community

- Sec. 821. Limitation on sharing of intelligence community whistleblower complaints with persons named in such complaints.
- Sec. 822. Disclosures to Congress.
- Sec. 823. Prohibition against disclosure of whistleblower identity as reprisal against whistleblower disclosure by employees and contractors in intelligence community.

TITLE IX—ACCOUNTABILITY FOR ACTING OFFICIALS

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

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

7 (B) if an investigation relates to intel-
8 ligence or counterintelligence matters, the Per-
9 manent Select Committee on Intelligence of the
10 House of Representatives and the Select Com-
11 mittee on Intelligence of the Senate.

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

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

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

21 (C) an offense under section 1001, 1505,
22 1512, or 1621 of title 18, United States Code,
23 if the offense occurred in relation to a congres-
24 sional proceeding or investigation.

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

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

6 (b) SUBMISSION OF INFORMATION.—If the President
7 grants an individual a pardon for a covered offense, not
8 later than 30 days after the date of such pardon—

9 (1) the Attorney General shall submit to the
10 chairmen and ranking minority members of the ap-
11 propriate congressional committees—

12 (A) all materials obtained or produced by
13 the prosecution team, including the Attorney
14 General and any United States Attorney, and
15 all materials obtained or prepared by any inves-
16 tigative agency of the United States Govern-
17 ment, relating to the offense for which the indi-
18 vidual was so pardoned; and

19 (B) all materials obtained or produced by
20 the Department of Justice in relation to the
21 pardon; and

22 (2) the President shall submit to the chairmen
23 and ranking minority members of the appropriate
24 congressional committees all materials obtained or

1 produced within the Executive Office of the Presi-
2 dent in relation to the pardon.

3 (c) TREATMENT OF INFORMATION.—Rule 6(e) of the
4 Federal Rules of Criminal Procedure shall not be con-
5 strued to prohibit the disclosure of information required
6 under subsection (b).

7 **SEC. 103. BRIBERY IN CONNECTION WITH PARDONS AND**
8 **COMMUTATIONS.**

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

11 (1) in subsection (a)—

12 (A) in paragraph (1), by inserting “, in-
13 cluding the President and the Vice President of
14 the United States,” after “or an officer or em-
15 ployee or person”; and

16 (B) in paragraph (3), by inserting before
17 the period at the end the following: “, including
18 any pardon, commutation, or reprieve, or an
19 offer of any such pardon, commutation, or re-
20 prieve”; and

21 (2) in subsection (b)(3), by inserting “(includ-
22 ing, for purposes of this paragraph, any pardon,
23 commutation, or reprieve, or an offer of any such
24 pardon, commutation, or reprieve)” after “corruptly
25 gives, offers, or promises anything of value”.

1 **SEC. 104. PROHIBITION ON PRESIDENTIAL SELF-PARDON.**

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

4 (1) shall be void and have no effect; and

5 (2) shall not—

6 (A) deprive the courts of jurisdiction; or

7 (B) operate to confer on the President any
8 legal immunity from investigation or prosecu-
9 tion.

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

12 **SEC. 201. SHORT TITLE.**

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

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

16 (a) OFFENSES COMMITTED BY THE PRESIDENT OR
17 VICE PRESIDENT DURING OR PRIOR TO TENURE IN OF-
18 FICE.—Section 3282 of title 18, United States Code, is
19 amended by adding at the end the following:

20 “(c) OFFENSES COMMITTED BY THE PRESIDENT OR
21 VICE PRESIDENT DURING OR PRIOR TO TENURE IN OF-
22 FICE.—In the case of any person serving as President or
23 Vice President of the United States, the duration of that
24 person’s tenure in office shall not be considered for pur-
25 poses of any statute of limitations applicable to any Fed-
26 eral criminal offense committed by that person (including

1 any offenses committed during any period of time pre-
 2 ceding such tenure in office).”.

3 (b) APPLICABILITY.—The amendments made by sub-
 4 section (a) shall apply to any offense committed before the
 5 date of the enactment of this section, if the statute of limi-
 6 tations applicable to that offense had not run as of such
 7 date.

8 **TITLE III—ENFORCEMENT OF**
 9 **THE FOREIGN AND DOMESTIC**
 10 **EMOLUMENTS CLAUSES OF**
 11 **THE CONSTITUTION**

12 **SEC. 301. SHORT TITLE.**

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

15 **SEC. 302. DEFINITIONS.**

16 In this title:

- 17 (1) EMOLUMENT.—The term “emolument”—
 18 (A) means any profit, gain, or advantage
 19 that is received directly or indirectly from—
 20 (i) any government of a foreign coun-
 21 try;
 22 (ii) the Federal Government;
 23 (iii) any State or local government; or

1 (iv) any instrumentality of a govern-
2 ment described in clauses (i) through (iii);
3 and

4 (B) includes a payment arising from a
5 commercial transaction at fair market value.

6 (2) PERSON HOLDING ANY OFFICE OF PROFIT
7 OR TRUST UNDER THE UNITED STATES.—The term
8 “person holding any office of profit or trust under
9 the United States” includes the President and the
10 Vice President.

11 (3) GOVERNMENT OF A FOREIGN COUNTRY.—
12 The term “government of a foreign country” has the
13 meaning given the term in section 1 of the Foreign
14 Agents Registration Act of 1938, as amended (22
15 U.S.C. 611).

16 **SEC. 303. PROHIBITION ON ACCEPTANCE OF FOREIGN AND**
17 **DOMESTIC EMOLUMENTS.**

18 (a) FOREIGN.—Except as provided in section 7342
19 of title 5, United States Code, it shall be unlawful for any
20 person holding any office of profit or trust under the
21 United States to accept from a government of a foreign
22 country, without first obtaining the consent of Congress,
23 any present, emolument, office, or title.

24 (b) DOMESTIC.—It shall be unlawful for the Presi-
25 dent to accept from the United States, or any of them,

1 any emolument other than the compensation for his or her
2 services as President provided for by Federal law. The
3 prohibition under this subsection applies without regard
4 to whether the emolument is provided directly or indi-
5 rectly, and without regard to whether the emolument is
6 provided to the President or to any private business inter-
7 est of the President.

8 (c) APPLICABILITY.—The prohibitions under this sec-
9 tion apply without regard to whether the present, emolu-
10 ment, office, or title is—

11 (1) provided directly or indirectly by the gov-
12 ernment of a foreign country; or

13 (2) provided to—

14 (A) the person holding any office of profit
15 or trust under the United States; or

16 (B) any private business interest of the
17 person holding any office of profit or trust
18 under the United States.

19 **SEC. 304. CIVIL ACTIONS BY CONGRESS CONCERNING FOR-**
20 **EIGN EMOLUMENTS.**

21 (a) CAUSE OF ACTION.—The House of Representa-
22 tives or the Senate may bring a civil action against any
23 person for a violation of section 303(a).

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

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

3 (2) The action shall be heard by a 3-judge
4 court convened pursuant to section 2284 of title 28,
5 United States Code. It shall be the duty of such
6 court to advance on the docket and to expedite to
7 the greatest possible extent the disposition of any
8 such action. Such action shall be reviewable only by
9 appeal directly to the Supreme Court of the United
10 States. Such appeal shall be taken by the filing of
11 a notice of appeal within 10 days, and the filing of
12 a jurisdictional statement within 30 days, of the
13 entry of the final decision.

14 (3) It shall be the duty of the Supreme Court
15 of the United States to advance on the docket and
16 to expedite to the greatest possible extent the dis-
17 position of any such action and appeal.

18 (c) REMEDY.—If the court determines that a viola-
19 tion of section 303(a) has occurred, the court—

20 (1) shall issue an order enjoining the course of
21 conduct found to constitute the violation; and

22 (2) may order, as are appropriate—

23 (A) the disgorgement of the value of any
24 foreign present or emolument;

1 (B) the surrender of the physical present
2 or emolument to the Department of State,
3 which shall, if practicable, dispose of the
4 present or emolument and deposit the proceeds
5 into the general fund of the Treasury;

6 (C) the renunciation of any office or title
7 accepted in violation of section 303(a);

8 (D) a prohibition on the use or holding of
9 such an office or title; and

10 (E) such other relief as the court deter-
11 mines appropriate.

12 (d) USE OF GOVERNMENT FUNDS PROHIBITED.—No
13 appropriated funds, funds provided from any accounts in
14 the Treasury, funds derived from the collection of fees,
15 or any other Government funds shall be used to pay any
16 disgorgement imposed by the court pursuant to this sec-
17 tion.

18 **SEC. 305. DISCLOSURES CONCERNING FOREIGN AND DO-**
19 **MESTIC EMOLUMENTS.**

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

23 “(9) Any present, emolument, office, or title re-
24 ceived from a government of a foreign country, in-
25 cluding the source, date, type, and amount or value

1 of each present or emolument accepted on or before
2 the date of filing during the preceding calendar year.

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

7 “(11) With respect to a report filed by the
8 President—

9 “(A) any emolument received from the
10 United States, or any of them, other than the
11 compensation for his or her services as Presi-
12 dent provided for by Federal law; and

13 “(B) any business interest that is reason-
14 ably expected to result in the receipt of any
15 emolument from the United States, or any of
16 them.”.

17 (b) RULE OF CONSTRUCTION.—Nothing in the
18 amendments made by this section shall be construed to
19 affect the prohibition against the acceptance of presents
20 and emoluments under section 303.

21 **SEC. 306. ENFORCEMENT AUTHORITY OF THE DIRECTOR**
22 **OF THE OFFICE OF GOVERNMENT ETHICS.**

23 (a) GENERAL AUTHORITY.—Section 402(a) of the
24 Ethics in Government Act of 1978 (5 U.S.C. App.) is
25 amended—

1 (1) by striking “(a) The Director” and insert-
2 ing “(a)(1) The Director”; and

3 (2) by adding at the end the following:

4 “(2) The Director shall provide overall direction of
5 executive branch policies related to compliance with the
6 Foreign and Domestic Emoluments Enforcement Act and
7 the amendments made by that Act, including having the
8 authority to—

9 “(A) issue administrative fines to individuals
10 for violations;

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

14 “(C) bring civil actions to enforce such fines
15 and orders.”.

16 (b) SPECIFIC AUTHORITIES.—Section 402(b) of the
17 Ethics in Government Act of 1978 (5 U.S.C. App.) is
18 amended—

19 (1) in paragraph (14), by striking “and” at the
20 end;

21 (2) by striking the period at the end of para-
22 graph (15) and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(16) developing and promulgating rules and
25 regulations to ensure compliance with the Foreign

1 and Domestic Emoluments Enforcement Act and the
2 amendments made by that Act, including estab-
3 lishing—

4 “(A) requirements for reporting and disclo-
5 sure;

6 “(B) a schedule of administrative fines
7 that may be imposed by the Director for viola-
8 tions; and

9 “(C) a process for referring matters to the
10 Office of Special Counsel for investigation in
11 accordance with section 1216(d) of title 5,
12 United States Code.”.

13 **SEC. 307. JURISDICTION OF THE OFFICE OF SPECIAL**
14 **COUNSEL.**

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

17 (1) in subsection (a)—

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

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

22 (C) by adding at the end the following:

23 “(6) any violation of section 303 of the Foreign
24 and Domestic Emoluments Enforcement Act and
25 paragraphs (9), (10), and (11) of section 102(a) of

1 the Ethics in Government Act of 1978 (5 U.S.C.
2 App.).”; and

3 (2) by adding at the end the following:

4 “(d)(1) If the Director of the Office of Government
5 Ethics refers a matter for investigation pursuant to sec-
6 tion 402 of the Ethics in Government Act of 1978 (5
7 U.S.C. App.), or if the Special Counsel receives a credible
8 complaint of a violation referred to in subsection (a)(6),
9 the Special Counsel shall complete an investigation not
10 later than 120 days thereafter.

11 “(2) If the Special Counsel investigates any violation
12 pursuant to subsection (a)(6), the Special Counsel shall
13 report not later than 7 days after the completion of the
14 investigation to the Director of the Office of Government
15 Ethics and to Congress on the results of the investiga-
16 tion.”.

17 **DIVISION B—RESTORING**
18 **CHECKS AND BALANCES, AC-**
19 **COUNTABILITY, AND TRANS-**
20 **PARENCY**

21 **TITLE IV—ENFORCEMENT OF**
22 **CONGRESSIONAL SUBPOENAS**

23 **SEC. 401. SHORT TITLE.**

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

1 **SEC. 402. FINDINGS.**

2 The Congress finds as follows:

3 (1) As the Supreme Court of the United States
4 has repeatedly affirmed, including in its July 9,
5 2020, holding in *Trump v. Mazars USA, LLP.*, Con-
6 gress’ “power of inquiry—with process to enforce
7 it—is an essential and appropriate auxiliary to the
8 legislative function”. Congress’ power to obtain in-
9 formation, including through the issuance of sub-
10 poenas and the enforcement of such subpoenas, is
11 “‘broad’ and ‘indispensable’”.

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

20 (3) Accordingly, the Constitution of the United
21 States secures to each House of Congress an inher-
22 ent right to enforce its subpoenas in court. Explicit
23 statutory authorization is not required to secure
24 such a right of action, and the contrary holding by
25 a divided panel of the United States Court of Ap-
26 peals for the District of Columbia Circuit in *Com-*

1 which an appeal of the action may be taken shall
2 issue any necessary and appropriate writs and or-
3 ders to ensure compliance with this paragraph.

4 “(3) If a 3-judge court is expressly requested by
5 the plaintiff in the initial pleading, the action
6 shall—

7 “(A) be heard by a 3-judge court convened
8 pursuant to section 2284; and

9 “(B) shall be reviewable only by appeal di-
10 rectly to the Supreme Court of the United
11 States.

12 “(4) An appeal described in paragraph (3)(B)
13 shall be taken by the filing of a notice of appeal
14 within 10 days, and the filing of a jurisdictional
15 statement within 30 days, of the entry of the final
16 decision.

17 “(c) PENALTIES.—

18 “(1) CASES INVOLVING GOVERNMENT AGEN-
19 CIES.—

20 “(A) IN GENERAL.—The court may impose
21 monetary penalties directly against each head of
22 a Government agency and the head of each
23 component thereof that knowingly failed to
24 comply with any part of a congressional sub-
25 poena.

1 “(B) PROHIBITION ON USE OF GOVERN-
2 MENT FUNDS.—No appropriated funds, funds
3 provided from any accounts in the Treasury,
4 funds derived from the collection of fees, or
5 other Government funds shall be used to pay
6 any monetary penalty imposed by the court
7 pursuant to this paragraph.

8 “(2) LEGAL FEES.—

9 “(A) IN GENERAL.—In addition to any
10 other penalties or sanctions, the court shall re-
11 quire that any defendant, other than a Govern-
12 ment agency, that willfully failed to comply with
13 any part of a congressional subpoena, pay a
14 penalty in an amount equal to that party’s legal
15 fees, including attorney’s fees, litigation ex-
16 penses, and other costs.

17 “(B) OFFICERS AND EMPLOYEES OF GOV-
18 ERNMENT AGENCIES.—If a defendant described
19 in subparagraph (A) is an officer or employee
20 of a Government agency, the fees described in
21 that subparagraph may be paid from funds ap-
22 propriated to pay the salary of the defendant.

23 “(d) WAIVER.—Any ground for noncompliance as-
24 serted by the recipient of a congressional subpoena shall
25 be deemed to have been waived as to any particular infor-

1 mation withheld from production if the court finds that
2 the recipient failed in a timely manner to comply with the
3 requirements of section 105(b) of the Revised Statutes of
4 the United States with respect to such information.

5 “(e) RULES OF PROCEDURE.—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), the Supreme Court of the United States
8 and the Judicial Conference of the United States
9 shall prescribe rules of procedure in accordance with
10 sections 2072, 2073, and 2074 to ensure the expedi-
11 tious treatment of actions described in subsection
12 (a), including the consideration of any assertion of
13 constitutional or Federal statutory privilege made in
14 connection with testimony by any recipient of a sub-
15 poena from a congressional committee or sub-
16 committee.

17 “(2) SUBMISSION TO CONGRESS.—

18 “(A) IN GENERAL.—Not later than 180
19 days after the date of enactment of this section,
20 the Supreme Court of the United States shall
21 transmit to Congress rules prescribed under
22 paragraph (1).

23 “(B) SUBSEQUENT RULES.—Any rule pre-
24 scribed after the date described in subpara-

1 graph (A) shall be transmitted to Congress in
2 accordance with section 2074.

3 “(f) DEFINITION.—In this section, the term ‘Govern-
4 ment agency’ means any office or entity described in sec-
5 tions 105 and 106 of title 3, an executive department list-
6 ed in section 101 of title 5, an independent establishment,
7 commission, board, bureau, division, or office in the execu-
8 tive branch, or other agency or instrumentality of the Fed-
9 eral Government, including wholly or partly owned Gov-
10 ernment corporations.”.

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

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

15 **SEC. 404. COMPLIANCE WITH CONGRESSIONAL SUB-**
16 **POENAS.**

17 (a) IN GENERAL.—Chapter 7 of title II of the Re-
18 vised Statutes of the United States (2 U.S.C. 191 et seq.)
19 is amended—

20 (1) by adding at the end the following:

21 **“SEC. 105. RESPONSE TO CONGRESSIONAL SUBPOENAS.**

22 “(a) SUBPOENA BY CONGRESSIONAL COMMITTEE.—
23 Any recipient of any subpoena from a congressional com-
24 mittee or subcommittee shall appear and testify, produce,

1 or otherwise disclose information in a manner consistent
2 with the subpoena and this section.

3 “(b) FAILURE TO PRODUCE INFORMATION.—

4 “(1) GROUNDS FOR WITHHOLDING INFORMA-
5 TION.—Unless required by the Constitution of the
6 United States or by Federal statute, no claim of
7 privilege or protection from disclosure shall be a
8 ground for withholding information responsive to the
9 subpoena or required by this section.

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

15 “(A) An express assertion and description
16 of the ground asserted for withholding the in-
17 formation.

18 “(B) The type of information.

19 “(C) The general subject matter.

20 “(D) The date, author, and addressee.

21 “(E) The relationship of the author and
22 addressee to each other.

23 “(F) The custodian of the information.

24 “(G) Any other descriptive information
25 that may be produced or disclosed regarding

1 the information that will enable the congres-
2 sional committee or subcommittee issuing the
3 subpoena to assess the ground asserted for
4 withholding the information.

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

9 (2) in section 104, by striking the period at the
10 end and inserting the following: “, or the Attorney
11 General for the District of Columbia, in which case,
12 notwithstanding section 23–101, District of Colum-
13 bia Official Code, the offense may be prosecuted by
14 the Attorney General for the District of Columbia,
15 and shall be punishable by a fine of not more than
16 \$1,000 and imprisonment of not more than 12
17 months.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 for chapter 7 of title II of the Revised Statutes of the
20 United States is amended by adding at the end the fol-
21 lowing:

“105. Response to congressional subpoenas.”.

22 **SEC. 405. RULE OF CONSTRUCTION.**

23 Nothing in this title may be interpreted to limit or
24 constrain Congress’ inherent authority or foreclose any
25 other means for enforcing compliance with congressional

1 subpoenas, nor may anything in this title be interpreted
 2 to establish or recognize any ground for noncompliance
 3 with a congressional subpoena.

4 **TITLE V—REASSERTING CON-**
 5 **GRESSIONAL POWER OF THE**
 6 **PURSE**

7 **SEC. 500. SHORT TITLE.**

8 This title may be cited as the “Congressional Power
 9 of the Purse Act”.

10 **Subtitle A—Strengthening Con-**
 11 **gressional Control and Review**
 12 **To Prevent Impoundment**

13 **SEC. 501. STRENGTHENING CONGRESSIONAL CONTROL.**

14 (a) IN GENERAL.—Part B of the Impoundment Con-
 15 trol Act of 1974 (2 U.S.C. 681 et seq.) is amended by
 16 adding at the end the following:

17 “PRUDENT OBLIGATION OF BUDGET AUTHORITY AND
 18 SPECIFIC REQUIREMENTS FOR EXPIRING BUDGET
 19 AUTHORITY

20 “SEC. 1018. (a) SPECIAL MESSAGE REQUIRE-
 21 MENT.—With respect to budget authority proposed to be
 22 rescinded or that is set to be reserved or proposed to be
 23 deferred in a special message transmitted under section
 24 1012 or 1013, such budget authority—

1 “(1) shall be made available for obligation in
2 sufficient time to be prudently obligated as required
3 under section 1012(b) or 1013; and

4 “(2) may not be deferred or otherwise withheld
5 from obligation during the 90-day period before the
6 expiration of the period of availability of such budget
7 authority, including, if applicable, the 90-day period
8 before the expiration of an initial period of avail-
9 ability for which such budget authority was pro-
10 vided.

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

16 “(1) to make available all amounts for obliga-
17 tion in sufficient time to be prudently obligated; and

18 “(2) to make available all amounts for obliga-
19 tion, without precondition or limitation (including
20 footnotes) that shall be met prior to obligation, not
21 later than 90 days before the expiration of the pe-
22 riod of availability of such appropriation, including,
23 if applicable, 90 days before the expiration of an ini-
24 tial period of availability for which such appropria-
25 tion was provided.”.

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

“1018. Prudent obligation of budget authority and specific requirements for ex-
 piring budget authority.”.

6 **SEC. 502. STRENGTHENING CONGRESSIONAL REVIEW.**

7 (a) IN GENERAL.—Part B of the Impoundment Con-
 8 trol Act of 1974 (2 U.S.C. 681 et seq.), as amended by
 9 section 501(a), is further amended by adding at the end
 10 the following:

11 “REPORTING

12 “SEC. 1019. (a) APPORTIONMENT OF APPROPRIA-
 13 TIONS.—

14 “(1) AUTOMATED SYSTEM.—

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

18 “(i) complete implementation of an
 19 automated system to post, not later than 2
 20 business days after the date of approval of
 21 an apportionment, each document appor-
 22 tioning an appropriation, pursuant to sec-
 23 tion 1513(b) of title 31, United States
 24 Code, including any associated footnotes,

1 in a format that qualifies each such docu-
2 ment as an Open Government Data Asset
3 (as defined in section 3502 of title 44,
4 United States Code); and

5 “(ii) post on such website each docu-
6 ment apportioning an appropriation, pur-
7 suant to such section 1513(b), including
8 any associated footnotes, already approved
9 for the fiscal year.

10 “(B) REPORTING.—The Office of Manage-
11 ment and Budget shall submit to the Com-
12 mittee on the Budget and the Committee on
13 Appropriations of the House of Representatives
14 and the Committee on the Budget and the
15 Committee on Appropriations of the Senate a
16 report reflecting the date of completion of the
17 requirements under subparagraph (A).

18 “(2) EXPLANATORY STATEMENT.—Each docu-
19 ment apportioning an appropriation that is posted
20 on a publicly accessible website under paragraph (1)
21 shall include a written explanation by the officer or
22 employee approving the apportionment (pursuant to
23 section 1513(b) of title 31, United States Code) of
24 the rationale for the apportionment schedule and for
25 any footnotes.

1 “(3) SPECIAL PROCESS FOR TRANSMITTING
2 CLASSIFIED DOCUMENTATION TO THE CONGRESS.—
3 The Office of Management and Budget or the appli-
4 cable department or agency shall make available
5 classified documentation relating to apportionment
6 to appropriate congressional committees on a sched-
7 ule to be determined by each such committee.

8 “(4) DEPARTMENT AND AGENCY REPORT.—

9 “(A) IN GENERAL.—Each department or
10 agency shall notify the Committee on the Budg-
11 et and the Committee on Appropriations of the
12 House of Representatives, the Committee on
13 the Budget and the Committee on Appropria-
14 tions of the Senate, and any other appropriate
15 congressional committees if—

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

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

24 “(iii) an approved apportionment re-
25 ceived by the department or agency may

1 hinder the prudent obligation of such ap-
2 propriation or the execution of a program,
3 project, or activity by such department or
4 agency.

5 “(B) NOTIFICATION CONTENTS.—Each no-
6 tification under subparagraph (A) shall contain
7 information identifying the bureau, account
8 name, appropriation name, and Treasury Ap-
9 propriation Fund Symbol or fund account.

10 “(b) APPROVING OFFICIALS.—

11 “(1) DELEGATION OF AUTHORITY.—Not later
12 than 15 days after the date of enactment of this sec-
13 tion, any delegation of apportionment authority pur-
14 suant to section 1513(b) of title 31, United States
15 Code, that is in effect as of such date shall be sub-
16 mitted for publication in the Federal Register. Any
17 delegation of such apportionment authority after the
18 date of enactment of this section shall, on the date
19 of such delegation, be submitted for publication in
20 the Federal Register. The Office of Management
21 and Budget shall publish such delegations in a for-
22 mat that qualifies such publications as an Open
23 Government Data Asset (as defined in section 3502
24 of title 44, United States Code) on a public internet
25 website, which shall be continuously updated with

1 the position of each Federal officer or employee to
2 whom apportionment authority has been delegated.

3 “(2) REPORT TO CONGRESS.—Not later than 5
4 days after the date on which any change in the posi-
5 tion of the approving official with respect to any del-
6 egated apportionment authority for any account is
7 made, the Office of Management and Budget shall
8 submit a report to the Congress explaining why such
9 change was made.”.

10 (b) CLERICAL AMENDMENT.—The table of contents
11 of the Congressional Budget and Impoundment Control
12 Act of 1974 set forth in section 1(b) of such Act, as
13 amended by section 501(b) of this Act, is further amended
14 by inserting after the item relating to section 1018 the
15 following:

“1019. Reporting.”.

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

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

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

22 (2) by adding at the end the following:

23 “(c) REVIEW.—

24 “(1) IN GENERAL.—The Comptroller General
25 shall—

1 “(A) review compliance with this part; and

2 “(B) submit a report, and any relevant in-
3 formation related to the report, on any non-
4 compliance with this part to—

5 “(i) the Committee on the Budget, the
6 Committee on Appropriations, and the
7 Committee on Oversight and Reform of the
8 House of Representatives;

9 “(ii) the Committee on the Budget,
10 the Committee on Appropriations, and the
11 Committee on Homeland Security and
12 Governmental Affairs of the Senate; and

13 “(iii) any other appropriate congres-
14 sional committee of the House of Rep-
15 resentatives and Senate.

16 “(2) INFORMATION, DOCUMENTATION, AND
17 VIEWS.—The President or the head of the relevant
18 department or agency of the United States shall pro-
19 vide information, documentation, and views to the
20 Comptroller General, as is determined by the Comp-
21 troller General to be necessary to determine such
22 compliance—

23 “(A) not later than 20 days after the date
24 on which the request from the Comptroller Gen-
25 eral is received; or

1 “(B) if the Comptroller General determines
2 that a shorter or longer period is appropriate
3 based on the specific circumstances, within such
4 shorter or longer period.

5 “(3) ACCESS.—To carry out the responsibilities
6 of this part, the Comptroller General shall have ac-
7 cess to interview the officers, employees, contractors,
8 and other agents and representatives of a depart-
9 ment, agency, or office of the United States at any
10 reasonable time as the Comptroller General may re-
11 quest.”.

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

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

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

19 (3) by adding at the end the following:

20 “(5) affecting or limiting in any way the au-
21 thorities provided to the Comptroller General under
22 chapter 7 of title 31, United States Code.”.

1 **SEC. 504. ADVANCE CONGRESSIONAL NOTIFICATION AND**
2 **LITIGATION.**

3 Section 1016 of the Impoundment Control Act of
4 1974 (2 U.S.C. 687) is amended to read as follows:

5 “SUITS BY COMPTROLLER GENERAL

6 “SEC. 1016. (a) AUTHORITY TO BRING CIVIL AC-
7 TION.—If, under this title, budget authority is required
8 to be made available for obligation and such budget au-
9 thority is not made available for obligation or information,
10 documentation, views, or access are required to be pro-
11 duced and such information, documentation, views, or ac-
12 cess are not produced, the Comptroller General is ex-
13 pressly empowered, through attorneys selected by the
14 Comptroller General, to bring a civil action in the United
15 States District Court for the District of Columbia to re-
16 quire such budget authority to be made available for obli-
17 gation or such information, documentation, views, or ac-
18 cess to be produced.

19 “(b) AUTHORITY OF COURT.—The court in a civil ac-
20 tion brought under subsection (a) is expressly empowered
21 to enter, against any department, agency, officer, or em-
22 ployee of the United States, any decree, judgment, or
23 order which may be necessary or appropriate to make such
24 budget authority available for obligation or compel produc-
25 tion of such information, documentation, views, or access.

26 “(c) NOTICE TO CONGRESS.—

1 “(1) IN GENERAL.—Except as provided in para-
 2 graph (2), no civil action may be brought by the
 3 Comptroller General to require budget authority be
 4 made available under subsection (a) before the date
 5 that is 16 days after the date on which an explana-
 6 tory statement by the Comptroller General of the
 7 circumstances giving rise to the action contemplated
 8 is filed with the Speaker of the House of Represent-
 9 atives and the President of the Senate.

10 “(2) EXCEPTION.—The Comptroller General
 11 may bring a civil action to require budget authority
 12 be made available under subsection (a) before the
 13 date specified under paragraph (1) of this subsection
 14 if the Comptroller General finds (and incorporates
 15 the finding in the explanatory statement filed) that
 16 the delay would be contrary to the public interest.”.

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

19 (a) IN GENERAL.—Part B of the Impoundment Con-
 20 trol Act of 1974 (2 U.S.C. 681 et seq.), as amended by
 21 section 502(a) of this Act, is further amended by adding
 22 at the end the following:

23 “PENALTIES FOR FAILURE TO COMPLY

24 “SEC. 1020. (a) ADMINISTRATIVE DISCIPLINE.—An
 25 officer or employee of the Executive Branch of the United
 26 States Government violating this part shall be subject to

1 appropriate administrative discipline, including, when cir-
2 cumstances warrant, suspension from duty without pay or
3 removal from office.

4 “(b) REPORTING VIOLATIONS.—

5 “(1) IN GENERAL.—In the event of a violation
6 of section 1001, 1012, 1013, or 1018 of this part,
7 or in the case that the Government Accountability
8 Office issues a legal decision concluding that a de-
9 partment, agency, or office of the United States vio-
10 lated this part, the President or the head of the rel-
11 evant department or agency as the case may be,
12 shall immediately submit a report regarding all rel-
13 evant facts and containing a statement of actions
14 taken to—

15 “(A) Congress;

16 “(B) the Comptroller General; and

17 “(C) the relevant inspector general.

18 “(2) CONTENTS.—

19 “(A) IN GENERAL.—Each report under
20 paragraph (1) shall include—

21 “(i) a summary of the facts pertaining
22 to the violation;

23 “(ii) the title and Treasury Appro-
24 priation Fund Symbol of the appropriation
25 or fund account;

1 “(iii) the amount involved for each
2 violation;

3 “(iv) the date on which the violation
4 occurred;

5 “(v) the position of each individual re-
6 sponsible for the violation;

7 “(vi) a statement of the administra-
8 tive discipline imposed and any further ac-
9 tion taken with respect to any officer or
10 employee involved in the violation; and

11 “(vii) a statement of any additional
12 action taken to prevent recurrence of the
13 same type of violation.

14 “(B) DISAGREEING REGARDING VIOLA-
15 TION.—In the case that the Government Ac-
16 countability Office issues a legal decision con-
17 cluding that a department, agency, or office of
18 the United States violated this part and the rel-
19 evant department, agency, or office does not
20 agree that a violation has occurred, the report
21 under paragraph (1) shall include an expla-
22 nation of the position of the department, agen-
23 cy, or office.

24 “(3) OPPORTUNITY TO RESPOND.—If a report
25 under paragraph (1) identifies the position of any

1 officer or employee as involved in the violation, the
 2 officer or employee shall be provided a reasonable
 3 opportunity to respond in writing, and any such re-
 4 sponse shall be appended to the report.”.

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

“1020. Penalties for failure to comply.”.

11 **Subtitle B—Strengthening**
 12 **Transparency and Reporting**

13 **PART I—FUNDS MANAGEMENT AND REPORTING**
 14 **TO THE CONGRESS**

15 **SEC. 511. EXPIRED BALANCE REPORTING IN THE PRESI-**
 16 **DENT’S BUDGET.**

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

19 “(40) for the budget for each of fiscal years
 20 2022 through 2026, a report—

21 “(A) identifying unobligated expired bal-
 22 ances as of the beginning of the current fiscal
 23 year and the beginning of each of the preceding
 24 2 fiscal years by agency and the applicable

1 Treasury Appropriation Fund Symbol or fund
2 account; and

3 “(B) providing an explanation of expired
4 balances in any Treasury Appropriation Fund
5 Symbol or fund account that exceed the lesser
6 of 5 percent of total appropriations made avail-
7 able for that account or \$100,000,000.”.

8 **SEC. 512. CANCELED BALANCE REPORTING IN THE PRESI-**
9 **DENT’S BUDGET.**

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

13 “(41) for the budget for each of fiscal years
14 2022 through 2026, a report—

15 “(A) identifying canceled balances (pursu-
16 ant to section 1552(a)) for the preceding 3 fis-
17 cal years by agency and Treasury Appropriation
18 Fund Symbol or fund account;

19 “(B) providing an explanation of canceled
20 balances in any Treasury Appropriation Fund
21 Symbol or fund account that exceed the lesser
22 of 5 percent of total appropriations made avail-
23 able for that account or \$100,000,000; and

24 “(C) including a tabulation, by Treasury
25 Appropriation Fund Symbol or fund account

1 and appropriation, of all balances of appropria-
2 tions available for an indefinite period in an ap-
3 propriation account available for an indefinite
4 period that do not meet the criteria for closure
5 under section 1555, but for which either—

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

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

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

14 “(II) in the prior year and which
15 the budget estimates zero disburse-
16 ments in the current year.”.

17 **SEC. 513. LAPSE IN APPROPRIATIONS REPORTING IN THE**
18 **PRESIDENT’S BUDGET.**

19 Section 1105(a) of title 31, United States Code, as
20 amended by section 512 of this Act, is further amended
21 by adding at the end the following:

22 “(42) a report—

23 “(A) identifying any obligation or expendi-
24 ture made by a department or agency affected
25 in whole or in part by any lapse in appropria-

1 tions of not less than 5 consecutive days during
 2 the preceding fiscal year; and

3 “(B) with respect to any such obligation or
 4 expenditure, providing—

5 “(i) the amount so obligated or ex-
 6 pended, the account affected, and an expla-
 7 nation of which Antideficiency Act excep-
 8 tions permitted the department or agency,
 9 as the case may be, to incur such obliga-
 10 tion or expenditure; and

11 “(ii) an explanation of any changes in
 12 the application of any Antideficiency Act
 13 exceptions for a program, project, or activ-
 14 ity from any explanations previously re-
 15 ported on pursuant to this paragraph.”.

16 **SEC. 514. TRANSFER AND OTHER REPURPOSING AUTHOR-**
 17 **ITY REPORTING IN THE PRESIDENT’S BUDG-**
 18 **ET.**

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

22 “(43) for the budget for fiscal year 2022, a re-
 23 port—

24 “(A) identifying any transfer authority or
 25 other authority to repurpose appropriations pro-

1 vided in a law other than an appropriation Act;
2 and

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

9 **SEC. 515. AUTHORIZING CANCELLATIONS IN INDEFINITE**
10 **ACCOUNTS BY APPROPRIATION.**

11 (a) IN GENERAL.—Subchapter IV of chapter 15 of
12 title 31, United States Code, is amended by inserting after
13 section 1555 the following:

14 **“§ 1555a. Cancellation of appropriations available for**
15 **indefinite periods within an account**

16 “Any remaining balance (whether obligated or unobli-
17 gated) from an appropriation available for an indefinite
18 period in an appropriation account available for an indefi-
19 nite period that does not meet the requirements for closure
20 under section 1555 shall be canceled, and thereafter shall
21 not be available for obligation or expenditure for any pur-
22 pose, if—

23 “(1) the head of the agency concerned or the
24 President determines that the purposes for which

1 the appropriation was made have been carried out;
2 and

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

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

“1555a. Cancellation of appropriations available for indefinite periods within an
account.”.

9 **PART II—EMPOWERING CONGRESSIONAL RE-**
10 **VIEW THROUGH NONPARTISAN CONGRES-**
11 **SIONAL AGENCIES AND TRANSPARENCY INI-**
12 **TIATIVES**

13 **SEC. 521. REQUIREMENT TO RESPOND TO REQUESTS FOR**
14 **INFORMATION FROM THE GOVERNMENT AC-**
15 **COUNTABILITY OFFICE FOR BUDGET AND AP-**
16 **PROPRIATIONS LAW DECISIONS.**

17 (a) IN GENERAL.—Subchapter II of chapter 7 of title
18 31, United States Code, is amended by adding at the end
19 the following:

1 **“§ 722. Requirement to respond to requests for infor-**
2 **mation from the Government Account-**
3 **ability Office for budget and appropria-**
4 **tions law decisions**

5 “(a) If an executive agency or the District of Colum-
6 bia government receives a written request for information,
7 documentation, or views from the Government Account-
8 ability Office relating to a decision or opinion on budget
9 or appropriations law, the executive agency or the District
10 of Columbia government shall provide the requested infor-
11 mation, documentation, or views not later than 20 days
12 after receiving the written request, unless such written re-
13 quest specifically provides otherwise.

14 “(b) If an executive agency or the District of Colum-
15 bia government fails to respond to a request for informa-
16 tion, documentation, or views described in subsection (a)
17 within the time required by such subsection—

18 “(1) the Comptroller General shall notify, in
19 writing, the Committee on Oversight and Reform of
20 the House of Representatives, the Committee on
21 Homeland Security and Governmental Affairs of the
22 Senate, and any other appropriate congressional
23 committee of the House of Representatives or the
24 Senate of such failure;

25 “(2) the Comptroller General is hereby ex-
26 pressly empowered, through attorneys selected by

1 the Comptroller General, to bring a civil action in
 2 the United States District Court for the District of
 3 Columbia to require such information, documenta-
 4 tion, or views to be produced; and

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

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

14 (b) CLERICAL AMENDMENT.—The table of sections
 15 for subchapter II of chapter 7 of title 31, United States
 16 Code, is amended by inserting after the item relating to
 17 section 721 the following:

“722. Requirement to respond to requests for information from the Government
 Accountability Office for budget and appropriations law deci-
 sions.”.

18 **SEC. 522. REPORTING REQUIREMENTS FOR**
 19 **ANTIDEFICIENCY ACT VIOLATIONS.**

20 (a) VIOLATIONS OF SECTION 1341 OR 1342.—Sec-
 21 tion 1351 of title 31, United States Code, is amended—

22 (1) by striking “If” and inserting “(a) If the
 23 Government Accountability Office, an executive

1 agency, or the District of Columbia government de-
2 termines that”;

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

5 (3) by adding at the end the following:

6 “(b) Each report under subsection (a) shall include—

7 “(1) a summary of the facts pertaining to the
8 violation;

9 “(2) the title and Treasury Appropriation Fund
10 Symbol of the appropriation or fund account;

11 “(3) the amount involved for each violation;

12 “(4) the date on which the violation occurred;

13 “(5) the position of any officer or employee re-
14 sponsible for the violation;

15 “(6) a statement of the administrative dis-
16 cipline imposed and any further action taken with
17 respect to any officer or employee involved in the
18 violation;

19 “(7) a statement of any additional action taken
20 to prevent recurrence of the same type of violation;

21 “(8) a statement of any determination that the
22 violation was not knowing and willful that has been
23 made by the executive agency or District of Colum-
24 bia government; and

1 “(9) any written response by any officer or em-
2 ployee identified by position as involved in the viola-
3 tion.

4 “(c) In the case that the Government Accountability
5 Office issues a legal decision concluding that an officer
6 or employee of an executive agency or an officer or em-
7 ployee of the District of Columbia government violated
8 section 1341(a) or 1342 and the executive agency or Dis-
9 trict of Columbia government, as applicable, does not
10 agree that a violation has occurred, the report under sub-
11 section (a) shall explain the position of the executive agen-
12 cy or District of Columbia government.”.

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

15 (1) in subsection (b)—

16 (A) by striking “If” and inserting “If the
17 Government Accountability Office, an executive
18 agency, or the District of Columbia government
19 determines that”; and

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

22 (2) by adding at the end the following:

23 “(c) Each report under subsection (b) shall include—

24 “(1) a summary of the facts pertaining to the
25 violation;

1 “(2) the title and Treasury Appropriation Fund
2 Symbol of the appropriation or fund account;

3 “(3) the amount involved for each violation;

4 “(4) the date on which the violation occurred;

5 “(5) the position of any officer or employee re-
6 sponsible for the violation;

7 “(6) a statement of the administrative dis-
8 cipline imposed and any further action taken with
9 respect to any officer or employee involved in the
10 violation;

11 “(7) a statement of any additional action taken
12 to prevent recurrence of the same type of violation;

13 “(8) a statement of any determination that the
14 violation was not knowing and willful that has been
15 made by the executive agency or District of Colum-
16 bia government; and

17 “(9) any written response by any officer or em-
18 ployee identified by position as involved in the viola-
19 tion.

20 “(d) In the case that the Government Accountability
21 Office issues a legal decision concluding that an officer
22 or employee of an executive agency or of the District of
23 Columbia government violated subsection (a) and the exec-
24 utive agency or District of Columbia government, as appli-
25 cable, does not agree that a violation has occurred, the

1 report under subsection (b) shall explain the position of
2 the executive agency or of the District of Columbia govern-
3 ment.”.

4 **SEC. 523. DEPARTMENT OF JUSTICE REPORTING TO CON-**
5 **GRESS FOR ANTIDEFICIENCY ACT VIOLA-**
6 **TIONS.**

7 (a) VIOLATIONS OF SECTION 1341 OR 1342.—Sec-
8 tion 1350 of title 31, United States Code, is amended—

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

11 (2) by adding at the end the following:

12 “(b)(1) If an executive agency or the District of Co-
13 lumbia government reports, under section 1351, a viola-
14 tion of section 1341(a) or 1342, the Attorney General
15 shall promptly review such report and investigate to the
16 extent necessary to determine whether there are reason-
17 able grounds to believe that the responsible officer or em-
18 ployee knowingly and willfully violated section 1341(a) or
19 1342, as applicable. If the Attorney General determines
20 that there are such reasonable grounds, the Attorney Gen-
21 eral shall diligently investigate a criminal violation under
22 this section.

23 “(2) Not later than March 31 of each year, the Attor-
24 ney General shall submit to Congress and the Comptroller

1 General a report detailing separately for each executive
2 agency and the District of Columbia government—

3 “(A) the number of reports under section 1351
4 transmitted to the President during the preceding
5 year;

6 “(B) the number of reports reviewed in accord-
7 ance with paragraph (1) during the preceding year;

8 “(C) without identification of any individual of-
9 ficer or employee of an executive agency or of the
10 District of Columbia government, a description of
11 each investigation undertaken in accordance with
12 paragraph (1) during the preceding year and an ex-
13 planation of the status of any such investigation;
14 and

15 “(D) without identification of any individual of-
16 ficer or employee of an executive agency or of the
17 District of Columbia government, an explanation of
18 any update to the status of any review or investiga-
19 tion previously reported pursuant to this para-
20 graph.”.

21 (b) VIOLATIONS OF SECTION 1517.—Section 1519 of
22 title 31, United States Code, is amended—

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

25 (2) by adding at the end the following:

1 “(b)(1) If an executive agency or the District of Co-
2 lumbia government reports, under section 1517(b), a vio-
3 lation of section 1517(a), the Attorney General shall
4 promptly review such report and investigate to the extent
5 necessary to determine whether there are reasonable
6 grounds to believe that the responsible officer or employee
7 knowingly and willfully violated section 1517(a). If the At-
8 torney General determines that there are such reasonable
9 grounds, the Attorney General shall diligently investigate
10 a criminal violation under this section.

11 “(2) Not later than March 31 of each year, the Attor-
12 ney General shall submit to Congress and the Comptroller
13 General a report detailing separately for each executive
14 agency and the District of Columbia government—

15 “(A) the number of reports under section
16 1517(b) transmitted to the President during the pre-
17 ceding year;

18 “(B) the number of reports reviewed in accord-
19 ance with paragraph (1) during the preceding year;

20 “(C) without identification of any individual of-
21 ficer or employee of an executive agency or of the
22 District of Columbia government, a description of
23 each investigation undertaken in accordance with
24 paragraph (1) during the preceding year and an ex-

1 planation of the status of any such investigation;
2 and

3 “(D) without identification of any individual of-
4 ficer or employee of an executive agency or of the
5 District of Columbia government, an explanation of
6 any update to the status of any review or investiga-
7 tion previously reported pursuant to this para-
8 graph.”.

9 **SEC. 524. PUBLICATION OF BUDGET OR APPROPRIATIONS**

10 **LAW OPINIONS OF THE DEPARTMENT OF JUS-**
11 **TICE OFFICE OF LEGAL COUNSEL.**

12 (a) SCHEDULE OF PUBLICATION FOR FINAL OLC
13 OPINIONS.—Each covered final OLC opinion shall be
14 made available on the public website of the Department
15 of Justice in a manner that is searchable, sortable, and
16 downloadable in its entirety as soon as is practicable, and
17 in any event—

18 (1) not later than 30 days after the opinion is
19 issued or updated if the covered final OLC opinion
20 is issued or updated on or after the date of enact-
21 ment of this Act;

22 (2) not later than 1 year after the date of en-
23 actment of this Act for a covered final OLC opinion
24 issued on or after January 20, 1993, and before the
25 date of enactment of this Act;

1 (3) not later than 2 years after the date of en-
2 actment of this Act for a covered final OLC opinion
3 issued on or after January 20, 1981, and on or be-
4 fore January 19, 1993;

5 (4) not later than 3 years after the date of en-
6 actment of this Act for a covered final OLC opinion
7 issued on or after January 20, 1969, and on or be-
8 fore January 19, 1981; and

9 (5) not later than 4 years after the date of en-
10 actment of this Act for all other covered final OLC
11 opinions.

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

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

16 (A)(i) information contained in the opinion
17 was—

18 (I) specifically authorized to be kept
19 secret, under criteria established by an Ex-
20 ecutive order, in the interest of national
21 defense or foreign policy;

22 (II) properly classified, including all
23 procedural and marking requirements, pur-
24 suant to such Executive order; and

1 (III) put through declassification re-
2 view within the past two years; and

3 (ii) the Attorney General determines that
4 the national defense or foreign policy interests
5 protected outweigh the public's interest in ac-
6 cess to the information described in clause (i);

7 (B) information contained in the opinion
8 relates to the appointment of a specific indi-
9 vidual not confirmed to Federal office;

10 (C) information contained in the opinion is
11 specifically exempted from disclosure by statute
12 (other than section 552 or 552b of title 5,
13 United States Code), if such statute—

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

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

20 (D) information in the opinion includes
21 trade secrets and commercial or financial infor-
22 mation obtained from a person and privileged
23 or confidential the disclosure of which would
24 likely cause substantial harm to the competitive

1 position of the person from whom the informa-
2 tion was obtained;

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

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

14 (2) DETERMINATION TO WITHHOLD.—Any de-
15 termination under this subsection to withhold infor-
16 mation contained in a covered final OLC opinion
17 shall be—

18 (A) made by the Attorney General or a
19 designee of the Attorney General;

20 (B) in writing;

21 (C) made available to the public within the
22 same timeframe as is required of a formal OLC
23 opinion;

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

4 (E) effective only for a period of 3 years,
5 subject to review and reissuance of a determina-
6 tion made and issued in accordance with this
7 subsection.

8 (3) SUMMARIES.—For any covered final OLC
9 opinion which is withheld in full or in substantial
10 part, a detailed unclassified summary of the opinion
11 shall be made available to the public, within the
12 same timeframe as is required of a formal OLC
13 opinion, that conveys the essence of the opinion, in-
14 cluding any interpretations of a statute, the Con-
15 stitution of the United States, or other legal author-
16 ity. A notation shall be included in any published list
17 of covered final OLC opinion regarding the extent of
18 the withholdings.

19 (4) NO LIMITATION ON FREEDOM OF INFORMA-
20 TION.—Nothing in this subsection shall be construed
21 as limiting the availability of information under sec-
22 tion 552 of title 5, United States Code, or construed
23 as an exemption under paragraph (3) of subsection
24 (b) of such section.

1 (5) NO LIMITATION ON RELIEF.—A decision by
2 the Attorney General to release or withhold informa-
3 tion pursuant to this section shall not preclude any
4 action or relief conferred under a statute or regula-
5 tion that authorizes any person to request or de-
6 mand the release of information.

7 (6) REASONABLY SEGREGABLE PORTIONS OF
8 OPINIONS TO BE PUBLISHED.—Any reasonably seg-
9 regable portion of a covered final OLC opinion shall
10 be provided after withholding of the portions which
11 are exempt from disclosure under this section. The
12 amount of information withheld, and the exemption
13 under which the withholding is made, shall be indi-
14 cated on the released portion of the opinion, unless
15 including that indication would harm an interest
16 protected by the exemption under this subsection
17 under which the withholding is made. If technically
18 feasible, the amount of the information withheld,
19 and the exemption under which the withholding is
20 made, shall be indicated at the place in the opinion
21 where such withholding is made.

22 (c) METHOD OF PUBLICATION.—The Attorney Gen-
23 eral shall publish each covered final OLC opinion to the
24 extent the law permits, including by publishing the opin-
25 ions on a publicly accessible website that—

1 (1) with respect to each opinion—

2 (A) contains an electronic copy of the opin-
3 ion, including any transmittal letter associated
4 with the opinion, in an open format that is plat-
5 form independent and that is available to the
6 public without restrictions;

7 (B) provides the public the ability to re-
8 trieve an opinion, to the extent practicable,
9 through searches based on—

10 (i) the title of the opinion;

11 (ii) the date of publication or revision;

12 or

13 (iii) the full text of the opinion;

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

18 (D) provides a permanent means of access-
19 ing the opinion electronically;

20 (2) includes a means for bulk download of all
21 OLC opinions or a selection of opinions retrieved
22 using a text-based search;

23 (3) provides free access to the opinions, and
24 does not charge a fee, require registration, or impose

1 any other limitation in exchange for access to the
2 website; and

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

5 (d) DEFINITIONS.—In this section:

6 (1) COVERED FINAL OLC OPINION.—The term
7 “covered final OLC opinion” means a final OLC
8 opinion relating to section 1301(a), 1341, 1342,
9 1501, 1502, 1512, 1513, 1515, 1517, or 3302(b) of
10 title 31, United States Code, the Balanced Budget
11 and Emergency Deficit Control Act of 1985 (2
12 U.S.C. 900 et seq.), the Federal Credit Reform Act
13 of 1990 (2 U.S.C. 661 et seq.), the Impoundment
14 Control Act of 1974 (2 U.S.C. 681 et seq.), an ap-
15 propriation Act, a continuing resolution, or another
16 provision of law providing or governing appropria-
17 tions or budget authority.

18 (2) FINAL OLC OPINION.—The term “final
19 OLC opinion” means an OLC opinion that—

20 (A) the Attorney General, Assistant Attor-
21 ney General for the Office of Legal Counsel, or
22 a Deputy Assistant General for the Office of
23 Legal Counsel, has determined is final;

24 (B) government officials or government
25 contractors are relying on or have relied on;

1 (C) is or has been relied upon to formulate
2 legal guidance; or

3 (D) is cited in another Office of Legal
4 Counsel opinion.

5 (3) OLC OPINION.—The term “OLC opin-
6 ion”—

7 (A) means views on a matter of legal inter-
8 pretation communicated by the Office of Legal
9 Counsel of the Department of Justice to any
10 other office or agency, or person in an office or
11 agency, in the executive branch, including any
12 office in the Department of Justice, the White
13 House, or the Executive Office of the President,
14 and rendered in accordance with sections 511
15 through 513 of title 28, United States Code;
16 and

17 (B) where the communication of the legal
18 interpretation takes place verbally, a memori-
19 alization of that communication qualifies as an
20 “OLC opinion”.

1 **Subtitle C—Strengthening Con-**
2 **gressional Role in and Over-**
3 **sight of Emergency Declarations**
4 **and Designations**

5 **SEC. 531. IMPROVING CHECKS AND BALANCES ON THE USE**
6 **OF THE NATIONAL EMERGENCIES ACT.**

7 (a) REQUIREMENTS RELATING TO DECLARATION
8 AND RENEWAL OF NATIONAL EMERGENCIES.—Title II of
9 the National Emergencies Act (50 U.S.C. 1621 et seq.)
10 is amended by striking sections 201 and 202 and inserting
11 the following:

12 **“SEC. 201. DECLARATIONS OF NATIONAL EMERGENCIES.**

13 “(a) AUTHORITY TO DECLARE NATIONAL EMER-
14 GENCIES.—With respect to Acts of Congress authorizing
15 the exercise, during the period of a national emergency,
16 of any special or extraordinary power, the President is au-
17 thorized to declare such a national emergency by procla-
18 mation. Such proclamation shall immediately be trans-
19 mitted to Congress and published in the Federal Register.

20 “(b) SPECIFICATION OF PROVISIONS OF LAW TO BE
21 EXERCISED AND REPORTING.—No powers or authorities
22 made available by statute for use during the period of a
23 national emergency shall be exercised unless and until the
24 President specifies the provisions of law under which the

1 President proposes that the President or other officers will
2 act in—

3 “(1) a proclamation declaring a national emer-
4 gency under subsection (a); or

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

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

10 “(1) SUBSEQUENT DECLARATIONS.—If a joint
11 resolution of approval is not enacted under section
12 203 with respect to a national emergency before the
13 expiration of the period described in section 202(a),
14 or with respect to a national emergency proposed to
15 be renewed under section 202(b), the President may
16 not, during the remainder of the term of office of
17 that President, declare a subsequent national emer-
18 gency under subsection (a) with respect to the same
19 circumstances.

20 “(2) EXERCISE OF AUTHORITIES.—If a joint
21 resolution of approval is not enacted under section
22 203 with respect to a power or authority specified by
23 the President in a proclamation under subsection (a)
24 or an Executive order under subsection (b)(2) with
25 respect to a national emergency, the President may

1 not, during the remainder of the term of office of
2 that President, exercise that power or authority with
3 respect to that emergency.

4 “(d) EFFECT OF FUTURE LAWS.—No law enacted
5 after the date of the enactment of the Congressional
6 Power of the Purse Act shall supersede this title unless
7 it does so in specific terms, referring to this title, and de-
8 claring that the new law supersedes the provisions of this
9 title.

10 **“SEC. 202. EFFECTIVE PERIODS OF NATIONAL EMER-**
11 **GENCIES.**

12 “(a) TEMPORARY EFFECTIVE PERIODS.—

13 “(1) IN GENERAL.—A declaration of a national
14 emergency shall remain in effect for a period of 20
15 days from the issuance of the proclamation under
16 section 201(a) (unless the declaration is terminated
17 before the end of that period pursuant to an Act of
18 Congress under subsection (c)(1)(C) or a proclama-
19 tion of the President under subsection (c)(1)(D))
20 and shall terminate when that 20-day period expires
21 unless there is enacted into law a joint resolution of
22 approval under section 203 with respect to the pro-
23 clamation.

24 “(2) EXERCISE OF POWERS AND AUTHORI-
25 TIES.—Any emergency power or authority made

1 available under a provision of law specified in a
2 proclamation or Executive order pursuant to section
3 201(b) may be exercised pursuant to the declaration
4 of a national emergency for a period of 20 days from
5 the issuance of the proclamation or Executive order
6 (unless the declaration is terminated before the end
7 of that period pursuant to an Act of Congress under
8 subsection (c)(1)(C) or a proclamation of the Presi-
9 dent under subsection (c)(1)(D)). That power or au-
10 thority may not be exercised after that 20-day pe-
11 riod expires unless there is enacted into law a joint
12 resolution of approval under section 203 approv-
13 ing—

14 “(A) the proclamation of the national
15 emergency or the Executive order; and

16 “(B) the exercise of the power or authority
17 specified by the President in such proclamation
18 or Executive order.

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

22 “(A) the days on which the Senate or the
23 House of Representatives is not in session be-
24 cause of an adjournment of more than 3 days

1 to a day certain or an adjournment of the Con-
2 gress sine die;

3 “(B) any Saturday and Sunday, not ex-
4 cluded under subparagraph (A), when the Sen-
5 ate or the House of Representatives is not in
6 session; or

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

10 “(b) RENEWAL OF NATIONAL EMERGENCIES.—

11 “(1) IN GENERAL.—A national emergency de-
12 clared by the President under section 201(a) or pre-
13 viously renewed under this subsection, and not al-
14 ready terminated pursuant to subsection (a) or (c),
15 shall terminate on the date described in paragraph
16 (2) unless—

17 “(A) the President publishes in the Fed-
18 eral Register and transmits to Congress an Ex-
19 ecutive order renewing the emergency; and

20 “(B) there is enacted into law a joint reso-
21 lution of approval with respect to renewing the
22 emergency pursuant to section 203 before the
23 termination of the emergency or previous re-
24 newal of the emergency.

1 “(2) DATE DESCRIBED.—The date described in
2 this paragraph is the date that is one year after, as
3 applicable—

4 “(A) the date on which the President
5 transmitted to Congress the proclamation de-
6 claring the emergency; or

7 “(B) the date of the enactment of a pre-
8 vious joint resolution of approval with respect
9 to renewing the emergency pursuant to section
10 203.

11 “(c) TERMINATION OF NATIONAL EMERGENCIES.—

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

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

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

19 “(C) the date specified in an Act of Con-
20 gress terminating the emergency; or

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

23 “(2) EFFECT OF TERMINATION.—Effective on
24 the date of the termination of a national emergency
25 under paragraph (1)—

1 “(A) any powers or authorities exercised
2 by reason of the emergency shall cease to be ex-
3 ercised;

4 “(B) any amounts reprogrammed,
5 repurposed, or transferred under any provision
6 of law with respect to the emergency that re-
7 main unobligated on that date shall be returned
8 and made available for the purpose for which
9 such amounts were appropriated; and

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

13 **“SEC. 203. REVIEW BY CONGRESS OF NATIONAL EMER-**
14 **GENCIES.**

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

20 “(1) A provision approving one or more—

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

23 “(B) Executive orders issued under section
24 201(b)(2); or

1 “(C) Executive orders issued under section
2 202(b).

3 “(2) A provision approving a list of all or a por-
4 tion of the provisions of law specified by the Presi-
5 dent under section 201(b) in the proclamations or
6 Executive orders that are the subject of the joint
7 resolution.

8 “(b) PROCEDURES FOR CONSIDERATION OF JOINT
9 RESOLUTIONS OF APPROVAL.—

10 “(1) INTRODUCTION.—After the President
11 transmits to Congress a proclamation declaring a
12 national emergency under section 201(a), or an Ex-
13 ecutive order specifying emergency powers or au-
14 thorities under section 201(b)(2) or renewing a na-
15 tional emergency under section 202(b), a joint reso-
16 lution of approval may be introduced in either House
17 of Congress by any member of that House.

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

21 “(3) CONSIDERATION IN SENATE.—In the Sen-
22 ate, the following shall apply:

23 “(A) COMMITTEE REFERRAL.—A joint res-
24 olution of approval shall be referred to the ap-
25 propriate committee or committees.

1 “(B) REPORTING AND DISCHARGE.—If the
2 committee to which a joint resolution of ap-
3 proval has been referred has not reported it at
4 the end of 10 calendar days after its introduc-
5 tion, that committee shall be discharged from
6 further consideration of the resolution and it
7 shall be placed on the calendar.

8 “(C) PROCEEDING TO CONSIDERATION.—
9 Notwithstanding Rule XXII of the Standing
10 Rules of the Senate, when a committee to which
11 a joint resolution of approval is referred has re-
12 ported the resolution, or when that committee is
13 discharged under subparagraph (B) from fur-
14 ther consideration of the resolution, it is at any
15 time thereafter in order to move to proceed to
16 the consideration of the joint resolution, and all
17 points of order against the joint resolution (and
18 against the motion to proceed to the consider-
19 ation of the joint resolution) are waived. The
20 motion to proceed shall be debatable for 4
21 hours evenly divided between proponents and
22 opponents of the joint resolution of approval.
23 The motion is not subject to amendment, or to
24 a motion to postpone, or to a motion to proceed
25 to the consideration of other business. A motion

1 to reconsider the vote by which the motion is
2 agreed to or disagreed to shall not be in order.
3 If a motion to proceed to the consideration of
4 a joint resolution of approval is agreed to, the
5 joint resolution shall remain the unfinished
6 business of the Senate until disposed of.

7 “(D) FLOOR CONSIDERATION.—There
8 shall be 10 hours of consideration on a joint
9 resolution of approval, to be divided evenly be-
10 tween the proponents and opponents of the
11 joint resolution. Of that 10 hours, there shall be
12 a total of 2 hours of debate on any debatable
13 motions in connection with the joint resolution,
14 to be divided evenly between the proponents
15 and opponents of the joint resolution.

16 “(E) AMENDMENTS.—No amendments
17 shall be in order with respect to a joint resolu-
18 tion of approval in the Senate.

19 “(F) MOTION TO RECONSIDER VOTE ON
20 PASSAGE.—A motion to reconsider a vote on
21 passage of a joint resolution of approval shall
22 not be in order.

23 “(G) APPEALS.—Points of order and ap-
24 peals from the decision of the Presiding Officer
25 shall be decided without debate.

1 “(4) CONSIDERATION IN HOUSE OF REP-
2 REPRESENTATIVES.—In the House of Representatives,
3 the following shall apply:

4 “(A) REPORTING AND DISCHARGE.—If any
5 committee to which a joint resolution of ap-
6 proval has been referred has not reported it to
7 the House within 7 legislative days after the
8 date of referral such committee shall be dis-
9 charged from further consideration of the joint
10 resolution.

11 “(B)(i) PROCEEDING TO CONSIDER-
12 ATION.—Beginning on the third legislative day
13 after each committee to which a joint resolution
14 of approval has been referred reports it to the
15 House or has been discharged from further con-
16 sideration thereof, it shall be in order to move
17 to proceed to consider the joint resolution of ap-
18 proval in the House. All points of order against
19 the motion are waived. Such a motion shall not
20 be in order after the House has disposed of a
21 motion to proceed on the joint resolution of ap-
22 proval. The previous question shall be consid-
23 ered as ordered on the motion to its adoption
24 without intervening motion. The motion shall
25 not be debatable. A motion to reconsider the

1 vote by which the motion is disposed of shall
2 not be in order.

3 “(ii) MOTION.—A motion to proceed to the
4 consideration of a joint resolution of approval
5 with respect to an Executive order described in
6 subparagraph (B) or (C) of subsection (a)(1) or
7 a list described in subsection (a)(2) shall not be
8 in order before the enactment of a joint resolu-
9 tion of approval with respect to the proclama-
10 tion described in subsection (a)(1)(A) that is
11 the subject of the Executive order or list.

12 “(C) CONSIDERATION.—The joint resolu-
13 tion of approval shall be considered as read. All
14 points of order against the joint resolution of
15 approval and against its consideration are
16 waived. The previous question shall be consid-
17 ered as ordered on the joint resolution of ap-
18 proval to final passage without intervening mo-
19 tion except 2 hours of debate equally divided
20 and controlled by the sponsor of the joint reso-
21 lution of approval (or a designee) and an oppo-
22 nent. A motion to reconsider the vote on pas-
23 sage of the joint resolution of approval shall not
24 be in order.

1 “(5) COORDINATION WITH ACTION BY OTHER
2 HOUSE.—

3 “(A) IN GENERAL.—If, before the passage
4 by one House of a joint resolution of approval
5 of that House, that House receives from the
6 other House a joint resolution of approval with
7 respect to the same proclamation described in
8 section 201(a) or Executive order described in
9 section 201(b)(2) or 202(b), then the following
10 procedures shall apply:

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

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

17 “(I) the procedure in that House
18 shall be the same as if no joint resolu-
19 tion of approval had been received
20 from the other House; but

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

24 “(iii) Upon the failure of passage of
25 the joint resolution of approval of the other

1 House, the question shall immediately
2 occur on passage of the joint resolution of
3 approval of the receiving House.

4 “(B) TREATMENT OF LEGISLATION OF
5 OTHER HOUSE.—If one House fails to intro-
6 duce, consider, or enact a joint resolution of ap-
7 proval under this section with respect to procla-
8 mation under section 201(a) or Executive order
9 under section 201(b)(2) or 202(b), the joint
10 resolution of approval of the other House shall
11 be entitled to consideration under this section.

12 “(C) SPECIAL RULE FOR REVENUE MEAS-
13 URES.—In the case of a joint resolution of ap-
14 proval that is a revenue measure—

15 “(i) the provisions of subparagraphs
16 (A) and (B) shall not apply in the House
17 of Representatives; and

18 “(ii) the provisions of subparagraph
19 (A) shall apply in the Senate even if the
20 Senate has previously passed a joint reso-
21 lution of approval relating to the same
22 proclamation under section 201(a) or Ex-
23 ecutive order under section 201(b)(2) or
24 202(b).

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

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

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

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

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

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

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

10 “(b) NATIONAL EMERGENCY DESCRIBED.—

11 “(1) IN GENERAL.—A national emergency de-
12 scribed in this subsection is a national emergency
13 pursuant to which the President proposes to exercise
14 emergency powers or authorities made available
15 under the International Emergency Economic Pow-
16 ers Act (50 U.S.C. 1701 et seq.), supplemented as
17 necessary by a provision of law specified in para-
18 graph (2).

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

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

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

25 “(C) any provision of law that authorizes
26 the implementation, imposition, or enforcement

1 of economic sanctions with respect to a foreign
2 country.

3 “(c) EFFECT OF ADDITIONAL POWERS AND AU-
4 THORITIES.—Subsection (a) shall not apply to a national
5 emergency or the exercise of emergency powers and au-
6 thorities pursuant to the national emergency if, in addition
7 to the exercise of emergency powers and authorities de-
8 scribed in subsection (b), the President proposes to exer-
9 cise, pursuant to the national emergency, any emergency
10 powers and authorities under any other provision of law.”.

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

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

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

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

5 “(3) A summary of the actions the President or
6 other officers intend to take, including any re-
7 programming or transfer of funds and any contracts
8 anticipated to be entered into, and the statutory au-
9 thorities the President and such officers expect to
10 rely on in addressing the national emergency.

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

16 “(e) PROVISION OF INFORMATION TO CONGRESS.—
17 The President shall provide to Congress such other infor-
18 mation as Congress may request in connection with any
19 national emergency in effect under title II.

20 “(f) PERIODIC REPORTS ON STATUS OF EMER-
21 GENCIES.—If the President declares a national emergency
22 under section 201(a), the President shall, not less fre-
23 quently than every 90 days for the duration of the emer-
24 gency, report to Congress on the status of the emergency
25 and the actions the President or other officers have taken

1 and authorities the President and such officers have relied
2 on in addressing the emergency.”.

3 (c) EXCLUSION OF IMPOSITION OF DUTIES AND IM-
4 PORT QUOTAS FROM PRESIDENTIAL AUTHORITIES
5 UNDER INTERNATIONAL EMERGENCY ECONOMIC POW-
6 ERS ACT.—Section 203 of the International Emergency
7 Economic Powers Act (50 U.S.C. 1702) is amended—

8 (1) by redesignating subsection (c) as sub-
9 section (d); and

10 (2) by inserting after subsection (b) the fol-
11 lowing:

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

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

19 (d) CONFORMING AMENDMENTS.—

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

23 (2) INTERNATIONAL EMERGENCY ECONOMIC
24 POWERS ACT.—Section 207 of the International

1 Emergency Economic Powers Act (50 U.S.C. 1706)
2 is amended—

3 (A) in subsection (b), by striking “concur-
4 rent resolution” and inserting “joint resolution”
5 each place it appears; and

6 (B) by adding at the end the following:

7 “(e) In this section, the term ‘National Emergencies
8 Act’ means the National Emergencies Act, as in effect on
9 the day before the date of the enactment of the Congres-
10 sional Power of the Purse Act.”.

11 (e) EFFECTIVE DATE; APPLICABILITY.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), this section and the amendments made by
14 this section shall take effect on the date of the en-
15 actment of this Act and apply with respect to na-
16 tional emergencies declared under section 201 of the
17 National Emergencies Act on or after that date.

18 (2) APPLICABILITY TO RENEWALS OF EXISTING
19 EMERGENCIES.—When a national emergency de-
20 clared under section 201 of the National Emer-
21 gencies Act before the date of the enactment of the
22 Congressional Power of the Purse Act would expire
23 or be renewed under section 202(d) of that Act (as
24 in effect on the day before such date of enactment),
25 that national emergency shall be subject to the re-

1 requirements for renewal under section 202(b) of that
2 Act, as amended by subsection (a).

3 **SEC. 532. NATIONAL EMERGENCIES ACT DECLARATION**
4 **SPENDING REPORTING IN THE PRESIDENT'S**
5 **BUDGET.**

6 Section 1105(a) of title 31, United States Code, as
7 amended by section 514 of this Act, is further amended
8 by adding at the end the following:

9 “(44)(A) a report on the proposed, planned,
10 and actual obligations and expenditures of funds (for
11 the prior fiscal year, the current fiscal year, and the
12 fiscal year for which the budget is submitted) attrib-
13 utable to the exercise of powers and authorities
14 made available by statute for each national emer-
15 gency declared by the President, currently active or
16 in effect during the applicable fiscal years.

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

19 “(i) be organized by Treasury Appropria-
20 tion Fund Symbol or fund account and by pro-
21 gram, project, and activity; and

22 “(ii) include—

23 “(I) a description of each such pro-
24 gram, project, and activity;

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

3 “(III) the purpose and progress of
4 such obligations and expenditures toward
5 addressing the applicable national emer-
6 gency.

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

11 “(i) the amount of such transfer, re-
12 programming, or repurposing;

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

15 “(iii) a description of programs, projects,
16 and activities affected by such transfer, re-
17 programming, or repurposing, including by a
18 reduction in funding.”.

19 **SEC. 533. DISCLOSURE TO CONGRESS OF PRESIDENTIAL**
20 **EMERGENCY ACTION DOCUMENTS.**

21 (a) **IN GENERAL.**—Not later than 30 days after the
22 conclusion of the process for approval, adoption, or revi-
23 sion of any Presidential emergency action document, the
24 President shall submit that document to the appropriate
25 congressional committees.

1 (b) DOCUMENTS IN EXISTENCE BEFORE DATE OF
2 ENACTMENT.—Not later than 15 days after the date of
3 the enactment of this Act, the President shall submit to
4 the appropriate congressional committees all Presidential
5 emergency action documents in existence before such date
6 of enactment.

7 (c) DEFINITIONS.—In this section:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term “appropriate congressional com-
10 mittees”, with respect to a Presidential emergency
11 action document submitted under subsection (a) or
12 (b), means—

13 (A) the Committee on Homeland Security
14 and Governmental Affairs, the Committee on
15 the Judiciary, and the Select Committee on In-
16 telligence of the Senate;

17 (B) the Committee on Oversight and Re-
18 form, the Committee on the Judiciary, and the
19 Permanent Select Committee on Intelligence of
20 the House of Representatives; and

21 (C) any other committee of the Senate or
22 the House of Representatives with jurisdiction
23 over the subject matter addressed in the Presi-
24 dential emergency action document.

1 (2) PRESIDENTIAL EMERGENCY ACTION DOCU-
2 MENT.—The term “Presidential emergency action
3 document” refers to—

4 (A) each of the approximately 56 docu-
5 ments described as Presidential emergency ac-
6 tion documents in the budget justification mate-
7 rials for the Office of Legal Counsel of the De-
8 partment of Justice submitted to Congress in
9 support of the budget of the President for fiscal
10 year 2018; and

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

14 (i) is designated as a Presidential
15 emergency action document; or

16 (ii) is designed to implement a Presi-
17 dential decision or transmit a Presidential
18 request when an emergency disrupts nor-
19 mal governmental or legislative processes.

20 **SEC. 534. EMERGENCY AND OVERSEAS CONTINGENCY OP-**
21 **ERATIONS DESIGNATIONS BY CONGRESS IN**
22 **STATUTE.**

23 Section 251(b)(2)(A) of the Balanced Budget and
24 Emergency Deficit Control Act of 1985 (2 U.S.C.
25 901(b)(2)(A)) is amended—

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

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

5 **TITLE VI—SECURITY FROM PO-**
6 **LITICAL INTERFERENCE IN**
7 **JUSTICE**

8 **SEC. 601. SHORT TITLE.**

9 This title may be cited as the “Security from Political
10 Interference in Justice Act of 2020”.

11 **SEC. 602. DEFINITIONS.**

12 In this title:

13 (1) **COMMUNICATIONS LOG.**—The term “com-
14 munications log” means the log required to be main-
15 tained under section 603(a).

16 (2) **COVERED COMMUNICATION.**—

17 (A) **IN GENERAL.**—The term “covered
18 communication” means any communication re-
19 lating to any contemplated or ongoing investiga-
20 tion or litigation conducted by the Department
21 of Justice in any civil or criminal matter (re-
22 gardless of whether a civil action or criminal in-
23 dictment or information has been filed).

1 (B) EXCEPTIONS.—The term “covered
2 communication” does not include any of the fol-
3 lowing:

4 (i) A communication that involves
5 contact between the President, the Vice
6 President, the Counsel to the President, or
7 the Principal Deputy Counsel to the Presi-
8 dent, and the Attorney General, the Dep-
9 uty Attorney General, or the Associate At-
10 torney General, except to the extent that
11 the communication concerns a con-
12 templated or ongoing investigation or liti-
13 gation in which a target or subject is one
14 of the following:

15 (I) The President, the Vice Presi-
16 dent, or a member of the immediate
17 family of the President or Vice Presi-
18 dent.

19 (II) Any individual working in
20 the Executive Office of the President
21 who is compensated at a rate of pay
22 at or above level II of the Executive
23 Schedule under section 5313 of title
24 5, United States Code.

1 (III) The current or former chair
2 or treasurer of any national campaign
3 committee that sought the election or
4 seeks the reelection of the President,
5 or any officer of such a committee ex-
6 ercising authority at the national
7 level, during the tenure in office of the
8 President.

9 (ii) A communication that involves
10 contact between an officer or employee of
11 the Department of Justice and an officer
12 or employee of the Executive Office of the
13 President on a particular matter, if any of
14 the President, the Vice President, the
15 Counsel to the President, or the Principal
16 Deputy Counsel to the President, and if
17 any of the Attorney General, the Deputy
18 Attorney General, or the Associate Attor-
19 ney General, have designated a subordinate
20 to carry on that contact, and the person so
21 designating monitors all subsequent com-
22 munications and the person designated
23 keeps the designating person informed of
24 each such communication, except to the ex-
25 tent that the communication concerns a

1 contemplated or ongoing investigation or
2 litigation in which a target or subject is
3 one of the following:

4 (I) The President, the Vice Presi-
5 dent, or a member of the immediate
6 family of the President or Vice Presi-
7 dent.

8 (II) Any individual working in
9 the Executive Office of the President
10 who is compensated at a rate of pay
11 at or above level II of the Executive
12 Schedule under section 5313 of title
13 5, United States Code.

14 (III) The current or former chair
15 or treasurer of any national campaign
16 committee that sought the election or
17 seeks the reelection of the President,
18 or any officer of such a committee ex-
19 ercising authority at the national
20 level, during the tenure in office of the
21 President.

22 (iii) A communication that involves
23 contact from or to the Deputy Counsel to
24 the President for National Security Af-
25 fairs, the staff of the National Security

1 Council, or the staff of the Homeland Se-
2 curity Council that relates to a national se-
3 curity matter, except to the extent that the
4 communication concerns pending litigation
5 that may have national security implica-
6 tions.

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

13 (v) A communication that relates sole-
14 ly to policy, appointments, legislation, rule-
15 making, budgets, public relations or af-
16 fairs, programmatic matters, intergovern-
17 mental relations, administrative or per-
18 sonnel matters, appellate litigation, or re-
19 quests for legal advice.

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

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

3 (B) stands in loco parentis.

4 **SEC. 603. COMMUNICATIONS LOGS.**

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

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

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

13 (2) the topic of the covered communication; and

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

16 (c) OVERSIGHT.—

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

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

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

3 (B) notify the Committee on the Judiciary
 4 of the Senate and the Committee on the Judici-
 5 ary of the House of Representatives if the In-
 6 spector General determines that a covered com-
 7 munication described in the communications
 8 log—

9 (i) is inappropriate from a law en-
 10 forcement perspective; or

11 (ii) raises concerns about improper
 12 political interference.

13 **SEC. 604. RULE OF CONSTRUCTION.**

14 Nothing in this title may be construed to affect any
 15 requirement to report under title I of this Act or an
 16 amendment made by that title.

17 **TITLE VII—PROTECTING IN-**
 18 **SPECTOR GENERAL INDE-**
 19 **PENDENCE**

20 **Subtitle A—Requiring Cause for**
 21 **Removal**

22 **SEC. 701. SHORT TITLE.**

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

1 **SEC. 702. AMENDMENT.**

2 The Inspector General Act of 1978 (5 U.S.C. App.)
3 is amended—

4 (1) in section 3(b)—

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

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

10 (C) by inserting at the end the following:

11 “(2) The President may remove an Inspector General
12 only for any of the following grounds (and the documenta-
13 tion of any such ground shall be included in the commu-
14 nication required pursuant to paragraph (1)):

15 “(A) Documented permanent incapacity.

16 “(B) Documented neglect of duty.

17 “(C) Documented malfeasance.

18 “(D) Documented conviction of a felony or con-
19 duct involving moral turpitude.

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

22 “(F) Documented gross mismanagement.

23 “(G) Documented gross waste of funds.

24 “(H) Documented abuse of authority.

25 “(I) Documented inefficiency.”; and

1 (2) in section 8G(e)(2), by adding at the end
2 the following: “An Inspector General may be re-
3 moved only for any of the following grounds (and
4 the documentation of any such ground shall be in-
5 cluded in the communication required pursuant to
6 this paragraph):

7 “(A) Documented permanent incapacity.

8 “(B) Documented neglect of duty.

9 “(C) Documented malfeasance.

10 “(D) Documented conviction of a felony or con-
11 duct involving moral turpitude.

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

14 “(F) Documented gross mismanagement.

15 “(G) Documented gross waste of funds.

16 “(H) Documented abuse of authority.

17 “(I) Documented inefficiency.”.

18 **Subtitle B—Inspectors General of**
19 **Intelligence Community**

20 **SEC. 711. INDEPENDENCE OF INSPECTORS GENERAL OF**
21 **THE INTELLIGENCE COMMUNITY.**

22 (a) IN GENERAL.—The National Security Act of
23 1947 (50 U.S.C. 3001 et seq.) is amended by adding at
24 the end the following:

1 **“TITLE XII—MATTERS REGARD-**
2 **ING INSPECTORS GENERAL**
3 **OF ELEMENTS OF THE INTEL-**
4 **LIGENCE COMMUNITY**

5 **“Subtitle A—Inspectors General**

6 **“SEC. 1201. INDEPENDENCE OF INSPECTORS GENERAL.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) ADMINISTRATIVE LEAVE.—The term ‘ad-
9 ministrative leave’ includes any other type of paid or
10 unpaid nonduty status.

11 “(2) APPROPRIATE COMMITTEES OF CON-
12 GRESS.—The term ‘appropriate committees of Con-
13 gress’ means—

14 “(A) the congressional intelligence commit-
15 tees; and

16 “(B) the Committee on Homeland Security
17 and Governmental Affairs of the Senate and the
18 Committee on Oversight and Reform of the
19 House of Representatives.

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

22 “(A) with respect to the position of a cov-
23 ered Inspector General that requires appoint-
24 ment by the President, by and with the advice
25 and consent of the Senate, the President; and

1 “(B) with respect to the position of a cov-
2 ered Inspector General that requires appoint-
3 ment by a head of a department or agency of
4 the Federal Government, the head of such de-
5 partment or agency.

6 “(b) REMOVAL.—

7 “(1) IN GENERAL.—A covered Inspector Gen-
8 eral may be removed from office only by the head of-
9 ficial.

10 “(2) GROUNDS FOR REMOVAL.—The head offi-
11 cial may remove a covered Inspector General only
12 for any of the following grounds:

13 “(A) Documented permanent incapacity.

14 “(B) Documented neglect of duty.

15 “(C) Documented malfeasance.

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

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

20 “(F) Documented gross mismanagement.

21 “(G) Documented gross waste of funds.

22 “(H) Documented abuse of authority.

23 “(I) Documented Inefficiency.

24 “(c) ADMINISTRATIVE LEAVE.—

1 “(1) IN GENERAL.—A covered Inspector Gen-
2 eral may be placed on administrative leave only by
3 the head official.

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

8 “(d) NOTIFICATION.—The head official may not re-
9 move a covered Inspector General under subsection (b)(1)
10 or place a covered Inspector General on administrative
11 leave under subsection (c)(1) unless—

12 “(1) the head official transmits in writing to
13 the appropriate committees of Congress a notifica-
14 tion of such removal or placement, including an ex-
15 planation of the documented grounds specified in
16 subsection (b)(2) for such removal or placement; and

17 “(2) with respect to the removal of a covered
18 Inspector General, a period of 30 days elapses fol-
19 lowing the date of such transmittal.

20 “(e) REPORT.—

21 “(1) IN GENERAL.—Not later than 30 days
22 after the date on which the head official notifies a
23 covered Inspector General of being removed under
24 subsection (b)(1) or placed on administrative leave
25 under subsection (c)(1), the office of that Inspector

1 General shall submit to the appropriate committees
2 of Congress a report on such removal or placement.

3 “(2) CONTENTS.—A report submitted under
4 paragraph (1) shall contain the following:

5 “(A) A description of the facts and cir-
6 cumstances of any pending complaint, investiga-
7 tion, inspection, audit, or other review or in-
8 quiry, including any information, allegation, or
9 complaint reported to the Attorney General in
10 accordance with section 535 of title 28, United
11 States Code, that the Inspector General was
12 working on as of the date of such removal or
13 placement.

14 “(B) Any other significant matter that the
15 office of the Inspector General determines ap-
16 propriate.

17 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion shall be construed to prohibit a personnel action of
19 a covered Inspector General otherwise authorized by law,
20 other than transfer or removal.”.

21 (b) DEFINITION.—Section 3 of such Act (50 U.S.C.
22 3003) is amended by adding at the end the following:

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

1 “(A) The Inspector General of the Intel-
2 ligence Community.

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

5 “(C) The Inspector General of the Defense
6 Intelligence Agency.

7 “(D) The Inspector General of the Na-
8 tional Reconnaissance Office.

9 “(E) The Inspector General of the Na-
10 tional Geospatial-Intelligence Agency.

11 “(F) The Inspector General of the Na-
12 tional Security Agency.”.

13 (c) CLERICAL AMENDMENTS.—The table of sections
14 at the beginning of the National Security Act of 1947 is
15 amended by adding after the items relating to title XI the
16 end the following:

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

 “SUBTITLE A—INSPECTORS GENERAL

 “Sec. 1201. Independence of Inspectors General.”.

17 **SEC. 712. AUTHORITY OF INSPECTORS GENERAL OF THE**
18 **INTELLIGENCE COMMUNITY TO DETERMINE**
19 **MATTERS OF URGENT CONCERN.**

20 (a) DETERMINATION.—

21 (1) IN GENERAL.—Title XII of the National Se-
22 curity Act of 1947, as added by section 711, is

1 amended by inserting after section 1201 the fol-
2 lowing:

3 **“SEC. 1203. DETERMINATION OF MATTERS OF URGENT**
4 **CONCERN.**

5 “(a) DETERMINATION.—

6 “(1) EXCLUSIVE AUTHORITY.—Each covered
7 Inspector General shall have sole authority to deter-
8 mine whether any complaint or information reported
9 to the Inspector General is a matter of urgent con-
10 cern.

11 “(2) FINAL AND CONCLUSIVE.—A determina-
12 tion under paragraph (1) is final and conclusive.

13 “(b) FOREIGN INTERFERENCE IN ELECTIONS.—In
14 addition to any other matter which is considered an urgent
15 concern pursuant to section 103H(k)(5)(G), section
16 17(d)(5)(G) of the Central Intelligence Agency Act of
17 1949 (50 U.S.C. 3517(d)(5)(G)), or other applicable pro-
18 vision of law, the term ‘urgent concern’ includes a serious
19 or flagrant problem, abuse, violation of law or Executive
20 order, or deficiency relating to foreign interference in elec-
21 tions in the United States.”.

22 “(2) CLERICAL AMENDMENT.—The table of sec-
23 tions at the beginning of the National Security Act
24 of 1947 is amended by inserting after the item relat-

1 ing to section 1201, as added by section 711, the
2 following:

“Sec. 1203. Determination of matters of urgent concern.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) INTELLIGENCE COMMUNITY.—Section
5 103H(k)(5)(G) of the National Security Act of 1947
6 (50 U.S.C. 3033(k)(5)(G)) is amended by striking
7 “In this paragraph” and inserting “In accordance
8 with section 1203, in this paragraph”.

9 (2) CENTRAL INTELLIGENCE AGENCY.—Section
10 17(d)(5)(G) of the Central Intelligence Agency Act
11 of 1949 (50 U.S.C. 3517(d)(5)(G)) is amended by
12 striking “In this paragraph” and inserting “In ac-
13 cordance with section 1203 of the National Security
14 Act of 1947, in this paragraph”.

15 (c) REPORTS ON UNRESOLVED DIFFERENCES.—
16 Paragraph (3) of section 103H(k) of the National Security
17 Act of 1947 (50 U.S.C. 3033(k)) is amended by adding
18 at the end the following:

19 “(C) With respect to each report submitted pursuant
20 to subparagraph (A)(i), the Inspector General shall in-
21 clude in the report, at a minimum, the following:

22 “(i) A general description of the unresolved dif-
23 ferences, the particular duties or responsibilities of
24 the Inspector General involved, and, if such dif-
25 ferences relate to a complaint or information under

1 paragraph (5), a description of the complaint or in-
2 formation and the entities or individuals identified in
3 the complaint or information.

4 “(ii) To the extent such differences can be at-
5 tributed not only to the Director but also to any
6 other official, department, agency, or office within
7 the executive branch, or a component thereof, the ti-
8 tles of such official, department, agency, or office.”.

9 (d) CLARIFICATION OF ROLE OF DIRECTOR OF NA-
10 TIONAL INTELLIGENCE.—Section 102A(f)(1) of such Act
11 (50 U.S.C. 3024(f)(1)) is amended—

12 (1) by redesignating subparagraph (B) as sub-
13 paragraph (C); and

14 (2) by inserting after subparagraph (A) the fol-
15 lowing:

16 “(B) The authority of the Director of National Intel-
17 ligence under subparagraph (A) includes coordinating and
18 supervising activities undertaken by elements of the intel-
19 ligence community for the purpose of protecting the
20 United States from any foreign interference in elections
21 in the United States.”.

1 **SEC. 713. CONFORMING AMENDMENTS AND COORDINATION**
2 **WITH OTHER PROVISIONS OF LAW.**

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

6 “(4) The provisions of title XII shall apply to the In-
7 spector General with respect to the removal of the Inspec-
8 tor General and any other matter relating to the Inspector
9 General as specifically provided for in such title.”.

10 (b) CENTRAL INTELLIGENCE AGENCY.—Paragraph
11 (6) of section 17(b) of the Central Intelligence Agency Act
12 of 1949 (50 U.S.C. 3517(b)) is amended to read as fol-
13 lows:

14 “(6) The provisions of title XII of the National Secu-
15 rity Act of 1947 shall apply to the Inspector General with
16 respect to the removal of the Inspector General and any
17 other matter relating to the Inspector General as specifi-
18 cally provided for in such title.”.

19 (c) OTHER ELEMENTS.—

20 (1) IN GENERAL.—Title XII of the National Se-
21 curity Act of 1947, as added by section 711, is fur-
22 ther amended by inserting after section 1203, as
23 added by section 712(a), the following new section:

1 **“SEC. 1205. COORDINATION WITH OTHER PROVISIONS OF**
 2 **LAW.**

3 “No provision of law that is inconsistent with any
 4 provision of this title shall be considered to supersede, re-
 5 peal, or otherwise modify a provision of this title unless
 6 such other provision of law specifically cites a provision
 7 of this title in order to supersede, repeal, or otherwise
 8 modify that provision of this title.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-
 10 tions at the beginning of the National Security Act
 11 of 1947 is amended by inserting after the item relat-
 12 ing to section 1203, as added by section 713, the
 13 following:

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

14 **Subtitle C—Congressional**
 15 **Notification**

16 **SEC. 721. SHORT TITLE.**

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

19 **SEC. 722. CONGRESSIONAL NOTIFICATION OF CHANGE IN**
 20 **STATUS OF INSPECTOR GENERAL.**

21 (a) CHANGE IN STATUS OF INSPECTOR GENERAL OF
 22 OFFICES.—Section 3(b)(1) of the Inspector General Act
 23 of 1978 (5 U.S.C. App.), as designated by section 702,
 24 is amended—

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

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

5 (3) by inserting “, change in status,” after “be-
6 fore the removal”.

7 (b) CHANGE IN STATUS OF INSPECTOR GENERAL OF
8 DESIGNATED FEDERAL ENTITIES.—Section 8G(e)(2) of
9 the Inspector General Act of 1978 (5 U.S.C. App.) is
10 amended—

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

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

15 (3) by inserting “, change in status,” after “be-
16 fore the removal”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect 30 days after the date of en-
19 actment of this Act.

20 **SEC. 723. PRESIDENTIAL EXPLANATION OF FAILURE TO**
21 **NOMINATE AN INSPECTOR GENERAL.**

22 (a) IN GENERAL.—Subchapter III of chapter 33 of
23 title 5, United States Code, is amended by inserting after
24 section 3349d the following:

1 **“§ 3349e. Presidential explanation of failure to nomi-**
2 **nate an Inspector General**

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

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

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

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

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

17 (c) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall take effect on the date of enactment
19 of this Act and shall apply to any vacancy first occurring
20 on or after that date.

1 **TITLE VIII—PROTECTING**
2 **WHISTLEBLOWERS**
3 **Subtitle A—Whistleblower**
4 **Protection Improvement**

5 **SEC. 801. SHORT TITLE.**

6 This subtitle may be cited as the “Whistleblower Pro-
7 tection Improvement Act of 2020”.

8 **SEC. 802. ADDITIONAL WHISTLEBLOWER PROTECTIONS.**

9 (a) INVESTIGATIONS AS PERSONNEL ACTIONS.—

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

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

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

16 (C) by adding after the clause (xi) the fol-
17 lowing:

18 “(xii) the opening of any investigation
19 as a result of a disclosure protected by
20 subsection (b)(8) (but not including any
21 investigation that is ministerial or nondis-
22 cretionary or that is conducted by an In-
23 spector General or Special Inspector Gen-
24 eral under the authority of the Inspector
25 General Act of 1978 (5 U.S.C. App.) or

1 any other law granting authority to an In-
2 specter General or Special Inspector Gen-
3 eral); and”.

4 (2) APPLICATION.—The amendment made by
5 paragraph (1) shall apply to any investigation
6 opened (as described under section
7 2302(a)(2)(A)(xii) of title 5, United States Code, as
8 added by such paragraph) on or after the date of en-
9 actment of this Act.

10 (b) RIGHT TO PETITION CONGRESS.—

11 (1) IN GENERAL.—Section 2302(b)(9) of title
12 5, United States Code, is amended—

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

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

17 (C) by adding at the end the following:

18 “(E) the exercise of any right protected
19 under section 7211;”.

20 (2) APPLICATION.—The amendment made by
21 paragraph (1) shall apply to the exercise of any
22 right described in section 2302(b)(9)(E) of title 5,
23 United States Code, as added by paragraph (1), oc-
24 curring on or after the date of enactment of this
25 Act.

1 (c) PROHIBITION ON DISCLOSURE OF WHISTLE-
2 BLOWER IDENTITY.—

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

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

12 “(A) the other employee provides express
13 written consent prior to the communication or
14 transmission;

15 “(B) the communication or transmission is
16 made in accordance with the provisions of sec-
17 tion 552a;

18 “(C) the communication or transmission is
19 made to a lawyer for the sole purpose of pro-
20 viding legal advice to an employee accused of
21 whistleblower retaliation; or

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

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

3 “(A) the President;

4 “(B) a Member of Congress;

5 “(C) a member of the uniformed services;

6 “(D) an employee as that term is defined in
7 section 2105, including an employee of the United
8 States Postal Service, the Postal Regulatory Com-
9 mission, or the Department of Veterans Affairs (in-
10 cluding any employee appointed pursuant to chapter
11 73 or 74 of title 38); and

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

14 (2) APPLICATION.—The amendment made by
15 paragraph (1) shall apply to any transmission or
16 communication described in subsection (g) of section
17 2302 of title 5, United States Code, as added by
18 paragraph (1), made on or after the date of enact-
19 ment of this Act.

20 (d) RIGHT TO PETITION CONGRESS.—

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

1 **“§ 7211. Employees’ right to petition or furnish infor-**
2 **mation or respond to Congress**

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

6 “(1) petition Congress or a Member of Con-
7 gress;

8 “(2) furnish information, documents, or testi-
9 mony to either House of Congress, any Member of
10 Congress, or any committee or subcommittee of the
11 Congress; or

12 “(3) respond to any request for information,
13 documents, or testimony from either House of Con-
14 gress or any Committee or subcommittee of Con-
15 gress.

16 “(b) PROHIBITED ACTIONS.—No officer or employee
17 of the Federal Government may interfere with or deny the
18 right set forth in subsection (a), including by—

19 “(1) prohibiting or preventing, or attempting or
20 threatening to prohibit or prevent, any other officer
21 or employee of the Federal Government from engag-
22 ing in activity protected in subsection (a); or

23 “(2) removing, suspending from duty without
24 pay, demoting, reducing in rank, seniority, status,
25 pay, or performance or efficiency rating, denying
26 promotion to, relocating, reassigning, transferring,

1 disciplining, or discriminating in regard to any em-
2 ployment right, entitlement, or benefit, or any term
3 or condition of employment of, any other officer or
4 employee of the Federal Government or attempting
5 or threatening to commit any of the foregoing ac-
6 tions protected in subsection (a).

7 “(c) APPLICATION.—This section shall not be con-
8 strued to authorize disclosure of any information that is—

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

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

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

19 “(1) the President;

20 “(2) a Member of Congress;

21 “(3) a member of the uniformed services;

22 “(4) an employee (as that term is defined in
23 section 2105);

24 “(5) an employee of the United States Postal
25 Service or the Postal Regulatory Commission; and

1 “(6) an employee appointed under chapter 73
2 or 74 of title 38.”.

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

“7211. Employees’ right to petition or furnish information or respond to Con-
gress.”.

7 **SEC. 803. ENHANCEMENT OF WHISTLEBLOWER PROTEC-**
8 **TIONS.**

9 (a) DISCLOSURES RELATING TO OFFICERS OR EM-
10 PLOYEES OF AN OFFICE OF INSPECTOR GENERAL.—Sec-
11 tion 1213(c) of title 5, United States Code, is amended
12 by adding at the end the following:

13 “(3) If the information transmitted under this
14 subsection disclosed a violation of law, rule, or regu-
15 lation, or gross waste of funds, gross mismanage-
16 ment, abuse of authority, or a substantial and spe-
17 cific danger to public health or safety, by any officer
18 or employee of an Office of Inspector General, the
19 Special Counsel may refer the matter to the Council
20 of the Inspectors General on Integrity and Effi-
21 ciency, which shall comply with the standards and
22 procedures applicable to investigations and reports
23 under this subsection.”.

24 (b) ENSURING TIMELY RELIEF.—

1 (1) INDIVIDUAL RIGHT OF ACTION.—Section
2 1221 of title 5, United States Code, is amended by
3 striking “section 2302(b)(8) or section
4 2302(b)(9)(A)(i), (B), (C), or (D),” in each instance
5 and inserting “section 2302(b)(8), section
6 2302(b)(9)(A)(i), (B), (C), (D), or (E), section
7 2302(b)(13), or section 2302(g),”.

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

10 “(2) Any stay requested under paragraph (1)
11 shall be granted within 10 calendar days (excluding
12 Saturdays, Sundays, and legal holidays) after the
13 date the request is made, if the Board determines
14 that such a stay would be appropriate. If the stay
15 request is denied, the employee, former employee, or
16 applicant may, within 7 days after receiving notice
17 of the denial, file an appeal for expedited review by
18 the Board. The agency shall have 7 days thereafter
19 to respond. The Board shall provide a decision not
20 later than 21 days after receiving the appeal. During
21 the period of appeal, both parties may supplement
22 the record with information unavailable to them at
23 the time the stay was first requested.”.

1 (3) ACCESS TO DISTRICT COURT; JURY
2 TRIALS.—Section 1221(i) of title 5, United States
3 Code, is amended—

4 (A) by striking “(i) Subsections” and in-
5 serting “(i)(1) Subsections”; and

6 (B) by adding at the end the following:

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

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

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

7 “(i) shall apply the standards set forth in sub-
8 section (e); and

9 “(ii) may award any relief which the court con-
10 siders appropriate, including any relief described in
11 subsection (g).”.

12 (c) RECIPIENTS OF WHISTLEBLOWER DISCLO-
13 SURES.—Section 2302(b)(8)(B) of title 5, United States
14 Code, is amended by striking “or to the Inspector General
15 of an agency or another employee designated by the head
16 of the agency to receive such disclosures” and inserting
17 “the Inspector General of an agency, a supervisor in the
18 employee’s direct chain of command up to and including
19 the head of the employing agency, or to an employee des-
20 ignated by any of the aforementioned individuals for the
21 purpose of receiving such disclosures”.

22 (d) ATTORNEY FEES.—Section 7703(a) of title 5,
23 United States Code, is amended by adding at the end the
24 following:

1 “(3) If an employee, former employee, or appli-
2 cant for employment is the prevailing party under
3 an appeal under this section, the employee, former
4 employee, or applicant for employment shall be enti-
5 tled to attorney fees for all representation carried
6 out pursuant to this section. In such an action for
7 attorney fees, the agency responsible for taking the
8 personnel action shall be the respondent and shall be
9 responsible for paying the fees.”.

10 (e) EXTENDING WHISTLEBLOWER PROTECTION ACT
11 TO CERTAIN EMPLOYEES.—Section 2302(a)(2)(A) of title
12 5, United States Code, is amended in the matter following
13 clause (xiii)—

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

17 (2) by inserting after “title 31” the following:
18 “, a commissioned officer or applicant for employ-
19 ment in the Public Health Service, and a noncareer
20 appointee in the Senior Executive Service”.

21 (f) RELIEF.—Section 7701(b)(2)(A) of title 5,
22 United States Code, is amended by striking “upon the
23 making of the decision” and inserting “upon making of
24 the decision, necessary to make the employee whole as if
25 there had been no prohibited personnel practice, including

1 training, seniority and promotions consistent with the em-
2 ployee's prior record,".

3 **SEC. 804. CLASSIFYING CERTAIN FURLOUGHS AS ADVERSE**
4 **PERSONNEL ACTIONS.**

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

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

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

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

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

15 (b) APPLICATION.—The amendment made by sub-
16 section (a) shall apply to any furlough covered by such
17 section 7512(5) or (6) (as amended by such subsection)
18 occurring on or after the date of enactment of this Act.

19 **SEC. 805. CODIFICATION OF PROTECTIONS FOR DISCLO-**
20 **SURES OF CENSORSHIP RELATED TO RE-**
21 **SEARCH, ANALYSIS, OR TECHNICAL INFOR-**
22 **MATION.**

23 (a) IN GENERAL.—Section 2302 of title 5, United
24 States Code, as amended by section 802(c)(1), is further
25 amended by adding at the end the following:

1 “(h)(1) In this subsection—

2 “(A) the term ‘applicant’ means an applicant
3 for a covered position;

4 “(B) the term ‘censorship related to research,
5 analysis, or technical information’ means any effort
6 to distort, misrepresent, or suppress research, anal-
7 ysis, or technical information; and

8 “(C) the term ‘employee’ means an employee in
9 a covered position in an agency.

10 “(2)(A) Any disclosure of information by an employee
11 or applicant for employment that the employee or appli-
12 cant reasonably believes is evidence of censorship related
13 to research, analysis, or technical information—

14 “(i) shall come within the protections of sub-
15 section (b)(8)(A) if—

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

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

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

1 “(II) such disclosure is not specifically pro-
2 hibited by law or such information is not spe-
3 cifically required by Executive order to be kept
4 classified in the interest of national defense or
5 the conduct of foreign affairs; and

6 “(ii) shall come within the protections of sub-
7 section (b)(8)(B) if—

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

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

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

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

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

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

10 (b) REPEAL.—

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

14 (2) RULE OF CONSTRUCTION.—Nothing in this
15 section shall be construed to limit or otherwise affect
16 any action under such section 110 commenced be-
17 fore the date of enactment of this Act or any protec-
18 tions afforded by such section with respect to such
19 action.

20 **SEC. 806. TECHNICAL AND CONFORMING AMENDMENTS.**

21 Title 5, United States Code, is amended—

22 (1) in section 1212(h), by striking “or (9)” in
23 each instance and inserting “, (b)(9), (b)(13), or
24 (g)”;

25 (2) in section 1214(a)—

1 (A) by striking “section 2302(b)(8) or sec-
2 tion 2302(b)(9)(A)(i), (B), (C), or (D)” in each
3 instance and inserting “section 2302(b)(8), sec-
4 tion 2302(b)(9)(A)(i), (B), (C), (D), or (E),
5 section 2302(b)(13), or section 2302(g)”;

6 (B) in subsection (i), by striking “section
7 2302(b)(8) or subparagraph (A)(i), (B), (C), or
8 (D) of section 2302(b)(9)” and inserting “sec-
9 tion 2302(b)(8), subparagraph (A)(i), (B), (C),
10 (D), or (E) of section 2302(b)(9), section
11 2302(b)(13), or section 2302(g)”;

12 (3) in section 1215, by striking “section
13 2302(b)(8), or 2302(b)(9)(A)(i), (B), (C), or (D)” in
14 each instance and inserting “section 2302(b)(8), sec-
15 tion 2302(b)(9)(A)(i), (B), (C), (D), or (E), section
16 2302(b)(13), or section 2302(g)”;

17 (4) in section 2302—

18 (A) in subsection (a)—

19 (i) in paragraph (1), by inserting “or
20 (g)” after “subsection (b)”;

21 (ii) in paragraph (2)(C)(i), by striking
22 “subsection (b)(8) or section
23 2302(b)(9)(A)(i), (B), (C), or (D)” and in-
24 serting “section 2302(b)(8), section
25 2302(b)(9)(A)(i), (B), (C), (D), or (E),

1 section 2302(b)(13), or section 2302(g)”;

2 and

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

10 (5) in section 7515(a)(2), by striking “para-
11 graph (8), (9), or (14) of section 2302(b)” and in-
12 serting “paragraph (8), (9), (13), or (14) of section
13 2302(b) or section 2302(g)”;

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

16 (7) in section 7703(b)(1)(B), by striking “sec-
17 tion 2302(b)(8), or 2302(b)(9)(A)(i), (B), (C), or
18 (D)” in each instance and inserting “section
19 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D),
20 or (E), section 2302(b)(13), or section 2302(g)”.

21 **Subtitle B—Reauthorization of**
22 **Merit Systems Protection Board**

23 **SEC. 811. SHORT TITLE.**

24 This subtitle may be cited as the “Merit Systems Pro-
25 tection Board Empowerment Act of 2020”.

1 **SEC. 812. REAUTHORIZATION OF MERIT SYSTEMS PROTEC-**
2 **TION BOARD.**

3 Section 8(a)(1) of the Whistleblower Protection Act
4 of 1989 (5 U.S.C. 5509 note) is amended by striking
5 “2003, 2004, 2005, 2006, and 2007” and inserting
6 “2021, 2022, 2023, 2024, and 2025”.

7 **SEC. 813. AUTHORIZATION OF FEDERAL EMPLOYEE SUR-**
8 **VEYS FOR MERIT SYSTEMS STUDIES.**

9 Section 1204(e)(3) of title 5, United States Code, is
10 amended by—

11 (1) striking “(3) In carrying” and inserting
12 “(3)(A) In carrying”; and

13 (2) adding at the end the following:

14 “(B) The Office of Personnel Management and other
15 agencies shall—

16 “(i) provide assistance to the Board to facilitate
17 the conduct by the Board of surveys of employees;
18 and

19 “(ii) upon request, unless otherwise prohibited
20 by law, provide to the Board records and informa-
21 tion concerning applicants for Federal employ-
22 ment.”.

23 **SEC. 814. WHISTLEBLOWER TRAINING FOR MSPB ADMINIS-**
24 **TRATIVE JUDGES.**

25 Section 7701(b)(1) of title 5, United States Code, is
26 amended to read as follows:

1 “(1)(A) The Board may hear any case appealed
2 to it or may refer the case to an administrative law
3 judge appointed under section 3105 or other em-
4 ployee of the Board designated by the Board to hear
5 such cases, except that any case involving—

6 “(i) a removal from the service shall be
7 heard by the Board, an employee experienced in
8 hearing appeals, or an administrative law judge;
9 and

10 “(ii) an alleged prohibited personnel prac-
11 tice in violation of section 2302(b)(8), section
12 2302(b)(9)(A)(i), (B), (C) or (D), or section
13 2302(b)(13) shall be heard by the Board or an
14 administrative law judge or other employee of
15 the Board designated by the Board to hear
16 such cases who has successfully completed
17 training regarding protections afforded by the
18 Whistleblower Protection Act of 1989.

19 “(B) The Board, administrative law judge, or
20 other employee shall make a decision after receipt of
21 the written representations of the parties to the ap-
22 peal and after opportunity for a hearing under sub-
23 section (a)(1) of this section. A copy of the decision
24 shall be furnished to each party to the appeal and
25 to the Office of Personnel Management.”.

1 **Subtitle C—Whistleblowers of the**
 2 **Intelligence Community**

3 **SEC. 821. LIMITATION ON SHARING OF INTELLIGENCE**
 4 **COMMUNITY WHISTLEBLOWER COMPLAINTS**
 5 **WITH PERSONS NAMED IN SUCH COM-**
 6 **PLAINTS.**

7 (a) IN GENERAL.—Title XII of the National Security
 8 Act of 1947, as added by section 711, is further amended
 9 by inserting after section 1205, as added by section
 10 713(c), the following:

11 **“Subtitle B—Protections for**
 12 **Whistleblowers**

13 **“SEC. 1223. LIMITATION ON SHARING OF INTELLIGENCE**
 14 **COMMUNITY WHISTLEBLOWER COMPLAINTS**
 15 **WITH PERSONS NAMED IN SUCH COM-**
 16 **PLAINTS.**

17 “(a) WHISTLEBLOWER DISCLOSURE INFORMATION
 18 DEFINED.—In this section, the term ‘whistleblower disclo-

19 sure information’ means, with respect to a whistleblower
 20 disclosure—

21 “(1) the disclosure;

22 “(2) confirmation of the fact of the existence of
 23 the disclosure; or

24 “(3) the identity, or other identifying informa-
 25 tion, of the whistleblower who made the disclosure.

1 “(b) LIMITATION.—It shall be unlawful for any em-
2 ployee or officer of the Federal Government to share,
3 knowingly and willfully, any whistleblower disclosure infor-
4 mation with any individual named as a subject of the whis-
5 tleblower disclosure and alleged in the disclosure to have
6 engaged in misconduct, unless—

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

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

11 “(A) determines that such sharing is nec-
12 essary to advance an investigation, audit, in-
13 spection, review, or evaluation by the Inspector
14 General; and

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

17 “(3) an attorney for the Government—

18 “(A) determines that such sharing is nec-
19 essary to advance an investigation by the attor-
20 ney; and

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

23 (b) TECHNICAL AND CLERICAL AMENDMENTS.—

1 (1) TRANSFER.—The National Security Act of
2 1947 (50 U.S.C. 3001 et seq.) is amended as fol-
3 lows:

4 (A) Section 1104 is—

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

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

9 (iii) redesignated as section 1221.

10 (B) Section 1106 is—

11 (i) amended by striking “section
12 1104” each place it appears and inserting
13 “section 1221”;

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

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

18 (iv) redesignated as section 1225.

19 (2) CLERICAL AMENDMENTS.—The table of sec-
20 tions at the beginning of the National Security Act
21 of 1947 is amended—

22 (A) by striking the items relating to sec-
23 tion 1104 and section 1106; and

24 (B) by inserting after the item relating to
25 section 1205 the following:

“SUBTITLE B—PROTECTIONS FOR WHISTLEBLOWERS

“Sec. 1221. Prohibited personnel practices in the intelligence community.

“Sec. 1223. Limitation on sharing of intelligence community whistleblower complaints with persons named in such complaints.

“Sec. 1225. Inspector General external review panel.”.

1 (c) DEFINITIONS.—Section 3 of such Act (50 U.S.C.
2 3003), as amended by section 711, is further amended by
3 adding at the end the following:

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

6 “(10) The term ‘whistleblower disclosure’
7 means a disclosure that is protected under section
8 1221 of this Act or section 3001(j)(1) of the Intel-
9 ligence Reform and Terrorism Prevention Act of
10 2004 (50 U.S.C. 3341(j)).”.

11 (d) CONFORMING AMENDMENT.—Section 5331 of the
12 Damon Paul Nelson and Matthew Young Pollard Intel-
13 ligence Authorization Act for Fiscal Years 2018, 2019,
14 and 2020 (division E of Public Law 116–92; 50 U.S.C.
15 3033 note) is amended by striking “section 1104 of the
16 National Security Act of 1947 (50 U.S.C. 3234)” and in-
17 serting “section 1221 of the National Security Act of
18 1947”.

19 **SEC. 822. DISCLOSURES TO CONGRESS.**

20 (a) IN GENERAL.—Title XII of the National Security
21 Act of 1947, as added by section 711, is further amended
22 by inserting after section 1225, as designated by section
23 821(b), the following:

1 **“SEC. 1227. PROCEDURES REGARDING DISCLOSURES TO**
2 **CONGRESS.**

3 “(a) GUIDANCE.—

4 “(1) OBLIGATION TO PROVIDE SECURITY DI-
5 RECTION UPON REQUEST.—Upon the request of a
6 whistleblower, the head of the relevant element of
7 the intelligence community, acting through the cov-
8 ered Inspector General for that element, shall fur-
9 nish on a confidential basis to the whistleblower in-
10 formation regarding how the whistleblower may di-
11 rectly contact the congressional intelligence commit-
12 tees, in accordance with appropriate security prac-
13 tices, regarding a complaint or information of the
14 whistleblower pursuant to section 103H(k)(5)(D) or
15 other appropriate provision of law.

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

21 “(A) the identity of the whistleblower; or

22 “(B) the element at which such whistle-
23 blower is employed, detailed, or assigned as a
24 contractor employee.

25 “(b) OVERSIGHT OF OBLIGATION.—If a covered In-
26 spector General determines that the head of an element

1 of the intelligence community denied a request by a whis-
2 tleblower under subsection (a), directed the whistleblower
3 not to contact the congressional intelligence committees,
4 or unreasonably delayed in providing information under
5 such subsection, the covered Inspector General shall notify
6 the congressional intelligence committees of such denial,
7 direction, or unreasonable delay.

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

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of the National Security Act of 1947 is
14 amended by inserting after the item relating to section
15 1225, as added by section 821(b), the following:

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

16 (c) CONFORMING AMENDMENT.—Section
17 103H(k)(5)(D)(i) of the National Security Act of 1947
18 (50 U.S.C. 3033(k)(5)(D)(i)) is amended by adding at the
19 end the following: “The employee may request information
20 pursuant to section 1227 with respect to contacting such
21 committees.”.

1 **SEC. 823. PROHIBITION AGAINST DISCLOSURE OF WHIS-**
2 **TLBLOWER IDENTITY AS REPRISAL**
3 **AGAINST WHISTLEBLOWER DISCLOSURE BY**
4 **EMPLOYEES AND CONTRACTORS IN INTEL-**
5 **LIGENCE COMMUNITY.**

6 (a) IN GENERAL.—Paragraph (3) of subsection (a)
7 of section 1221 of the National Security Act of 1947, as
8 designated by section 821(b)(1)(A), is amended—

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

11 (2) by redesignating subparagraph (J) as sub-
12 paragraph (K); and

13 (3) by inserting after subparagraph (I) the fol-
14 lowing:

15 “(J) a knowing and willful disclosure re-
16 vealing the identity or other personally identifi-
17 able information of such employee or such con-
18 tractor employee without the express written
19 consent of such employee or such contractor
20 employee or if the Inspector General determines
21 such disclosure is necessary for the exclusive
22 purpose of investigating a complaint or infor-
23 mation received under section 8H of the Inspec-
24 tor General Act of 1978 (5 U.S.C. App. 8H);
25 or”.

1 (b) APPLICABILITY TO DETAILEES.—Such subsection
2 is amended by adding at the end the following:

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

8 (c) PRIVATE RIGHT OF ACTION FOR UNLAWFUL DIS-
9 CLOSURE OF WHISTLEBLOWER IDENTITY.—Subsection
10 (d) of such section is amended to read as follows:

11 “(d) ENFORCEMENT.—

12 “(1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection, the President shall provide
14 for the enforcement of this section.

15 “(2) PRIVATE RIGHT OF ACTION FOR UNLAW-
16 FUL, WILLFUL DISCLOSURE OF WHISTLEBLOWER
17 IDENTITY.—In a case in which an employee of an
18 agency, or other employee or officer of the Federal
19 Government, takes a personnel action described in
20 subsection (a)(3)(J) against an employee of a cov-
21 ered intelligence community element as a reprisal in
22 violation of subsection (b) or in a case in which a
23 contractor employee takes a personnel action de-
24 scribed in such subsection against another con-
25 tractor employee as a reprisal in violation of sub-

1 section (c), the employee or contractor employee
 2 against whom the personnel action was taken may
 3 bring a private action for all appropriate remedies,
 4 including injunctive relief and compensatory and pu-
 5 nitive damages, against the employee or contractor
 6 employee who took the personnel action, in a Fed-
 7 eral district court of competent jurisdiction within
 8 180 days of when the employee or contractor em-
 9 ployee first learned of or should have learned of the
 10 violation.”.

11 **TITLE IX—ACCOUNTABILITY**
 12 **FOR ACTING OFFICIALS**

13 **SEC. 901. SHORT TITLE.**

14 This title may be cited as the “Accountability for Act-
 15 ing Officials Act”.

16 **SEC. 902. CLARIFICATION OF FEDERAL VACANCIES RE-**
 17 **FORM ACT OF 1998.**

18 (a) **FIRST ASSISTANT REQUIREMENTS.**—Section
 19 3345 of title 5, United States Code, is amended as follows:

20 (1) In subsection (a)—

21 (A) in paragraph (1), by adding at the end
 22 before the semi-colon the following: “, but, and
 23 except as provided in subsection (e), only if the
 24 individual serving in the position of first assist-
 25 ant has occupied such position for a period of

1 at least 30 days during the 365-day period pre-
2 ceeding the date of the death, resignation, or be-
3 ginning of inability to serve”; and

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

6 “(A) the officer or employee served in a
7 position in such agency for a period of at least
8 1 year preceding the date of death, resignation,
9 or beginning of inability to serve of the applica-
10 ble officer; and”.

11 (2) By adding at the end the following:

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

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

23 “(1) the office of such first assistant is an of-
24 fice for which appointment is required to be made by

1 the President, by and with the advice and consent
2 of the Senate; and

3 “(2) the Senate has approved the appointment
4 of such individual to such office.”.

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

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

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

20 (d) VACANCY OF INSPECTOR GENERAL POSITIONS.—

21 (1) IN GENERAL.—Section 3345 of title 5,
22 United States Code, as amended by subsection
23 (a)(2), is further amended by adding at the end the
24 following:

1 “(f)(1) Notwithstanding subsection (a), if an Inspec-
2 tor General position that requires appointment by the
3 President by and with the advice and consent of the Sen-
4 ate to be filled is vacant, the first assistant of such posi-
5 tion shall perform the functions and duties of the Inspec-
6 tor General temporarily in an acting capacity subject to
7 the time limitations of section 3346.

8 “(2) Notwithstanding subsection (a), if for purposes
9 of carrying out paragraph (1) of this subsection, by reason
10 of absence, disability, or vacancy, the first assistant to the
11 position of Inspector General is not available to perform
12 the functions and duties of the Inspector General, an act-
13 ing Inspector General shall be appointed by the President
14 from among individuals serving in an office of any Inspec-
15 tor General, provided that—

16 “(A) during the 365-day period preceding the
17 date of death, resignation, or beginning of inability
18 to serve of the applicable Inspector General, the in-
19 dividual served in a position in an office of any In-
20 spector General for not less than 90 days; and

21 “(B) the rate of pay for the position of such in-
22 dividual is equal to or greater than the minimum
23 rate of pay payable for a position at GS-15 of the
24 General Schedule.”.

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

5 (e) TESTIMONY OF ACTING OFFICIALS BEFORE CON-
6 GRESS.—Section 3345 of title 5, United States Code, as
7 amended by subsection (d)(1), is further amended by add-
8 ing at the end the following:

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

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

20 (f) TIME LIMITATION FOR PRINCIPAL OFFICERS.—
21 Section 3346 of title 5, United States Code, is amended—

22 (1) in subsection (a), by inserting “or as pro-
23 vided in subsection (d)” after “sickness”; and

24 (2) by adding at the end the following:

1 “(d) With respect to the vacancy of the position of
2 head of any agency listed in subsection (b) of section 901
3 of title 31, or any other position that is within the Presi-
4 dent’s cabinet and to which this section applies, sub-
5 sections (a) through (c) of this section and sections
6 3348(c), 3349(b), and 3349a(b) shall be applied by sub-
7 stituting ‘120’ for ‘210’ in each instance.”.

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

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

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

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

22 (h) REPORTING OF VACANCIES.—

23 (1) IN GENERAL.—Section 3349 of title 5,
24 United States Code, is amended—

25 (A) in subsection (a)—

1 (i) by striking “immediately upon” in
2 each instance and inserting “not later than
3 7 days after”;

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

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

9 (iv) by adding at the end the fol-
10 lowing:

11 “(5) notification of the end of the term of serv-
12 ice of any person serving in an acting capacity and
13 the name of any subsequent person serving in an
14 acting capacity and the date the service of such sub-
15 sequent person began not later than 7 days after
16 such date.”; and

17 (B) in subsection (b), by striking “imme-
18 diately” and inserting “not later than 14 days
19 after the date of such determination”.

20 (2) TECHNICAL CORRECTIONS.—Paragraphs
21 (1) and (2) of subsection (b) of such section 3349
22 are amended to read as follows:

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

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

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

6 “(b) Notwithstanding section 3346 (except as pro-
7 vided in paragraph (2) of this subsection) or 3348(c), with
8 respect to any vacancy that exists on a transitional inau-
9 guration day, or that arises during the 60-day period be-
10 ginning on such day, the person serving as an acting offi-
11 cer as described under section 3345 may serve in the of-
12 fice—

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

15 “(2) subject to section 3346(b), once a first or
16 second nomination for the office is submitted to the
17 Senate, from the date of such nomination for the pe-
18 riod that the nomination is pending in the Senate.”.

19 **TITLE X—STRENGTHENING**
20 **HATCH ACT ENFORCEMENT**
21 **AND PENALTIES**

22 **SEC. 1001. SHORT TITLE.**

23 This title may be cited as the “Hatch Act Account-
24 ability Act”.

1 **SEC. 1002. STRENGTHENING HATCH ACT ENFORCEMENT**
2 **AND PENALTIES AGAINST POLITICAL AP-**
3 **POINTEES.**

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

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

8 (2) by adding at the end the following:

9 “(e)(1) In addition to the authority otherwise pro-
10 vided in this chapter, the Special Counsel—

11 “(A) shall conduct an investigation with respect
12 to any allegation concerning political activity prohib-
13 ited under subchapter III of chapter 73 (relating to
14 political activities by Federal employees); and

15 “(B) may, regardless of whether the Special
16 Counsel has received an allegation, conduct any in-
17 vestigation as the Special Counsel considers nec-
18 essary concerning political activity prohibited under
19 such subchapter.

20 “(2) With respect to any investigation under para-
21 graph (1), the Special Counsel may seek corrective action
22 under section 1214 and disciplinary action under section
23 1215 in the same way as if a prohibited personnel practice
24 were involved.

25 “(f)(1) Consistent with paragraph (3), if after an in-
26 vestigation under subsection (d)(1) the Special Counsel

1 determines that a political appointee has violated section
2 7323 or 7324, the Special Counsel may assess an adminis-
3 trative fine, not to exceed \$50,000, against such political
4 appointee.

5 “(2)(A) Any political appointee assessed a fine under
6 paragraph (1) shall have the opportunity to request a
7 hearing in a time and manner prescribed for by regula-
8 tions issued by the Special Counsel.

9 “(B) If a political appointee assessed a fine under
10 paragraph (1) does not request a hearing under subpara-
11 graph (A), the decision of the Special Counsel finding a
12 violation and assessing a fine shall be considered a final
13 decision and shall not be subject to judicial review.

14 “(C) If a political appointee requests a hearing under
15 subparagraph (A), the Special Counsel shall conduct a
16 hearing in accordance with section 554 and issue a final
17 decision not more than 30 days after the conclusion of
18 the hearing.

19 “(D) Not later than 30 days after the issuance of
20 a final decision by the Special Counsel under subpara-
21 graph (C), the political appointee who is the subject of
22 the final decision may file an action seeking judicial review
23 in accordance with section 702.

24 “(E) Consistent with paragraph (3), the Special
25 Counsel may file a civil action in the district courts of the

1 United States seeking an order and such other relief as
2 the court deems appropriate to enforce a final decision by
3 the Special Counsel under this paragraph.

4 “(3) The Special Counsel may not assess an adminis-
5 trative fine or file a civil action to enforce a final decision
6 of the Special Counsel under paragraph (2)—

7 “(A) unless no disciplinary action or civil pen-
8 alty has been taken or assessed, respectively, against
9 the political appointee pursuant to section 7326; and

10 “(B) until on or after the date that is 90 days
11 after the date that the complaint regarding the polit-
12 ical appointee was presented to the President under
13 section 1215(b).

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

23 “(B) Not later than 14 days after receiving a written
24 statement under subparagraph (A)—

1 “(i) the Special Counsel shall submit the writ-
2 ten statement to the Committee on Oversight and
3 Reform of the House of Representatives and the
4 Committee on Homeland Security and Governmental
5 Affairs of the Senate; and

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

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

11 “(A) submit a report on the investigation into
12 such political appointee, and any communications
13 sent from the Special Counsel to the President rec-
14 ommending discipline of such political appointee, to
15 the Committee on Oversight and Reform of the
16 House of Representatives and the Committee on
17 Homeland Security and Governmental Affairs of the
18 Senate; and

19 “(B) publish the report and such communica-
20 tions on the public website of the Office of Special
21 Counsel.

22 “(6) In this subsection, the term ‘political appointee’
23 means any individual, other than the President and the
24 Vice-President, employed or holding office—

1 “(A) in the Executive Office of the President,
2 the Office of the Vice President, and any other office
3 of the White House, but not including any career
4 employee; or

5 “(B) in a confidential, policy-making, policy-de-
6 termining, or policy-advocating position appointed by
7 the President, by and with the advice and consent
8 of the Senate (other than an individual in the For-
9 eign Service of the United States).”.

10 (b) CLARIFICATION ON APPLICATION OF HATCH ACT
11 TO EOP AND OVP EMPLOYEES.—Section 7322(1)(A) of
12 title 5, United States Code, is amended by inserting after
13 “Executive agency” the following: “, including the Execu-
14 tive Office of the President, the Office of the Vice Presi-
15 dent, and any other office of the White House,”.

16 **DIVISION C—DEFENDING ELEC-**
17 **TIONS AGAINST FOREIGN IN-**
18 **TERFERENCE**

19 **TITLE XI—REPORTING FOREIGN**
20 **INTERFERENCE IN ELECTIONS**

21 **SEC. 1101. FEDERAL CAMPAIGN REPORTING OF FOREIGN**
22 **CONTACTS.**

23 (a) INITIAL NOTICE.—

24 (1) IN GENERAL.—Section 304 of the Federal
25 Election Campaign Act of 1971 (52 U.S.C. 30104)

1 is amended by adding at the end the following new
2 subsection:

3 “(j) DISCLOSURE OF REPORTABLE FOREIGN CON-
4 TACTS.—

5 “(1) COMMITTEE OBLIGATION TO NOTIFY.—

6 Not later than 1 week after a reportable foreign con-
7 tact, each political committee shall notify the Fed-
8 eral Bureau of Investigation and the Commission of
9 the reportable foreign contact and provide a sum-
10 mary of the circumstances with respect to such re-
11 portable foreign contact. The Federal Bureau of In-
12 vestigation, not later than 1 week after receiving a
13 notification from a political committee under this
14 paragraph, shall submit to the political committee,
15 the Permanent Select Committee on Intelligence of
16 the House of Representatives, and the Select Com-
17 mittee on Intelligence of the Senate written or elec-
18 tronic confirmation of receipt of the notification.

19 “(2) INDIVIDUAL OBLIGATION TO NOTIFY.—

20 Not later than 3 days after a reportable foreign con-
21 tact—

22 “(A) each candidate and each immediate
23 family member of a candidate shall notify the
24 treasurer or other designated official of the
25 principal campaign committee of such candidate

1 of the reportable foreign contact and provide a
2 summary of the circumstances with respect to
3 such reportable foreign contact; and

4 “(B) each official, employee, or agent of a
5 political committee shall notify the treasurer or
6 other designated official of the committee of the
7 reportable foreign contact and provide a sum-
8 mary of the circumstances with respect to such
9 reportable foreign contact.

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

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

15 “(i) is between—

16 “(I) a candidate, an immediate
17 family member of the candidate, a po-
18 litical committee, or any official, em-
19 ployee, or agent of such committee;
20 and

21 “(II) an individual that the per-
22 son described in subclause (I) knows,
23 has reason to know, or reasonably be-
24 lieves is a covered foreign national;
25 and

1 “(ii) the person described in clause
2 (i)(I) knows, has reason to know, or rea-
3 sonably believes involves—

4 “(I) an offer or other proposal
5 for a contribution, donation, expendi-
6 ture, disbursement, or solicitation de-
7 scribed in section 319; or

8 “(II) coordination or collabora-
9 tion with, an offer or provision of in-
10 formation or services to or from, or
11 persistent and repeated contact with,
12 a covered foreign national in connec-
13 tion with an election.

14 “(B) EXCEPTIONS.—

15 “(i) CONTACTS IN OFFICIAL CAPACITY
16 AS ELECTED OFFICIAL.—The term ‘report-
17 able foreign contact’ shall not include any
18 contact or communication with a covered
19 foreign national by an elected official or an
20 employee of an elected official solely in an
21 official capacity as such an official or em-
22 ployee.

23 “(ii) CONTACTS FOR PURPOSES OF
24 ENABLING OBSERVATION OF ELECTIONS
25 BY INTERNATIONAL OBSERVERS.—The

1 term ‘reportable foreign contact’ shall not
2 include any contact or communication with
3 a covered foreign national by any person
4 which is made for purposes of enabling the
5 observation of elections in the United
6 States by a foreign national or the obser-
7 vation of elections outside of the United
8 States by a candidate, political committee,
9 or any official, employee, or agent of such
10 committee.

11 “(iii) EXCEPTIONS NOT APPLICABLE
12 IF CONTACTS OR COMMUNICATIONS IN-
13 VOLVE PROHIBITED DISBURSEMENTS.—A
14 contact or communication by an elected of-
15 ficial or an employee of an elected official
16 shall not be considered to be made solely
17 in an official capacity for purposes of
18 clause (i), and a contact or communication
19 shall not be considered to be made for pur-
20 poses of enabling the observation of elec-
21 tions for purposes of clause (ii), if the con-
22 tact or communication involves a contribu-
23 tion, donation, expenditure, disbursement,
24 or solicitation described in section 319.

1 “(C) COVERED FOREIGN NATIONAL DE-
2 FINED.—

3 “(i) IN GENERAL.—In this paragraph,
4 the term ‘covered foreign national’
5 means—

6 “(I) a foreign principal (as de-
7 fined in section 1(b) of the Foreign
8 Agents Registration Act of 1938 (22
9 U.S.C. 611(b))) that is a government
10 of a foreign country or a foreign polit-
11 ical party;

12 “(II) any person who acts as an
13 agent, representative, employee, or
14 servant, or any person who acts in
15 any other capacity at the order, re-
16 quest, or under the direction or con-
17 trol, of a foreign principal described in
18 subclause (I) or of a person any of
19 whose activities are directly or indi-
20 rectly supervised, directed, controlled,
21 financed, or subsidized in whole or in
22 major part by a foreign principal de-
23 scribed in subclause (I); or

24 “(III) any person included in the
25 list of specially designated nationals

1 and blocked persons maintained by
2 the Office of Foreign Assets Control
3 of the Department of the Treasury
4 pursuant to authorities relating to the
5 imposition of sanctions relating to the
6 conduct of a foreign principal de-
7 scribed in subclause (I).

8 “(ii) CLARIFICATION REGARDING AP-
9 PPLICATION TO CITIZENS OF THE UNITED
10 STATES.—In the case of a citizen of the
11 United States, subclause (II) of clause (i)
12 applies only to the extent that the person
13 involved acts within the scope of that per-
14 son’s status as the agent of a foreign prin-
15 cipal described in subclause (I) of clause
16 (i).

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

21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1) shall apply with respect to report-
23 able foreign contacts which occur on or after the
24 date of the enactment of this Act.

25 (b) INFORMATION INCLUDED ON REPORT.—

1 (1) IN GENERAL.—Section 304(b) of such Act
2 (52 U.S.C. 30104(b)) is amended—

3 (A) by striking “and” at the end of para-
4 graph (7);

5 (B) by striking the period at the end of
6 paragraph (8) and inserting “; and”; and

7 (C) by adding at the end the following new
8 paragraph:

9 “(9) for any reportable foreign contact (as de-
10 fined in subsection (j)(3))—

11 “(A) the date, time, and location of the
12 contact;

13 “(B) the date and time of when a des-
14 ignated official of the committee was notified of
15 the contact;

16 “(C) the identity of individuals involved;
17 and

18 “(D) a description of the contact, including
19 the nature of any contribution, donation, ex-
20 penditure, disbursement, or solicitation involved
21 and the nature of any activity described in sub-
22 section (j)(3)(A)(ii)(II) involved.”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by paragraph (1) shall apply with respect to reports
25 filed on or after the expiration of the 60-day period

1 which begins on the date of the enactment of this
2 Act.

3 **SEC. 1102. FEDERAL CAMPAIGN FOREIGN CONTACT RE-**
4 **PORTING COMPLIANCE SYSTEM.**

5 (a) IN GENERAL.—Section 302 of the Federal Elec-
6 tion Campaign Act of 1971 (52 U.S.C. 30102) is amended
7 by adding at the end the following new subsection:

8 “(j) REPORTABLE FOREIGN CONTACTS COMPLIANCE
9 POLICY.—

10 “(1) REPORTING.—Each political committee
11 shall establish a policy that requires all officials, em-
12 ployees, and agents of such committee to notify the
13 treasurer or other appropriate designated official of
14 the committee of any reportable foreign contact (as
15 defined in section 304(j)) not later than 3 days after
16 such contact was made.

17 “(2) RETENTION AND PRESERVATION OF
18 RECORDS.—Each political committee shall establish
19 a policy that provides for the retention and preserva-
20 tion of records and information related to reportable
21 foreign contacts (as so defined) for a period of not
22 less than 3 years.

23 “(3) CERTIFICATION.—

24 “(A) IN GENERAL.—Upon filing its state-
25 ment of organization under section 303(a), and

1 with each report filed under section 304(a), the
2 treasurer of each political committee (other
3 than an authorized committee) shall certify
4 that—

5 “(i) the committee has in place poli-
6 cies that meet the requirements of para-
7 graphs (1) and (2);

8 “(ii) the committee has designated an
9 official to monitor compliance with such
10 policies; and

11 “(iii) not later than 1 week after the
12 beginning of any formal or informal affili-
13 ation with the committee, all officials, em-
14 ployees, and agents of such committee
15 will—

16 “(I) receive notice of such poli-
17 cies;

18 “(II) be informed of the prohibi-
19 tions under section 319; and

20 “(III) sign a certification affirm-
21 ing their understanding of such poli-
22 cies and prohibitions.

23 “(B) AUTHORIZED COMMITTEES.—With
24 respect to an authorized committee, the can-

1 didate shall make the certification required
2 under subparagraph (A).”.

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendment made by
5 subsection (a) shall apply with respect to political
6 committees which file a statement of organization
7 under section 303(a) of the Federal Election Cam-
8 paign Act of 1971 (52 U.S.C. 30103(a)) on or after
9 the date of the enactment of this Act.

10 (2) TRANSITION RULE FOR EXISTING COMMIT-
11 TEES.—Not later than 30 days after the date of the
12 enactment of this Act, each political committee
13 under the Federal Election Campaign Act of 1971
14 shall file a certification with the Federal Election
15 Commission that the committee is in compliance
16 with the requirements of section 302(j) of such Act
17 (as added by subsection (a)).

18 **SEC. 1103. CRIMINAL PENALTIES.**

19 Section 309(d)(1) of the Federal Election Campaign
20 Act of 1971 (52 U.S.C. 30109(d)(1)) is amended by add-
21 ing at the end the following new subparagraphs:

22 “(E) Any person who knowingly and willfully com-
23 mits a violation of subsection (j) or (b)(9) of section 304
24 or section 302(j) shall be fined not more than \$500,000,
25 imprisoned not more than 5 years, or both.

1 “(F) Any person who knowingly and willfully conceals
2 or destroys any materials relating to a reportable foreign
3 contact (as defined in section 304(j)) shall be fined not
4 more than \$1,000,000, imprisoned not more than 5 years,
5 or both.”.

6 **SEC. 1104. REPORT TO CONGRESSIONAL INTELLIGENCE**
7 **COMMITTEES.**

8 (a) **IN GENERAL.**—Not later than 1 year after the
9 date of enactment of this Act, and annually thereafter,
10 the Director of the Federal Bureau of Investigation shall
11 submit to the congressional intelligence committees a re-
12 port relating to notifications received by the Federal Bu-
13 reau of Investigation under section 304(j)(1) of the Fed-
14 eral Election Campaign Act of 1971 (as added by section
15 1101(a) of this Act).

16 (b) **ELEMENTS.**—Each report under subsection (a)
17 shall include, at a minimum, the following with respect
18 to notifications described in subsection (a):

19 (1) The number of such notifications received
20 from political committees during the year covered by
21 the report.

22 (2) A description of protocols and procedures
23 developed by the Federal Bureau of Investigation re-
24 lating to receipt and maintenance of records relating
25 to such notifications.

1 (3) With respect to such notifications received
2 during the year covered by the report, a description
3 of any subsequent actions taken by the Director re-
4 sulting from the receipt of such notifications.

5 (c) CONGRESSIONAL INTELLIGENCE COMMITTEES
6 DEFINED.—In this section, the term “congressional intel-
7 ligence committees” has the meaning given that term in
8 section 3 of the National Security Act of 1947 (50 U.S.C.
9 3003).

10 **SEC. 1105. RULE OF CONSTRUCTION.**

11 Nothing in this title or the amendments made by this
12 title shall be construed—

13 (1) to impede legitimate journalistic activities;

14 or

15 (2) to impose any additional limitation on the
16 right to express political views or to participate in
17 public discourse of any individual who—

18 (A) resides in the United States;

19 (B) is not a citizen of the United States or
20 a national of the United States, as defined in
21 section 101(a)(22) of the Immigration and Na-
22 tionality Act (8 U.S.C. 1101(a)(22)); and

23 (C) is not lawfully admitted for permanent
24 residence, as defined by section 101(a)(20) of

1 the Immigration and Nationality Act (8 U.S.C.
2 1101(a)(20)).

3 **TITLE XII—ELIMINATING FOR-**
4 **EIGN INTERFERENCE IN**
5 **ELECTIONS**

6 **SEC. 1201. CLARIFICATION OF APPLICATION OF FOREIGN**
7 **MONEY BAN.**

8 (a) CLARIFICATION OF TREATMENT OF PROVISION
9 OF CERTAIN INFORMATION AS CONTRIBUTION OR DONA-
10 TION OF A THING OF VALUE.—Section 319 of the Federal
11 Election Campaign Act of 1971 (52 U.S.C. 30121) is
12 amended by adding at the end the following new sub-
13 section:

14 “(c) CLARIFICATION OF TREATMENT OF PROVISION
15 OF CERTAIN INFORMATION AS CONTRIBUTION OR DONA-
16 TION OF A THING OF VALUE.—For purposes of this sec-
17 tion, a ‘contribution or donation of money or other thing
18 of value’ includes the provision of opposition research,
19 polling, or other non-public information relating to a can-
20 didate for election for a Federal, State, or local office for
21 the purpose of influencing the election, regardless of
22 whether such research, polling, or information has mone-
23 tary value, except that nothing in this subsection shall be
24 construed to treat the mere provision of an opinion about

1 a candidate as a thing of value for purposes of this sec-
2 tion.”.

3 (b) CLARIFICATION OF APPLICATION OF FOREIGN
4 MONEY BAN TO ALL CONTRIBUTIONS AND DONATIONS
5 OF THINGS OF VALUE AND TO ALL SOLICITATIONS OF
6 CONTRIBUTIONS AND DONATIONS OF THINGS OF
7 VALUE.—Section 319(a) of such Act (52 U.S.C.
8 30121(a)) is amended—

9 (1) in paragraph (1)(A), by striking “promise
10 to make a contribution or donation” and inserting
11 “promise to make such a contribution or donation”;

12 (2) in paragraph (1)(B), by striking “donation”
13 and inserting “donation of money or other thing of
14 value, or to make an express or implied promise to
15 make such a contribution or donation,”; and

16 (3) by amending paragraph (2) to read as fol-
17 lows:

18 “(2) a person to solicit, accept, or receive (di-
19 rectly or indirectly) a contribution or donation de-
20 scribed in subparagraph (A) or (B) of paragraph
21 (1), or to solicit, accept, or receive (directly or indi-
22 rectly) an express or implied promise to make such
23 a contribution or donation, from a foreign na-
24 tional.”.

1 (c) ENHANCED PENALTY FOR CERTAIN VIOLA-
2 TIONS.—

3 (1) IN GENERAL.—Section 309(d)(1) of such
4 Act (52 U.S.C. 30109(d)(1)), as amended by section
5 1103, is further amended by adding at the end the
6 following new subparagraph:

7 “(G)(i) Any person who knowingly and willfully com-
8 mits a violation of section 319 which involves a foreign
9 national which is a government of a foreign country or
10 a foreign political party, or which involves a thing of value
11 consisting of the provision of opposition research, polling,
12 or other non-public information relating to a candidate for
13 election for a Federal, State, or local office for the purpose
14 of influencing the election, shall be fined under title 18,
15 United States Code, or imprisoned for not more than 5
16 years, or both.

17 “(ii) In clause (i), each of the terms ‘government of
18 a foreign country’ and ‘foreign political party’ has the
19 meaning given such term in section 1 of the Foreign
20 Agents Registration Act of 1938, as Amended (22 U.S.C.
21 611).”.

22 (2) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) shall apply with respect to viola-
24 tions committed on or after the date of the enact-
25 ment of this Act.

1 **SEC. 1202. REQUIRING ACKNOWLEDGMENT OF FOREIGN**
2 **MONEY BAN BY POLITICAL COMMITTEES.**

3 (a) PROVISION OF INFORMATION BY FEDERAL ELEC-
4 TION COMMISSION.—Section 303 of the Federal Election
5 Campaign Act of 1971 (52 U.S.C. 30103) is amended by
6 adding at the end the following new subsection:

7 “(e) ACKNOWLEDGMENT OF FOREIGN MONEY
8 BAN.—

9 “(1) NOTIFICATION BY COMMISSION.—Not later
10 than 30 days after a political committee files its
11 statement of organization under subsection (a), and
12 biennially thereafter until the committee terminates,
13 the Commission shall provide the committee with a
14 written explanation of section 319.

15 “(2) ACKNOWLEDGMENT BY COMMITTEE.—

16 “(A) IN GENERAL.—Not later than 30
17 days after receiving the written explanation of
18 section 319 under paragraph (1), the committee
19 shall transmit to the Commission a signed cer-
20 tification that the committee has received such
21 written explanation and has provided a copy of
22 the explanation to all members, employees, con-
23 tractors, and volunteers of the committee.

24 “(B) PERSON RESPONSIBLE FOR SIGNA-
25 TURE.—The certification required under sub-
26 paragraph (A) shall be signed—

1 “(i) in the case of an authorized com-
2 mittee of a candidate, by the candidate; or

3 “(ii) in the case of any other political
4 committee, by the treasurer of the com-
5 mittee.”.

6 (b) EFFECTIVE DATE; TRANSITION FOR EXISTING
7 COMMITTEES.—

8 (1) IN GENERAL.—The amendment made by
9 subsection (a) shall apply with respect to political
10 committees which file statements of organization
11 under section 303 of the Federal Election Campaign
12 Act of 1971 (52 U.S.C. 30103) on or after the date
13 of the enactment of this Act.

14 (2) TRANSITION FOR EXISTING COMMITTEES.—

15 (A) NOTIFICATION BY FEDERAL ELECTION
16 COMMISSION.—Not later than 90 days after the
17 date of the enactment of this Act, the Federal
18 Election Commission shall provide each political
19 committee under such Act with the written ex-
20 planation of section 319 of such Act, as re-
21 quired under section 303(e)(1) of such Act (as
22 added by subsection (a)).

23 (B) ACKNOWLEDGMENT BY COMMITTEE.—

24 Not later than 30 days after receiving the writ-
25 ten explanation under subparagraph (A), each

1 political committee under such Act shall trans-
2 mit to the Federal Election Commission the
3 signed certification, as required under section
4 303(e)(2) of such Act (as added by subsection
5 (a)).

6 **DIVISION D—SEVERABILITY**

7 **TITLE XIII—SEVERABILITY**

8 **SEC. 1301. SEVERABILITY.**

9 If any provision of this Act or any amendment made
10 by this Act, or the application of a provision of this Act
11 or an amendment made by this Act to any person or cir-
12 cumstance, is held to be unconstitutional, the remainder
13 of this Act, and the application of the provisions to any
14 person or circumstance, shall not be affected by the hold-
15 ing.

○