

116TH CONGRESS
1ST SESSION

H. R. 5464

To amend the Congressional Accountability Act of 1995 to require Members of Congress to reimburse the Treasury for amounts paid as settlements and awards under such Act in all cases of employment discrimination acts committed personally by Members, to require the General Counsel of the Office of Congressional Workplace Rights to conduct an investigation of all workplace discrimination claims filed by covered employees under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2019

Ms. SPEIER (for herself, Mr. BYRNE, Ms. UNDERWOOD, Mr. FITZPATRICK, and Ms. KUSTER of New Hampshire) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Congressional Accountability Act of 1995 to require Members of Congress to reimburse the Treasury for amounts paid as settlements and awards under such Act in all cases of employment discrimination acts committed personally by Members, to require the General Counsel of the Office of Congressional Workplace Rights to conduct an investigation of all workplace discrimination claims filed by covered employees under such Act, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Congressional Ac-
3 countability Act Enhancement Act”.

4 **SEC. 2. REQUIRING MEMBERS OF CONGRESS TO REIM-**
5 **BURSE TREASURY FOR AMOUNTS PAID AS**
6 **SETTLEMENTS AND AWARDS UNDER CON-**
7 **GRESSIONAL ACCOUNTABILITY ACT OF 1995**
8 **IN ALL CASES OF EMPLOYMENT DISCRIMINA-**
9 **TION ACTS BY MEMBERS.**

10 (a) **REQUIRING REIMBURSEMENT.**—Clause (i) of sec-
11 tion 415(d)(1)(C) of the Congressional Accountability Act
12 of 1995 (2 U.S.C. 1415(d)(1)(C)), as amended by section
13 111(a) of the Congressional Accountability Act of 1995
14 Reform Act (Public Law 115–397; 132 Stat. 5306) is
15 amended to read as follows:

16 “(i) a violation of section 201(a) or
17 section 206(a); or”.

18 (b) **CONFORMING AMENDMENT RELATING TO NOTI-**
19 **FICATION OF POSSIBILITY OF REIMBURSEMENT.**—Clause
20 (i) of section 402(b)(2)(B) of the Congressional Account-
21 ability Act of 1995 (2 U.S.C. 1402(b)(2)(B)), as amended
22 by section 102(a) of the Congressional Accountability Act
23 of 1995 Reform Act (Public Law 115–397; 132 Stat.
24 5301), is amended to read as follows:

25 “(i) a violation of section 201(a) or
26 section 206(a); or”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply with respect to claims under the
 3 Congressional Accountability Act of 1995 which are made
 4 on or after the date of the enactment of this Act.

5 **SEC. 3. REQUIRING INVESTIGATION BY GENERAL COUNSEL**
 6 **OF OFFICE OF CONGRESSIONAL WORKPLACE**
 7 **RIGHTS OF ALL CLAIMS FILED BY COVERED**
 8 **EMPLOYEES UNDER CONGRESSIONAL AC-**
 9 **COUNTABILITY ACT OF 1995.**

10 (a) REQUIRING INVESTIGATION OF CLAIMS.—Section
 11 403 of the Congressional Accountability Act of 1995 (2
 12 U.S.C. 1403), as amended by section 103(a) of the Con-
 13 gressional Accountability Act of 1995 Reform Act (Public
 14 Law 115–397; 132 Stat. 5303), is amended to read as
 15 follows:

16 **“SEC. 403. INVESTIGATION OF CLAIMS.**

17 “(a) INVESTIGATION.—Upon the completion of the
 18 initial processing of a claim under section 402(b), the Gen-
 19 eral Counsel shall conduct an investigation of the claim
 20 involved.

21 “(b) SUBPOENAS.—To carry out an investigation
 22 under this section, the General Counsel may issue sub-
 23 poenas in the same manner, and subject to the same terms
 24 and conditions, as a hearing officer may issue subpoenas
 25 to carry out discovery with respect to a hearing under sec-

tion 405, except that the General Counsel may issue such a subpoena on the General Counsel’s own initiative, without regard to whether or not a party requests that the General Counsel issue the subpoena. It is the sense of Congress that the General Counsel should issue subpoenas under this subsection only to the extent that other methods of obtaining information with respect to an investigation are insufficient to enable the General Counsel to conclude the investigation within the deadline described in subsection (e).

“(c) REPORT; FINDINGS.—

“(1) REPORT.—Upon concluding an investigation of a claim under this section, the General Counsel shall transmit a written report on the results of the investigation to the covered employee and the employing office involved.

“(2) INCLUSION OF FINDINGS.—The General Counsel shall include in the report transmitted under paragraph (1) one of the following findings:

“(A) A finding that there is reasonable cause to believe that the employing office committed a violation of part A of title II, as alleged in the covered employee’s claim.

“(B) A finding that there is no reasonable cause to believe that the employing office com-

1 mitted a violation of part A of title II, as al-
2 leged in the covered employee’s claim.

3 “(C) A finding that the General Counsel
4 cannot determine whether or not there is rea-
5 sonable cause to believe that the employing of-
6 fice committed a violation of part A of title II,
7 as alleged in the covered employee’s claim.

8 “(3) NOTICE OF RIGHT TO FILE CIVIL AC-
9 TION.—If the General Counsel transmits a finding
10 under subparagraph (B) of paragraph (2), the Gen-
11 eral Counsel shall also transmit to the covered em-
12 ployee a written notice that the employee has the
13 right to file a civil action with respect to the claim
14 under section 408.

15 “(4) TRANSMISSION TO EXECUTIVE DIREC-
16 TOR.—If the General Counsel transmits a finding
17 under subparagraph (A) or subparagraph (C) of
18 paragraph (2), the General Counsel shall also trans-
19 mit the report to the Executive Director.

20 “(5) TRANSMISSION OF REPORT ON INVESTIGA-
21 TION OF CERTAIN CLAIMS TO CONGRESSIONAL ETH-
22 ICS COMMITTEES.—In the case of a report trans-
23 mitted by the General Counsel under paragraph (1)
24 on the results of an investigation of a claim alleging

1 a violation described in section 415(d)(1)(A), the
2 General Counsel shall transmit the report to—

3 “(A) the Committee on Ethics of the
4 House of Representatives, in the case of a viola-
5 tion involving a Member of the House (includ-
6 ing a Delegate or Resident Commissioner to the
7 Congress); or

8 “(B) the Select Committee on Ethics of
9 the Senate, in the case of a violation involving
10 a Senator.

11 “(d) RECOMMENDATION OF MEDIATION.—At any
12 time during the investigation of a claim under this section,
13 the General Counsel may make a recommendation that the
14 covered employee and the employing office pursue medi-
15 ation under section 404 with respect to the claim.

16 “(e) DEADLINE FOR CONCLUDING INVESTIGATION.—
17 The General Counsel shall conclude the investigation of
18 a claim under this subsection, and transmit the report on
19 the results of the investigation, not later than 90 days
20 after the claim is filed under section 402, except that the
21 General Counsel may (upon notice to the parties to the
22 investigation) use an additional period of not to exceed
23 30 days to conclude the investigation.”.

1 (b) CONFORMING AMENDMENTS RELATING TO DE-
2 SCRIPTON OF PROCEDURES AVAILABLE FOR CONSIDER-
3 ATION OF ALLEGED VIOLATIONS.—

4 (1) IN GENERAL.—Section 401(a)(2) of such
5 Act (2 U.S.C. 1401(a)(2)), as amended by section
6 101(a) of the Congressional Accountability Act of
7 1995 Reform Act (Public Law 115–397; 132 Stat.
8 5298), is amended to read as follows:

9 “(2) an investigation of the claim, to be con-
10 ducted by the General Counsel as provided in section
11 403; and”.

12 (2) CONDITIONS FOR AVAILABILITY OF FORMAL
13 HEARING.—Section 401(a)(4) of such Act (2 U.S.C.
14 1401(a)(4)), as amended by section 101(a) of the
15 Congressional Accountability Act of 1995 Reform
16 Act (Public Law 115–397; 132 Stat. 5298), is
17 amended to read as follows:

18 “(4) a formal hearing as provided in section
19 405, subject to Board review as provided in section
20 406, and judicial review in the United States Court
21 of Appeals for the Federal Circuit as provided in
22 section 407, but only if, pursuant to an investigation
23 conducted by the General Counsel as provided in
24 section 403, the General Counsel finds either—

1 “(A) that there is reasonable cause to be-
 2 lieve that the employing office involved com-
 3 mitted a violation of part A of title II as alleged
 4 in the covered employee’s claim; or

5 “(B) that the General Counsel cannot de-
 6 termine whether or not there is reasonable
 7 cause to believe that the employing office com-
 8 mitted a violation of part A of title II as alleged
 9 in the covered employee’s claim.”.

10 (3) RIGHT OF EMPLOYEE TO FILE CIVIL AC-
 11 TION.—Section 401(b) of such Act (2 U.S.C.
 12 1401(b)), as amended by section 101(a) of the Con-
 13 gressional Accountability Act of 1995 Reform Act
 14 (Public Law 115–397; 132 Stat. 5298), is amended
 15 to read as follows:

16 “(b) RIGHT OF EMPLOYEE TO FILE CIVIL AC-
 17 TION.—

18 “(1) CIVIL ACTION.—A covered employee who
 19 has filed a timely claim as provided in section 402
 20 may, during the period described in paragraph (3),
 21 file a civil action in a District Court of the United
 22 States with respect to the violation alleged in the
 23 claim, as provided in section 408.

24 “(2) EFFECT OF FILING CIVIL ACTION.—Not-
 25 withstanding paragraph (2) or paragraph (4) of sub-

1 section (a), if the covered employee files such a civil
2 action—

3 “(A) the investigation of the claim by the
4 General Counsel as provided in section 403, or
5 any subsequent formal hearing as provided in
6 section 405, shall terminate upon the filing of
7 the action by the covered employee; and

8 “(B) the procedure for consideration of the
9 alleged violation shall not include any further
10 investigation of the claim by the General Coun-
11 sel as provided in section 403 or any subse-
12 quent formal hearing as provided in section
13 405.

14 “(3) PERIOD FOR FILING CIVIL ACTION.—The
15 period described in this paragraph with respect to a
16 claim is the 70-day period which begins on the date
17 the covered employee files the claim under section
18 402.

19 “(4) SPECIAL RULE FOR EMPLOYEES RECEIV-
20 ING FINDING OF NO REASONABLE CAUSE UNDER IN-
21 VESTIGATION BY GENERAL COUNSEL.—Notwith-
22 standing paragraph (3), if a covered employee re-
23 ceives a written notice from the General Counsel
24 under section 403(c)(3) that the employee has the
25 right to file a civil action with respect to the claim

1 in accordance with section 408, the covered employee
2 may file the civil action not later than 90 days after
3 receiving such written notice.”.

4 (4) SPECIAL RULES FOR LIBRARY OF CONGRESS
5 CLAIMANTS.—Section 401(d)(2) of such Act (2
6 U.S.C. 1401(d)(2)), as amended by section 101(a)
7 of the Congressional Accountability Act of 1995 Re-
8 form Act (Public Law 115–397; 132 Stat. 5298), is
9 amended by striking “at any time before the date
10 that is 10 days after a hearing officer submits the
11 report on the preliminary review of the claim under
12 section 403(c),” and inserting “at any time prior to
13 the expiration of the 10-day period which begins on
14 the date the General Counsel transmits the written
15 report on the results of the investigation of the claim
16 under section 403(c),”.

17 (c) CONFORMING AMENDMENTS RELATING TO
18 HEARINGS CONDUCTED AFTER INVESTIGATION.—

19 (1) AVAILABILITY OF HEARING CONDUCTED BY
20 OFFICE OF CONGRESSIONAL WORKPLACE RIGHTS.—
21 Section 405(a) of such Act (2 U.S.C. 1405(a)), as
22 amended by section 103(a) of the Congressional Ac-
23 countability Act of 1995 Reform Act (Public Law
24 115–397; 132 Stat. 5303), is amended to read as
25 follows:

1 “(a) REQUIREMENT FOR HEARINGS CONDUCTED BY
2 OFFICE.—

3 “(1) RESULT OF CERTAIN FINDINGS BY GEN-
4 ERAL COUNSEL.—

5 “(A) IN GENERAL.—If the General Coun-
6 sel transmits a written report on the investiga-
7 tion of a covered employee’s claim under section
8 403 which includes a finding described in sub-
9 paragraph (B), and if the covered employee
10 submits a request for a hearing to the Execu-
11 tive Director prior to the expiration of the 10-
12 day period which begins on the date the Gen-
13 eral Counsel transmits such a written report,
14 the Office shall conduct a hearing to consider
15 the claim and render a decision.

16 “(B) FINDINGS DESCRIBED.—A finding
17 described in this subparagraph is—

18 “(i) a finding under section
19 403(c)(2)(A) that there is reasonable cause
20 to believe that an employing office com-
21 mitted a violation of part A of title II, as
22 alleged in a claim filed by a covered em-
23 ployee; or

24 “(ii) a finding under section
25 403(c)(2)(C) that the General Counsel

1 cannot determine whether or not there is
2 reasonable cause to believe that the em-
3 ploying office committed a violation of part
4 A of title II, as alleged in the covered em-
5 ployee's claim.

6 “(2) EXCEPTION.—Paragraph (1) does not
7 apply with respect to a claim if the covered employee
8 files a civil action as provided in section 408 with re-
9 spect to the claim.”.

10 (2) DEADLINE FOR COMMENCEMENT OF HEAR-
11 ING.—Section 405(d)(2) of such Act (2 U.S.C.
12 1405(d)(2)), as amended by section 103(d) of the
13 Congressional Accountability Act of 1995 Reform
14 Act (Public Law 115–397; 132 Stat. 5304), is
15 amended by striking “no later than 90 days after
16 the Executive Director receives the covered employ-
17 ee's request for the hearing under subsection (a)”
18 and inserting “no later than 90 days after the Exec-
19 utive Director receives the General Counsel's report
20 on the investigation of the claim”.

21 (3) OTHER CONFORMING AMENDMENTS.—Sec-
22 tion 405(c) of such Act (2 U.S.C. 1405(c)), as
23 amended by section 103(d) of the Congressional Ac-
24 countability Act of 1995 Reform Act (Public Law
25 115–397; 132 Stat. 5304), is amended—

1 (A) in paragraph (1), by striking “the fil-
 2 ing of a request for a hearing under subsection
 3 (a)” and inserting “the transmission by the
 4 General Counsel of a report under subsection
 5 (a)(1)”; and

6 (B) by striking paragraph (3).

7 (d) CONFORMING AMENDMENT RELATING TO AVAIL-
 8 ABILITY OF MEDIATION DURING PROCESS.—Section
 9 404(a)(3) of such Act (2 U.S.C. 1403(a)(3)), as amended
 10 by section 104(a) of the Congressional Accountability Act
 11 of 1995 Reform Act (Public Law 115–397; 132 Stat.
 12 5305), is amended by striking “including a preliminary
 13 review of the claim under section 403” and inserting “in-
 14 cluding the investigation of the claim under section 403”.

15 (e) CLERICAL AMENDMENT.—The table of contents
 16 of such Act is amended by amending the item relating to
 17 section 403 to read as follows:

“Sec. 403. Investigation of claims.”.

○