

resources. In addition, DAVID PRYOR is considered one of the most influential advocates in Washington on behalf of older Americans. He also is a nationally recognized leader in the fight to save the Social Security system, to reform our nursing home industry, to bring down prescription drug prices, and to make government institutions preserve the essential dignity of the senior citizens in this country.

As a member of the Senate Finance Committee, DAVID PRYOR wrote the "Taxpayer Bill of Rights," which was the first piece of legislation in 40 years to guarantee the basic rights of individual taxpayer when they deal with the Internal Revenue Service.

DAVID PRYOR is held in high esteem by his colleagues in Congress, and in 1989, he became the first Arkansas Senator since Joe T. Robinson to occupy a position in the Senate leadership, which he held for 6 years until 1995. Few have created such a positive influence for Arkansas and our great Nation while remaining so dedicated to service. But most importantly, DAVID PRYOR considers it an honor to represent the people of Arkansas, and we consider it an honor to have had such a talented and compassionate individual to represent us and our State for these many years. The motto of his service, "Arkansas Comes First," is more than a slogan; it has and continues to be his way of life.

With the constant negativity and partisanship in the political climate of the 1990's, many politicians have fallen from grace in the eyes of their constituents and the Nation. However, I can honestly say that there is no one who is more respected for his leadership abilities and his kind, thoughtful nature in the State of Arkansas than Senator DAVID PRYOR. Senator PRYOR continues to transcend partisan political bickering to remain at all times a gentleman and a statesman, and one of the most admired persons to ever grace the halls of Congress. Further, I could not have asked for a more supportive, caring, and thoughtful member.

Again, may I add my full support for H.R. 3877, designating the David H. Pryor U.S. Post Office.

Mr. OWENS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCHUGH. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Ms. GREENE of Utah). The question is on the motion offered by the gentleman from New York [Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 3877, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the United States Post Office building located at 351 West Washington Street in Camden, Arkansas, as the 'David H. Pryor Post Office Building'."

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. MCHUGH. Madam Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks on H.R. 3877, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

#### PRESIDENTIAL AND EXECUTIVE OFFICE ACCOUNTABILITY ACT

Mr. HORN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3452) to make certain laws applicable to the Executive Office of the President, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3452

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

#### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Presidential and Executive Office Accountability Act".

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Extension of certain rights and protections to presidential offices.
- Sec. 3. Amendments to title 28, United States Code.
- Sec. 4. Financial officers within the Executive Office of the President.
- Sec. 5. Amendment to definition of "special government employee".
- Sec. 6. Applicability of future employment laws.
- Sec. 7. Repeal of section 320 of the Government Employee Rights Act of 1991.
- Sec. 8. Political affiliation.
- Sec. 9. Establishment of Inspector General for Executive Office of the President.

#### SEC. 2. EXTENSION OF CERTAIN RIGHTS AND PROTECTIONS TO PRESIDENTIAL OFFICES.

(a) IN GENERAL.—Title 3, United States Code, is amended by adding at the end the following:

#### "CHAPTER 5—EXTENSION OF CERTAIN RIGHTS AND PROTECTIONS TO PRESIDENTIAL OFFICES

##### "SUBCHAPTER I—GENERAL PROVISIONS

"Sec.

"401. Definitions.

"402. Application of laws.

##### "SUBCHAPTER II—EXTENSION OF RIGHTS AND PROTECTIONS

"PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

"411. Rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans with Disabilities Act of 1990.

"412. Rights and protections under the Family and Medical Leave Act of 1993.

"413. Rights and protections under the Fair Labor Standards Act of 1938.

"414. Rights and protections under the Employee Polygraph Protection Act of 1988.

"415. Rights and protections under the Worker Adjustment and Retraining Notification Act.

"416. Rights and protections relating to veterans' employment and reemployment.

"417. Prohibition of intimidation or reprisal.

"PART B—PUBLIC ACCESS PROVISIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

"420. Rights and protections under the Americans with Disabilities Act of 1990.

"PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

"425. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations.

"PART D—LABOR-MANAGEMENT RELATIONS

"430. Application of chapter 71 of title 5, relating to Federal service labor-management relations; procedures for remedy of violations.

"PART E—GENERAL

"435. Generally applicable remedies and limitations.

#### "SUBCHAPTER III—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

"451. Procedure for consideration of alleged violations.

"452. Counseling and mediation.

"453. Election of proceeding.

"454. Appropriate agencies.

"455. Effect of failure to issue regulations.

"456. Confidentiality.

"457. Definitions.

#### "SUBCHAPTER IV—WHITE HOUSE COMPLIANCE BOARD

"471. Establishment of White House Compliance Board.

"472. Personnel.

"473. Facilities.

#### "SUBCHAPTER V—EFFECTIVE DATE

"481. Effective date.

#### "Subchapter I—General Provisions

##### "SEC. 401. DEFINITIONS.

"Except as otherwise specifically provided in this chapter, as used in this chapter:

"(1) BOARD.—The term 'Board' means the Merit Systems Protection Board under chapter 12 of title 5.

"(2) COVERED EMPLOYEE.—The term 'covered employee' means any employee of an employing office.

"(3) EMPLOYEE.—The term 'employee' includes an applicant for employment and a former employee.

"(4) EMPLOYING OFFICE.—The term 'employing office' means—

"(A) each office, agency, or other component of the Executive Office of the President;

"(B) the Executive Residence at the White House; and

"(C) the official residence (temporary or otherwise) of the Vice President.

##### "SEC. 402. APPLICATION OF LAWS.

"The following laws shall apply, as prescribed by this chapter, to all employing offices (including employing offices within the meaning of section 411, to the extent prescribed therein):

"(1) The Fair Labor Standards Act of 1938.

"(2) Title VII of the Civil Rights Act of 1964.

"(3) The Americans with Disabilities Act of 1990.

"(4) The Age Discrimination in Employment Act of 1967.

"(5) The Family and Medical Leave Act of 1993.

"(6) The Occupational Safety and Health Act of 1970.

"(7) Chapter 71 (relating to Federal service labor-management relations) of title 5.

"(8) The Employee Polygraph Protection Act of 1988.

"(9) The Worker Adjustment and Retraining Notification Act.

"(10) The Rehabilitation Act of 1973.

"(11) Chapter 43 (relating to veterans' employment and reemployment) of title 38.

**"Subchapter II—Extension of Rights and Protections**

**"PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION**

**"SEC. 411. RIGHTS AND PROTECTIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE REHABILITATION ACT OF 1973, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990.**

"(a) DISCRIMINATORY PRACTICES PROHIBITED.—All personnel actions affecting covered employees shall be made free from any discrimination based on—

"(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964;

"(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967; or

"(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 and sections 102 through 104 of the Americans with Disabilities Act of 1990.

"(b) REMEDY.—

"(1) CIVIL RIGHTS.—The remedy for a violation of subsection (a)(1) shall be—

"(A) such damages as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964; and

"(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes, or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes.

"(2) AGE DISCRIMINATION.—The remedy for a violation of subsection (a)(2) shall be—

"(A) such damages as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967; and

"(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act.

In addition, the waiver provisions of section 7(f) of such Act shall apply to covered employees.

"(3) DISABILITIES DISCRIMINATION.—The remedy for a violation of subsection (a)(3) shall be—

"(A) such damages as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 or section 107(a) of the Americans with Disabilities Act of 1990; and

"(B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes.

"(c) DEFINITIONS.—Except as otherwise specifically provided in this section, as used in this section:

"(1) COVERED EMPLOYEE.—The term 'covered employee' means any employee of a unit of the executive branch, including the Executive Office of the President, whether appointed by the President or by any other appointing authority in the executive branch, who is not otherwise entitled to bring an action under any of the statutes re-

ferred to in subsection (a), but does not include any individual—

"(A) whose appointment is made by and with the advice and consent of the Senate;

"(B) who is appointed to an advisory committee, as defined in section 3(2) of the Federal Advisory Committee Act; or

"(C) who is a member of the uniformed services.

"(2) EMPLOYING OFFICE.—The term 'employing office', with respect to a covered employee, means the office, agency, or other entity in which the covered employee is employed (or sought employment or was employed in the case of an applicant or former employee, respectively).

"(d) APPLICABILITY.—Subsections (a) through (c), and section 417 (to the extent that it relates to any matter under this section), shall apply with respect to violations occurring on or after the effective date of this chapter.

**"SEC. 412. RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.**

"(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PROTECTIONS PROVIDED.—

"(1) IN GENERAL.—The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 shall apply to covered employees.

"(2) DEFINITIONS.—For purposes of the application described in paragraph (1)—

"(A) the term 'employer' as used in the Family and Medical Leave Act of 1993 means any employing office; and

"(B) the term 'eligible employee' as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993.

**"SEC. 413. RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938.**

"(a) FAIR LABOR STANDARDS.—

"(1) IN GENERAL.—The rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 shall apply to covered employees.

"(2) INTERNS AND VOLUNTEERS.—For the purposes of this section, the term 'covered employee' does not include an intern or a volunteer as defined in regulations under subsection (c).

"(3) COMPENSATORY TIME.—Except as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—Except as provided in paragraph (3), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"(3) IRREGULAR WORK SCHEDULES.—The President shall issue regulations for covered employees whose work schedules directly depend on the schedule of the President or the Vice President that shall be comparable to the provisions in the Fair Labor Standards Act of 1938 that apply to employees who have irregular work schedules.

**"SEC. 414. RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988.**

"(a) POLYGRAPH PRACTICES PROHIBITED.—No employing office may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988. In addition, the waiver provisions of section 6(d) of such Act shall apply to covered employees.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under section 6(c)(1) of the Employee Polygraph Protection Act of 1988.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

**"SEC. 415. RIGHTS AND PROTECTIONS UNDER THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.**

"(a) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no employing office shall be closed or mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.

"(2) EXCEPTION.—

"(A) IN GENERAL.—In the event that a President (hereinafter in this paragraph referred to as the 'previous President') does not succeed himself in office as a result of the election of a new President—

"(i) no notice or waiting period shall be required under paragraph (1) with respect to the separation of any individual described in subparagraph (B), if such separation occurs pursuant to a closure or mass layoff ordered after the term of the new President commences; and

"(ii) if any individual is separated from service, or begins a period of leave under the Family and Medical Leave Act of 1993, before such term commences, nothing in this chapter shall require reinstatement or restoration to employment of the individual after such term commences.

"(B) DESCRIPTION OF INDIVIDUALS.—An individual described in this subparagraph is any covered employee serving pursuant to an appointment made during—

"(i) the term of office of the previous President; or

"(ii) any term, earlier than the term referred to in clause (i), during which such previous President served as President or Vice President.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as

would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a) of the Worker Adjustment and Retraining Notification Act.

“(c) REGULATIONS TO IMPLEMENT SECTION.—

“(1) IN GENERAL.—The President shall issue regulations to implement this section.

“(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

**“SEC. 416. RIGHTS AND PROTECTIONS RELATING TO VETERANS’ EMPLOYMENT AND REEMPLOYMENT.**

“(a) EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.—

“(1) IN GENERAL.—It shall be unlawful for an employing office to—

“(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, against an eligible employee;

“(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38; or

“(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38.

“(2) DEFINITION.—For purposes of this section, the term ‘eligible employee’ means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, whose service has not been terminated upon the occurrence of any of the events enumerated in section 4304 of such title.

“(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under paragraphs (1) and (2)(A) of section 4323(c) of title 38.

“(c) REGULATIONS TO IMPLEMENT SECTION.—

“(1) IN GENERAL.—The President shall issue regulations to implement this section.

“(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

**“SEC. 417. PROHIBITION OF INTIMIDATION OR REPRISAL.**

“(a) IN GENERAL.—It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this chapter, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this chapter.

“(b) REMEDY.—A violation of subsection (a) may be remedied by any legal remedy available to redress the practice opposed by the covered employee or other violation of law as to which the covered employee initiated proceedings, made a charge, or engaged in other conduct protected under subsection (a).

“(c) DEFINITIONS.—For purposes of applying this section with respect to any practice or other matter to which section 411 relates,

the terms ‘employing office’ and ‘covered employee’ shall each be considered to have the meaning given to it by such section.

**“PART B—PUBLIC ACCESS PROVISIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990**

**“SEC. 420. RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990.**

“(a) RIGHTS AND PROTECTIONS.—The rights and protections against discrimination in the provision of public services and accommodations established by sections 201, 202, and 204, and sections 302, 303, and 309, of the Americans with Disabilities Act of 1990 shall apply, to the extent that public services, programs, or activities are provided, with respect to the White House and its appurtenant grounds and gardens, the Old Executive Office Building, the New Executive Office Buildings, and any other facility to the extent that offices are provided for employees of the Executive Office of the President.

“(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 203 or 308 of the Americans with Disabilities Act of 1990, as the case may be, except that, with respect to any claim of employment discrimination, the exclusive remedy shall be under section 411 of this title. A remedy under the preceding sentence shall be enforced in accordance with applicable provisions of such section 203 or 308, as the case may be.

“(c) DEFINITION.—For purposes of the application under this section of the Americans with Disabilities Act of 1990, the term ‘public entity’ as used in such Act, means, to the extent that public services, programs, or activities are provided, the White House and its appurtenant grounds and gardens, the Old Executive Office Building, the New Executive Office Buildings, and any other facility to the extent that offices are provided for employees of the Executive Office of the President.

**“PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

**“SEC. 425. RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970; PROCEDURES FOR REMEDY OF VIOLATIONS.**

“(a) OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS.—

“(1) IN GENERAL.—Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970.

“(2) DEFINITIONS.—For purposes of the application under this section of the Occupational Safety and Health Act of 1970—

“(A) the term ‘employer’ as used in such Act means an employing office; and

“(B) the term ‘employee’ as used in such Act means a covered employee.

“(b) REMEDY.—The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970.

“(c) PROCEDURES.—

“(1) REQUESTS FOR INSPECTIONS.—Upon written request of any employing office or covered employee, the Secretary of Labor shall have the authority to inspect and investigate places of employment under the jurisdiction of employing offices in accordance with subsections (a), (d), (e), and (f) of section 8 of the Occupational Safety and Health Act of 1970.

“(2) CITATIONS, NOTICES, AND NOTIFICATIONS.—The Secretary of Labor shall have the authority, in accordance with sections 9 and 10 of the Occupational Safety and Health Act of 1970, to issue—

“(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a); or

“(B) a notification to any employing office that the Secretary of Labor believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

“(3) HEARINGS AND REVIEW.—If after issuing a citation or notification, the Secretary of Labor determines that a violation has not been corrected—

“(A) the citation and notification shall be deemed a final order (within the meaning of section 10(b) of the Occupational Safety and Health Act of 1970) if the employer fails to notify the Secretary of Labor within 15 days (excluding Saturdays, Sundays, and Federal holidays) after receipt of the notice that he intends to contest the citation or notification; or

“(B) opportunity for a hearing before the Occupational Safety and Health Review Commission shall be afforded in accordance with section 10(c) of the Occupational Safety and Health Act of 1970, if the employer gives timely notice to the Secretary that he intends to contest the citation or notification.

“(4) VARIANCE PROCEDURES.—An employing office may request from the Secretary of Labor an order granting a variance from a standard made applicable by this section, in accordance with sections 6(b)(6) and 6(d) of the Occupational Safety and Health Act of 1970.

“(5) JUDICIAL REVIEW.—Any person or employing office aggrieved by a final decision of the Occupational Safety and Health Review Commission under paragraph (3) or the Secretary of Labor under paragraph (4) may file a petition for review with the appropriate United States circuit court of appeals under section 1296 of title 28.

“(6) COMPLIANCE DATE.—If new appropriated funds are necessary to correct a violation of subsection (a) for which a citation is issued, or to comply with an order requiring correction of such a violation, correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review.

“(d) REGULATIONS TO IMPLEMENT SECTION.—

“(1) IN GENERAL.—The President shall issue regulations to implement this section.

“(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

“(3) EMPLOYING OFFICE RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.

**“PART D—LABOR-MANAGEMENT RELATIONS**

**“SEC. 430. APPLICATION OF CHAPTER 71 OF TITLE 5, RELATING TO FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.**

“(a) LABOR-MANAGEMENT RIGHTS.—Subject to subsection (d), chapter 71 of title 5 shall apply to employing offices and to covered

employees and representatives of those employees, except that covered employees shall not have a right to reinstatement pursuant to section 7118(a)(7)(C) or 7123 of title 5.

"(b) DEFINITION.—For purposes of the application under this section of chapter 71 of title 5, the term 'agency' as used in such chapter means an employing office.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The Federal Labor Relations Authority shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—Except as provided in subsection (d), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Authority to implement the statutory provisions referred to in subsection (a), except—

"(A) to the extent the Authority may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

"(B) as the Authority deems necessary to avoid a conflict of interest or appearance of a conflict of interest.

"(d) SPECIFIC REGULATIONS REGARDING APPLICATIONS TO CERTAIN EMPLOYING OFFICES.—

"(1) REGULATIONS REQUIRED.—The Authority shall issue regulations on the manner and the extent to which the requirements and exemptions of chapter 71 of title 5 should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5 and of this chapter, and shall be the same as the substantive regulations issued by the Federal Labor Relations Authority under such chapter, except—

"(A) to the extent the Authority may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

"(B) that the Authority shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Authority determines that such exclusion is required because of—

"(i) a conflict of interest or appearance of a conflict of interest; or

"(ii) the President's or Vice President's constitutional responsibilities.

"(2) OFFICES REFERRED TO.—The offices referred to in paragraph (1) include—

"(A) the White House Office;

"(B) the Executive Residence at the White House;

"(C) the Office of the Vice President;

"(D) the Office of Policy Development;

"(E) the Council of Economic Advisors;

"(F) the National Security Council;

"(G) the Office of Management and Budget;

"(H) the Office of National Drug Control Policy; and

"(I) the Office of the Inspector General of the Executive Office of the President.

#### "PART E—GENERAL

#### "SEC. 435. GENERALLY APPLICABLE REMEDIES AND LIMITATIONS.

"(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under this chapter, or a qualified person with a disability, with respect to any claim under section 420, is a prevailing party in any proceeding under section 453(1), the administrative agency may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

"(b) INTEREST.—In any proceeding under section 453(1), the same interest to com-

pensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964.

"(c) CIVIL PENALTIES AND PUNITIVE DAMAGES.—Except as otherwise provided in this chapter, no civil penalty or punitive damages may be awarded with respect to any claim under this chapter.

"(d) EXCLUSIVE PROCEDURE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this chapter except as provided in this chapter and in sections 1296 and 1346(g) and chapter 179 of title 28.

"(2) VETERANS.—A covered employee under section 416 may also utilize any provisions of chapter 43 of title 38 that are applicable to that employee.

"(e) SCOPE OF REMEDY.—Only a covered employee who has undertaken and completed the procedures described in section 452 may be granted a remedy under part A of this subchapter.

"(f) CONSTRUCTION.—

"(1) DEFINITIONS AND EXEMPTIONS.—Except where inconsistent with definitions and exemptions provided in this chapter, the definitions and exemptions in the laws made applicable by this chapter shall apply under this chapter.

"(2) SIZE LIMITATIONS.—Notwithstanding paragraph (1), provisions in the laws made applicable under this chapter (other than paragraphs (2) and (3) of section 2(a) of the Worker Adjustment and Retraining Notification Act) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this chapter.

"(g) DEFINITIONS RELATING TO SECTION 411.—For purposes of applying this section with respect to any practice or other matter to which section 411 relates, the terms 'employing office' and 'covered employee' shall each be considered to have the meaning given to it by such section.

#### "Subchapter III—Administrative and Judicial Dispute-Resolution Procedures

#### "SEC. 451. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

"The procedure for consideration of alleged violations of part A of subchapter II consists of—

"(1) counseling and mediation as provided in section 452; and

"(2) election, as provided in section 453, of either—

"(A) an administrative proceeding as provided in section 453(1) and judicial review as provided in section 1296 of title 28; or

"(B) a civil action in a district court of the United States as provided in section 1346(g) of title 28.

#### "SEC. 452. COUNSELING AND MEDIATION.

"(a) IN GENERAL.—The President shall by regulation establish procedures substantially similar to those under sections 402 and 403 of the Congressional Accountability Act of 1995 for the counseling and mediation of alleged violations of a law made applicable under part A of subchapter II.

"(b) EXHAUSTION REQUIREMENT.—A covered employee who has not exhausted counseling and mediation under subsection (a) shall be ineligible to make any election under section 453 or otherwise pursue any further form of relief under this subchapter.

#### "SEC. 453. ELECTION OF PROCEEDING.

"Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but no sooner than 30 days after receipt of such notification, such covered employee may either—

"(1) file a complaint with the appropriate administrative agency, as determined under section 454; or

"(2) file a civil action under section 1346(g) of title 28."

#### "SEC. 454. APPROPRIATE AGENCIES.

"(a) IN GENERAL.—Except as provided in subsection (b), the appropriate agency under this section with respect to an alleged violation of part A of subchapter II shall be the Board.

"(b) EXCEPTIONS.—

"(1) DISCRIMINATION.—For purposes of any action arising under section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the appropriate agency shall be the Equal Employment Opportunity Commission, and the complaint in any such action shall be processed under the same administrative procedures as any such complaint filed by any other Federal employee.

"(2) MIXED CASES.—However, in the case of any covered employee (within the meaning of section 411(c)(1)) who has been affected by an action which an employee of an executive agency may appeal to the Board and who alleges that a basis for the action was discrimination prohibited by section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the initial appropriate agency shall be the Board, and such matter shall thereafter be processed in accordance with section 7702 (a)-(d) (disregarding paragraph (2) of such subsection (a)) and (f) of title 5.

"(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law (including any provision of law referenced in paragraph (1) or (2)), judicial review of any administrative decision under this subsection shall be by appeal to the appropriate circuit court of appeals under section 1296 of title 28.

#### "SEC. 455. EFFECT OF FAILURE TO ISSUE REGULATIONS.

"In any proceeding under section 453(1), if the President has not issued a regulation on a matter for which this chapter requires a regulation to be issued, the administrative agency shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

#### "SEC. 456. CONFIDENTIALITY.

"(a) COUNSELING.—All counseling under section 452 shall be strictly confidential, except that, with the consent of the covered employee, the employing office may be notified.

"(b) MEDIATION.—All mediation under section 452 shall be strictly confidential.

#### "SEC. 457. DEFINITIONS.

"For purposes of applying this subchapter, the terms 'employing office' and 'covered employee' shall each, to the extent that section 411 is involved, be considered to have the meaning given to it by such section.

#### "SUBCHAPTER IV—WHITE HOUSE COMPLIANCE BOARD

#### "§ 471. Establishment of White House Compliance Board

"(a) ESTABLISHMENT.—There is established, as an independent establishment within the executive branch of the Federal Government, the White House Compliance Board.

"(b) APPOINTMENT.—The Board shall consist of 5 individuals appointed by the President. Appointments of the first 5 members of the Board shall be completed not later than 90 days after the effective date of this section.

"(c) BOARD QUALIFICATIONS.—

"(1) SPECIFIC QUALIFICATIONS.—Selection and appointment of members of the Board

shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Board. Members of the Board shall have training or experience in the application of the rights, protections, and remedies under 1 or more of the laws made applicable under this chapter.

"(2) **DISQUALIFICATION FOR APPOINTMENTS.**—No member of the Board appointed under subsection (b) may hold or may have held a position in the executive branch of the Federal Government within 4 years of the date of appointment.

"(3) **VACANCIES.**—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

"(d) **TERM OF OFFICE.**—

"(1) **IN GENERAL.**—Except as provided in paragraph (2), membership on the Board shall be for 5 years. A member of the Board who is appointed to a term of office of more than 3 years shall only be eligible for appointment for a single term of office.

"(2) **FIRST APPOINTMENTS.**—Of the members first appointed to the Board—

"(A) 1 shall have a term of office of 3 years;

"(B) 2 shall have a term of office of 4 years; and

"(C) 2 shall have a term of office of 5 years; as designated at the time of appointment by the President.

"(e) **REMOVAL.**—

"(1) **AUTHORITY.**—Any member of the Board may be removed from office by the President, but only for—

"(A) disability that substantially prevents the member from carrying out the duties of the member;

"(B) incompetence;

"(C) neglect of duty;

"(D) malfeasance, including a felony or conduct involving moral turpitude; or

"(E) holding an office or employment that disqualifies the individual from service as a member of the Board under subsection (c)(2).

"(2) **STATEMENT OF REASONS FOR REMOVAL.**—In removing a member of the Board, the President shall state in writing to the member of the Board being removed the specific reasons for the removal.

"(f) **COMPENSATION.**—

"(1) **PER DIEM.**—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.

"(2) **TRAVEL EXPENSES.**—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) **FINANCIAL DISCLOSURE REPORTS.**—Members of the Board shall file the financial disclosure reports required under title I of the Ethics in Government Act of 1978.

#### "§ 472. Personnel

"(a) **EXECUTIVE DIRECTOR.**—

"(1) **APPOINTMENT AND REMOVAL.**—

"(A) **IN GENERAL.**—There shall be an Executive Director of the Board.

"(B) **APPOINTMENT.**—The initial Executive Director shall be appointed by the President, and shall serve for a 6-month term. After the end of the term of the initial Executive Director, the Board shall appoint and may remove the Executive Director.

"(C) **QUALIFICATIONS.**—The Executive Director shall be an individual with training or

expertise in the application of laws referred to in section 402. Selection and appointment of the Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Executive Director.

"(D) **DISQUALIFICATION.**—The disqualification specified in section 471(c)(2) shall apply to the appointment of the Executive Director.

"(2) **COMPENSATION.**—The Board (or the President in the case of the initial Executive Director) may fix the compensation of the Executive Director. The rate of pay for the Executive Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.

"(3) **DUTIES.**—The Executive Director shall serve as the chief operating officer of the Board.

"(b) **OTHER STAFF.**—The Executive Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, as may be essential to enable the Board to perform its duties.

"(c) **DETAILED PERSONNEL.**—Upon request of the Executive Director, the head of any Federal agency shall detail any of the personnel of that agency, including members or personnel of the General Accounting Office Personnel Appeals Board, to the Board to assist the Board in carrying out its duties. Such detail may be on a reimbursable or nonreimbursable basis. Such detail shall be without interruption or loss of civil service status or privilege.

"(d) **CONSULTANTS.**—In carrying out the functions of the Board, the Executive Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants.

#### "§ 473. Facilities

"The Equal Employment Opportunity Commission shall supply such office facilities, office supplies, support services, and related expenses as may be necessary to enable the Board to carry out the functions of the Board.

#### "Subchapter V—Effective Date

##### "SEC. 481. EFFECTIVE DATE.

"This chapter shall take effect 1 year after the date of the enactment of the Presidential and Executive Office Accountability Act."

(b) **REGULATIONS.**—Appropriate measures shall be taken to ensure that any regulations needed to implement chapter 5 of title 3, United States Code, as amended by this section, shall be in effect by the effective date of such chapter.

(c) **TECHNICAL AMENDMENT.**—The table of chapters for title 3, United States Code, is amended by adding at the end the following:

"5. Extension of Certain Rights and Protections to Presidential Offices ..... 401".

#### SEC. 3. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) **CIRCUIT COURT JURISDICTION.**—(1) Chapter 83 of title 28, United States Code, is amended by adding at the end the following:

##### "§ 1296. Review of certain agency actions

"(a) **JURISDICTION.**—Subject to the provisions of chapter 179, the courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction over a petition for review of a final decision under chapter 5 of title 3 of—

"(1) an appropriate agency (as determined under section 454 of title 3);

"(2) the Federal Labor Relations Authority under chapter 71 of title 5, notwithstanding section 7123 of such title; or

"(3) the Secretary of Labor or the Occupational Safety and Health Review Commis-

sion, made under part C of subchapter II of chapter 5 of title 3.

"(b) **FILING OF PETITION.**—Any petition for review under this section must be filed within 30 days after the date the petitioner receives notice of the final decision.

"(c) **VENUE.**—The venue of a proceeding under this section is in the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit."

(2) The table of sections for chapter 158 of title 28, United States Code, is amended by adding at the end the following:

"1296. Review of certain agency actions."

(b) **DISTRICT COURT ACTIONS.**—

(1) **JURISDICTION.**—Section 1346 of title 28, United States Code, is amended by adding at the end the following:

"(g) Subject to the provisions of chapter 179, the district courts of the United States shall have exclusive jurisdiction over any civil action commenced under section 453(2) of title 3, by a covered employee under chapter 5 of such title."

(2) **VENUE.**—(A) Chapter 37 of title 28, United States Code, relating to venue, is amended by adding at the end the following:

##### "§ 1413. Venue of cases under chapter 5 of title 3

"Notwithstanding the preceding provisions of this chapter, a civil action under section 1346(g) may be brought in the United States district court for the district in which the employee is employed or in the United States district court for the District of Columbia."

(B) The table of sections for chapter 37 of title 28, United States Code, relating to venue, is amended by adding at the end the following:

"1413. Venue of cases under chapter 5 of title 3."

(3) **JURY TRIALS.**—(A) Section 2402 of title 28, United States Code, (relating to jury trials) is amended by striking "Any action" and inserting "Subject to chapter 179 of this title, any action".

(c) **PROCEDURE.**—

(1) **IN GENERAL.**—Part VI of title 28, United States Code, is amended by adding at the end the following new chapter:

#### "CHAPTER 179—JUDICIAL REVIEW OF CERTAIN ACTIONS BY PRESIDENTIAL OFFICES

"Sec.

"3901. Civil actions.

"3902. Judicial review of regulations.

"3904. Effect of failure to issue regulations.

"3905. Expedited review of certain appeals.

"3905. Attorney's fees and interest.

"3906. Payments.

"3907. Other judicial review prohibited.

"3908. Definitions.

##### "§ 3901. Civil actions

(a) **PARTIES.**—In an action under section 1346(g) of this title, the defendant shall be the employing office alleged to have committed the violation involved.

"(b) **JURY TRIAL.**—In an action described in subsection (a), any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by chapter 5 of title 3. In any case in which a violation of section 411 of title 3 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 411(b)(1) or 411(b)(3) of title 3.

##### "§ 3902. Judicial review of regulations

"In any proceeding under section 1296 or 1346(g) of this title in which the application of a regulation issued under chapter 5 of title 3 is at issue, the court may review the validity of the regulation in accordance with the

provisions of subparagraphs (A) through (D) of section 706(2) of title 5. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this chapter is not subject to judicial review.

#### **“§ 3903. Effect of failure to issue regulations**

“In any proceeding under section 1296 or 1346(g) of this title, if the President has not issued a regulation on a matter for which chapter 5 of title 3 requires a regulation to be issued, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

#### **“§ 3904. Expedited review of certain appeals**

“(a) IN GENERAL.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of chapter 5 of title 3.

“(b) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

#### **“§ 3905. Attorney's fees and interest**

“(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under chapter 5 of title 3, or a qualified person with a disability, with respect to any claim under section 420 of title 3, is a prevailing party in any proceeding under section 1296 or section 1346(g), the court may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

“(b) INTEREST.—In any proceeding under section 1296 or section 1346(g), the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964.

#### **“§ 3906. Payments**

“A judgment, award, or compromise settlement against the United States under this chapter (including any interest and costs) shall be paid—

“(1) under section 1304 of title 31, if it arises out of an action commenced in a district court of the United States (or any appeal therefrom); or

“(2) out of amounts otherwise appropriated or available to such office, if it arises out of an appeal from an administrative proceeding under chapter 5 of title 3.

#### **“§ 3907. Other judicial review prohibited**

“Except as expressly authorized by this chapter and chapter 5 of title 3, the compliance or noncompliance with the provisions of chapter 5 of title 3, and any action taken pursuant to chapter 5 of title 3, shall not be subject to judicial review.

#### **“§ 3908. Definitions.**

“For purposes of applying this chapter, the terms ‘employing office’ and ‘covered employee’ have the meanings given those terms in section 401 of title 3, except that the terms ‘employing office’ and ‘covered employee’ shall each, to the extent that section 411 of title 3 is involved, be considered to have the meaning given to it by such section.”

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of the Presi-

dential and Executive Office Accountability Act.

(e) CONFORMING AMENDMENTS.—(1) The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

**“179. Judicial Review of Certain Actions by Presidential Offices ..... 3901”.**

**SEC. 4. FINANCIAL OFFICERS WITHIN THE EXECUTIVE OFFICE OF THE PRESIDENT.**

(a) CHIEF FINANCIAL OFFICER.—Section 901 of title 31, United States Code, is amended by adding at the end the following:

“(c)(1) There shall be within the Executive Office of the President a Chief Financial Officer, who shall be appointed by the President from among individuals meeting the standards described in subsection (a)(3).

“(2) The Chief Financial Officer under this subsection shall have the same authority and shall perform the same functions as apply in the case of a Chief Financial Officer under section 902.

“(3) The Director of the Office of Management and Budget shall prescribe any regulations which may be necessary to ensure that, for purposes of implementing paragraph (2), the Executive Office of the President shall, to the extent practicable and appropriate, be treated (including for purposes of financial statements under section 3515) in the same way as an agency described in subsection (b).”

(b) DEPUTY CHIEF FINANCIAL OFFICER.—Section 903 of title 31, United States Code, is amended by adding at the end the following:

“(c)(1) There shall be within the Executive Office of the President a Deputy Chief Financial Officer, who, notwithstanding any provision of subsection (b), shall be appointed by the President from among individuals meeting the standards described in section 901(a)(3).

“(2) The Deputy Chief Financial Officer under this subsection shall have the same authority and shall perform the same functions as apply in the case of the Deputy Chief Financial Officer of an agency described in subsection (b).”

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 31, UNITED STATES CODE.—Section 503(a) of title 31, United States Code, is amended—

(A) in paragraph (7) by striking “respectively,” and inserting “respectively (excluding any officer appointed under section 901(c) or 903(c)).”; and

(B) in paragraph (8) by striking “Officers,” and inserting “Officers (excluding any officer appointed under section 901(c) or 903(c)).”

(2) DESIGNATION OF AGENCY HEAD.—The President shall designate an employee of the Executive Office of the President (other than the Chief Financial Officer or Deputy Chief Financial Officer appointed under the amendments made by subsections (a) and (b), respectively), who shall be deemed “the head of the agency” for purposes of carrying out section 902 of title 31, United States Code, with respect to the Executive Office of the President.

**SEC. 5. AMENDMENT TO DEFINITION OF “SPECIAL GOVERNMENT EMPLOYEE”.**

(a) AMENDMENT TO SECTION 202(a).—Subsection (a) of section 202 of title 18, United States Code, is amended to read as follows:

“(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term ‘special Government employee’ shall mean—

“(1) an officer or employee as defined in subsection (c) who is retained, designated, appointed, or employed in the legislative or executive branch of the United States Government, in any independent agency of the United States, or in the government of the District of Columbia, and who, at the time of

retention, designation, appointment or employment, is expected to perform temporary duties on a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty five consecutive days;

“(2) a part-time United States commissioner;

“(3) a part-time United States magistrate;

“(4) an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28;

“(5) a person serving as a part-time local representative of a Member of Congress in the Member's home district or State; and

“(6) a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, who is not otherwise an officer or employee as defined in subsection (c) who is—

“(A) on active duty solely for training (notwithstanding section 2105(d) of title 5);

“(B) serving voluntarily for not to exceed one hundred and thirty days during any period of three hundred and sixty five consecutive days; or

“(C) serving involuntarily.”

(b) AMENDMENT TO SECTION 202(c).—Subsection (c) of 202 of title 18, United States Code, is amended to read as follows:

“(c) The terms ‘officer’ and ‘employee’ in sections 203, 205, 207 through 209, and 218 of this title shall include—

“(1) an individual who is retained, designated, appointed or employed in the United States Government or in the government of the District of Columbia, to perform, with or without compensation and subject to the supervision of the President, the Vice President, a Member of Congress, a Federal judge or an officer or employee of the United States or of the government of the District of Columbia, a Federal or District of Columbia function under authority of law or an Executive act. As used in this section, a Federal or District of Columbia function shall include, but not be limited to—

“(A) supervising, managing, directing or overseeing a Federal or District of Columbia officer or employee in the performance of such officer's or employee's official duties;

“(B) providing regular advice, counsel, or recommendations to the President, the Vice President, a Member of Congress, or any Federal or District of Columbia officer or employee, or conducting meetings involving any of those individuals, as part of the Federal or District of Columbia government's internal deliberative process; or

“(C) obligating funds of the United States or the District of Columbia;

“(2) a Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving voluntarily in excess of one hundred and thirty days during any period of three hundred and sixty-five consecutive days; and

“(3) the President, the Vice President, a Member of Congress or a Federal judge only if specified in the section.”

(c) NEW SECTION 202(f).—Section 202 of title 18, United States Code, is amended by adding at the end the following:

“(f) The terms ‘officer or employee’ and ‘special Government employee’ as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces, nor shall they include an individual who is retained, designated or appointed without compensation specifically to act as a representative of a non-Federal (or non-District of Columbia) interest on an advisory committee established pursuant to the Federal Advisory Committee Act or any similarly established committee whose meetings are generally open to the public. The non-Federal interest to be represented



must be specifically set forth in the statute, charter, or Executive act establishing the committee."

**SEC. 6. APPLICABILITY OF FUTURE EMPLOYMENT LAWS.**

Each Federal law governing employment in the private sector, enacted later than 12 months after the date of the enactment of this Act, shall be deemed to apply with respect to "employing offices" and "covered employees" (within the meaning of section 401 of title 3, United States Code, as amended by this Act), unless such law specifically provides otherwise and expressly cites this section.

**SEC. 7. REPEAL OF SECTION 320 OF THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.**

(a) IN GENERAL.—Section 320 of the Government Employee Rights Act of 1991 is repealed.

(b) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

(c) SAVINGS PROVISION.—The repeal under this section shall not affect proceedings in which the complaint was filed before the effective date of this section, and orders shall be issued in such proceedings and appeals shall be taken therefrom as if this section had not been enacted.

**SEC. 8. POLITICAL AFFILIATION.**

It shall not be a violation of any provision of section 411 of title 3, United States Code, as amended by this Act, to consider the party affiliation, or political compatibility with the employing office, of an employee who is a "covered employee" for purposes of such section 411 with respect to employment decisions.

**SEC. 9. ESTABLISHMENT OF INSPECTOR GENERAL FOR EXECUTIVE OFFICE OF THE PRESIDENT.**

(a) ESTABLISHMENT OF OFFICE.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by inserting "the President (with respect only to the Executive Office of the President)," after "means"; and

(2) in paragraph (2) by inserting "the Executive Office of the President," after "means".

(b) APPOINTMENT OF INSPECTOR GENERAL.—Not later than 120 days after the effective date of this section, the President shall nominate an individual as the Inspector General of the Executive Office of the President pursuant to the amendments made by subsection (a).

(c) SPECIAL PROVISIONS CONCERNING INSPECTOR GENERAL OF THE EXECUTIVE OFFICE OF THE PRESIDENT.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating the second section 8G (regarding a rule of construction) as section 8I; and

(2) by inserting after the first section 8G (regarding requirements for Federal entities and designated Federal entities) the following:

**"SEC. 8H. SPECIAL PROVISIONS CONCERNING INSPECTOR GENERAL OF THE EXECUTIVE OFFICE OF THE PRESIDENT.**

"(a) AUTHORITY, DIRECTION, AND CONTROL OF PRESIDENT.—Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Executive Office of the President shall be under the authority, direction, and control of the President with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning—

"(1) ongoing criminal investigations or proceedings;

"(2) undercover operations;

"(3) the identity of confidential sources, including protected witnesses;

"(4) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions;

"(5) intelligence or counterintelligence matters; or

"(6) other matters the disclosure of which would constitute a serious threat to the national security, or would cause significant impairment to the national interests (including interests in foreign trade negotiations), of the United States.

"(b) PROHIBITING ACTIVITIES OF INSPECTOR GENERAL.—With respect to information described in subsection (a), the President may prohibit the Inspector General of the Executive Office of the President from carrying out or completing any audit or investigation, or issuing any subpoena, after the Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the President determines that—

"(1) the disclosure of that information would interfere with the core functions of the constitutional responsibilities of the President; and

"(2) the prohibition is necessary to prevent the disclosure of that information.

"(c) NOTICE.—

"(1) NOTICE TO INSPECTOR GENERAL.—If the President makes a determination referred to in subsection (b)(1) or (2), the President shall within 30 days notify the Inspector General in writing stating the reasons for that determination.

"(2) NOTICE TO CONGRESS.—Within 30 days after receiving a notice under paragraph (1), the Inspector General shall transmit a copy of the notice to each of the Chairman and the ranking minority party member of the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and other appropriate committees or subcommittees of the Congress.

"(d) SEMI-ANNUAL REPORTS.—

"(1) INFORMATION TO BE INCLUDED.—The Inspector General of the Executive Office of the President shall include in each semi-annual report to the President under section 5, at a minimum—

"(A) a list of the title or subject of each inspection, investigation, or audit conducted during the reporting period;

"(B) a statement of whether corrective action has been completed on each significant recommendation described in previous semi-annual reports, and, in a case where corrective action has been completed, a description of such corrective action;

"(C) a certification that the Inspector General has had full and direct access to all information relevant to the performance of functions of the Inspector General;

"(D) a description of all cases occurring during the reporting period in which the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to a determination of the President under subsection (b); and

"(E) such recommendations as the Inspector General considers appropriate concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Executive Office of the President, and to detect and eliminate fraud, waste, and abuse in such programs and operations.

"(2) TRANSMISSION TO CONGRESS.—Within 30 days after receiving a semi-annual report under section 5 from the Inspector General of the Executive Office of the President, the President shall transmit the report to each of the Chairman and the ranking minority party member of the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Gov-

ernmental Affairs of the Senate with any comments the President considers appropriate."

(d) EFFECTIVE DATE.—This section shall take effect on January 21, 1997.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN] and the gentlewoman from New York [Mrs. MALONEY] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

Mr. HORN. Madam Speaker, I yield myself such time as I may consume.

In the *Federalist Papers*, No. 57, James Madison wrote that an effective control against oppressive measures from the Federal Government on the people is the Government leaders, "Can make no law which will not have its full operation on themselves and their friends, as well as the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together." So said Madison.

H.R. 3452 embodies this thinking of James Madison. The civil rights, labor and employment laws that H.R. 3452 will apply to the Executive Office of the President are the same laws that the 104th Congress applied to itself during its very first day in session in January 1995. That legislation was the Congressional Accountability Act. These are the same laws that Congress and the President have in the past applied to the American people.

H.R. 3452 improves accountability. It includes provisions to ensure that the White House is financially and otherwise accountable to the American people by establishing an inspector general and a chief financial officer for the Executive Office of the President. The bill also amends the definition of a "special Government employee."

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This is a good-government measure which ensures that unofficial advisers are accountable to the American people and that the Government decision-making is free from the taint of conflicts of interest.

The focus of the definition of a special Government employee in the bill is on regular, unpaid, informal advisors to the President. However, the definition would also cover close regular advisors who were performing functions similar to those of a special Government employee. Senator COATS of Indiana has introduced a similar bill in the other body, S. 2000, the White House Accountability Act, which I understand the Senate is to consider this week.

It is the hallmark of good government that those who govern should be subject to the same laws they impose on those who are governed. Otherwise, those who govern may be tempted to impose onerous measures on the population. The executive branch of the Federal Government should not be exempt from the laws it administers any

more than Congress should be exempt from the laws it passes. That gap is what we remedied almost 2 years ago.

Again, the first piece of legislation we passed in the 104th Congress was the Congressional Accountability Act, through which Congress subjected itself to the same laws which apply to the American people. The bill before the House completes the process of holding the executive and legislative branches of the Federal Government to the same standards that they combined impose on others.

Madam Speaker, I yield 7 minutes to the distinguished gentleman from Florida [Mr. MICA]. As the principal author, he has provided active leadership in ensuring that the Federal Government lives by the same laws it applies to the private sector.

Mr. MICA. Madam Speaker, I thank the gentleman from California for yielding me time. I want to also recognize the gentleman's outstanding leadership and hard work on this piece of legislation. He, as chairman of the House Subcommittee on Government Management, Information, and Technology, and his able staff have worked diligently to craft, working with the minority, a bill which I think the House can be very proud of.

I would also like to take this opportunity to thank the gentleman from Pennsylvania, Chairman CLINGER, of the Committee on Government Reform and Oversight, the gentleman from Pennsylvania, Chairman GOODLING, of the Committee on Economic and Educational Opportunities, the gentleman from Illinois, Chairman HYDE, of the Committee on Judiciary, and the distinguished gentleman from Connecticut, Mr. SHAYS, and the gentleman from New Hampshire, Mr. BASS, for their leadership on this measure. Each of them has in fact made invaluable contributions to this legislation.

I also want to take just a moment and pay particular thanks and commendation to the gentlewoman from New York [Mrs. MALONEY] for her hard work and her leadership as the ranking member. I know the gentlewoman has a few problems with the bill, but I think they can be worked out. Without her leadership, the bill would not be on the floor today.

Mr. Speaker, I introduced this bill because, like many Americans, I have really become concerned about the White House, which in fact even the casual observer today would find the White House lacks accountability and operates without responsibilities to laws that apply to the rest of us.

One of the things we did and I did as a member of the new majority was to make this Congress live under the same laws as everyone else. This legislation in fact extends that same requirement to our highest office in the land, and should do so.

This bill addresses three major areas of concern. The first concern is that the Executive Office of the President is not subject to the same employment

laws that cover business, private business and the Congress.

Second, it would create a chief financial officer and also an inspector general to improve financial management and responsibility at the White House.

Third, it would clarify the definition, as you have heard from the gentleman from California, of special government employees with respect to presidential advisors.

This Congress again took historic steps in its first 100 days when it made itself live under the same laws that have been imposed under the private sector. Now it is time to really just close that loop and put the White House under these same laws. It is time to end what I have called "the last plantation," where wages and working conditions of many of the employees remain unaffected by Federal employment laws.

When this is done, I think the political components of Government and the White House will be required to wrestle with the same knotty problems that private citizens and private business face every day. The President and the White House will face compliance with the same laws and edicts imposed on all Americans.

Let me turn now, Mr. Speaker, to the second objective of this bill, the improvement of the management of the financial operations at the White House. Through the hearing process during the past year we have observed that the White House financial operations in fact lack both accountability and structure. The Travelgate hearings highlighted some of the shortcomings in White House financial responsibility.

Mr. Speaker, had there been a chief financial officer at the White House back then, he or she who was in charge would have reviewed the White House travel financial management practices and said "Wow." They would have said, "Wait, let's look at this." The chief financial officer would have in fact detected any discrepancies and could have helped the Travel Office managers correct them.

The Congress failed the American people by not having adequate financial structures or safeguards in place. In fact, we must take part of that responsibility as overseers. White House employees were used, unfortunately, as scapegoats, because we failed to have reliable management or financial accountability in our Chief Executive Office of the land.

Likewise, Madam Speaker, hearings conducted by our Subcommittee on National Security, International Affairs, and Criminal Justice also reveal very serious deficiencies in oversight and accountability at the White House Communications Agency. I sit on that subcommittee. I was stunned when we heard the egregious examples of waste and abuse, all a result of almost a total lack of controls in this agency, which is under the operational control, in fact, of the Executive Office of the President.

The accounting controls were so poor that the agency recently had \$14.5 million in unobligated obligations. It has been paying for equipment and services.

Madam Speaker, now, let me restate this. The accounting controls were so poor that the agency recently had \$14.5 million in unvalidated obligations. It has been paying for equipment and services that are, in fact, no longer necessary. It has been paying for items that were never delivered to the agency, and it has occasionally paid for the same items twice.

An audit by the Department of Defense's IG also found that the agency paid only 17 percent of its bills on time, causing the taxpayers to pay for interest and penalties on the remaining 83 percent.

We are fortunate, in fact, Madam Speaker, that the White House does not have a mortgage, because of the way it operates. It would have, in fact, been repossessed by now.

Again, Madam Speaker, these are problems that we believe a chief financial officer would have identified and corrected.

The addition of an inspector general at the White House will also help eliminate waste, fraud, and abuse in the Executive Office of the President. I think, in fact, we can all agree that strong financial management at the White House is imperative. This bill will achieve that goal.

The third and final objective is to require more public accountability in so-called volunteers who advise the President in the Executive Office of the President. Once again, Madam Speaker, the Travelgate hearings have revealed why Congress must take these actions.

The activities only, if we use Harry Thompson as exhibit A, will reveal that this Clinton operative, an unpaid volunteer, had office accommodations, roamed the halls of the White House, participated in meetings with employees of the Executive Office and, in fact, with the President, and, in fact, attempted to influence policy in some places with a potential personal conflict of interest. In short, he acted as if he was a White House employee. Under this bill, he would have been subject to conflict-of-interest laws.

Madam Speaker, the Presidential and Executive Office Accountability Act is a good bill. It will bring the Executive Office of the President under the same employment laws and civil rights laws that Congress and the private sector must live under.

Mrs. MALONEY. Madam Speaker, I yield myself such time as I may consume.

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Madam Speaker, the basic principle behind the Presidential and Executive Office Accountability Act is that the Federal Government should be subject to the same



laws and regulations as the private sector.

Congress has already passed the Congressional Accountability Act. There is no reason why the executive branch should be exempt from laws which already apply to Congress and which were applied to the private sector long ago. It brings more accountability in two major areas, employment laws and financial management, to the White House.

H.R. 3452 would apply to the Executive Office of the President 11 civil rights, labor, and workplace laws which already apply to Congress and the private sector. OSHA, the Americans with Disabilities Act, the Family and Medical Leave Act, the Civil Rights Act of 1964, these are only some of the landmark laws that would be covered under this bill.

This bill would also establish remedies and procedures similar to those in the private sector for aggrieved employees. While the bill is far from perfect, the majority has worked with us to improve it, incorporating a number of amendments from the minority.

This bill also requires the appointment of a chief financial officer for the Executive Office of the President and makes certain changes to the definition of a "Special Government Employee."

At our subcommittee markup of this legislation, the minority proposed a number of amendments to this bill which were adopted, and I thank the gentleman from California [Mr. HORN] and the majority for accepting them. These amendments protect the White House volunteer program, allow the President to consider political compatibility when hiring, and change the definition of "Special Government Employee" to include a functional test.

To meet that definition, one must work less than 130 days and be retained, designated, appointed, or employed in the Federal Government to perform a Federal function. This definition is supported by ethics experts from both sides of the aisle.

I hope that my serious concerns, which, incidentally, are shared by the Office of Legal Counsel of the Justice Department, about the amendment which mandates creating an inspector general for the White House, will be addressed in the other body.

This amendment would grant an inspector general within the White House broad and unprecedented powers to audit and review any function, with limited oversight by the President and with regular reporting to the Congress.

It is hard to avoid the conclusion that this is a partisan effort to politicize a bill that has otherwise won large support from Democrats and Republicans as well as the administration.

This amendment may be unconstitutional. The Office of Legal Counsel at the Justice Department has concluded that it violates the separation of powers doctrine. For the first time in American history, it would establish

an office within the White House that is statutorily required to report to Congress on a regular basis.

Madam Speaker, I will include for the RECORD a copy of the Office of Legal Counsel's letter.

Admittedly, the Congressional Research Service has concluded that the IG proposed by the amendment is constitutional, but, where there is a fundamental difference of views on such critical point, we should debate these views before we pass something in haste.

Second, an inspector general in the White House is unnecessary. For 220 years Congress has exercised its oversight over the President through hearings, investigations, and, more recently, the General Accounting Office's audits.

Furthermore, this bill already creates a chief financial officer for the Executive Office of the President that provides additional accountability.

Third, this provision violates the guiding principle that the President should be subject to the same laws as the Congress. We do not set up Government oversight outposts inside of corporations, and the idea behind this law is to impose these same labor laws as exist in the private sector and in Congress, not stronger and more intrusive ones.

The Senate has no inspector general at all. The House has one, but it is limited to financial audits of non-legislative offices and reports only to the leadership.

□ 1430

Fourth, the new majority has been very vocal in this session on the need to streamline Government. There have been proposals to eliminate the Commerce, Education, and Energy Departments, but here the new majority wants to create a new level of bureaucracy in the Executive Office of the President, which has traditionally been a relatively small and flexible organization.

Finally, there has not been 1 day of hearings on this issue in the 104th Congress. Putting an IG in the White House would produce a fundamental shift in relations between two separate branches of Government. Such a historic change certainly merits the scrutiny of hearings. Instead, it was offered on the last day of committee consideration of this bill.

Finally, Madam Speaker, the manager's amendment to this bill contains a provision adding a compliance board for the White House. This provision was not considered by our committee, and I have reservations concerning the additional bureaucracy that it might create.

Despite my reservations on these particular issues, I am convinced that this bill on the whole is a good one. Labor laws and civil rights laws have been devised in the White House. They should also be observed in the White House.

Madam Speaker, I urge my colleagues to support this bill, and I include for the RECORD the letter I referred to earlier.

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, July 24, 1996.

Hon. WILLIAM F. CLINGER, *Chairman,*  
*Committee on Government Reform and Oversight,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to express further views on H.R. 3452, the "Presidential and Executive Office Accountability Act." Previously we expressed our support for the Subcommittee's changes in the bill, which would limit the remedies to damages only.

We understand that an amendment, embodying the White House Inspector General Act of 1996, may be offered as an amendment to H.R. 3452 during the Government Reform Committee's markup of this legislation tomorrow. This amendment would interfere significantly with the discharge of the President's constitutional authority. Accordingly, the Department of Justice believes that the amendment would raise serious constitutional concerns and we strongly oppose the amendment on separation of powers grounds.

The Executive Office of the President is the designation of the President's closest advisors and aides. The amendment would add the Executive Office of the President to the list of Executive establishments subject to the Inspector General Act. An Inspector General is appointed for each covered establishment. Inspectors General, along with their staffs, are to be "independent and objective units" within their respective establishments and are "to conduct and supervise audits and investigations relating to the programs and operations of the establishment," "to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations," and "to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action." 5 U.S.C. app. 3, section 2.

This general charter is supplemented with a variety of specific duties. Inspectors General are to "provide policy direction for and \* \* \* conduct, supervise, and coordinate audits and investigations;" review legislative proposals and make recommendations for legislation relating to their respective establishments; recommend policies for and actually conduct and supervise activities to promote "economy and efficiency" in the establishment's administration; detect and prevent "fraud and abuse;" supervise and coordinate relationships between the establishment and other Federal agencies, State and local governmental agencies and non-government entities to promote efficiency and prevent fraud and abuse; and keep the heads of their respective establishments and the Congress fully and currently informed about battery within their jurisdiction and recommend corrective action. *Id.* at section 4(a). In addition to these duties, each Inspector General is required to submit to Congress semiannual reports extensively detailing the Inspector General's activities and findings from the preceding period. *Id.* at section 5.

To carry out these duties, Inspectors General are vested with wide-ranging authority. Among other things, they are allowed access to all records, documents, and other materials relating to their respective establishments that pertain to their duties, and are

authorized to make such investigations and reports as they deem "necessary or desirable." *Id.* at section 6(a).

In discharging their authority, Inspectors General are to report to and be under the general supervision of the heads of the establishments to which they are assigned. However, the head of an establishment may not prohibit or prevent the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation. *Id.* at section 3(a).

The amendment would depart somewhat from the existing framework under the Inspector General Act. The Inspector General in the Executive Office of the President would be subject to the authority, direction, and control of the President with respect to audits or investigations or the issuance of subpoenas that require access to information in any of six categories.<sup>1</sup> The President would be permitted to prohibit such an audit, investigation, or subpoena, but only after the Inspector General had decided to initiate such action and only if the President determined that "the disclosure of that information would interfere with the core functions of the constitutional responsibilities of the President" and that "the prohibition is necessary to prevent the disclosure of that information," *Id.* at section 3. If the President exercised this preventive power, he would be required, within 30 days, to submit in writing the reasons for the determinations regarding interference with constitutional responsibilities and the possibility of disclosure to the Inspector General. The Inspector General, in turn, would be required to transmit a copy of the President's submission to specified congressional committees. In addition, the Inspector General would be required to include a description of the episode in the public semiannual report.

These provisions would raise serious concerns about intrusion on the President's constitutional responsibilities. The Constitution assigns a variety of powers exclusively to the President. Examples include the powers to nominate Federal officers, grant reprieves and pardons, act as commander in chief, and receive ambassadors and other public ministers. See U.S. Const. art. II. Congress may not intrude upon the President's exercise of these exclusive powers. See, e.g., *Public Citizen v. United States Department of Justice*, 491 U.S. 440 (1988) (Kennedy, J., concurring); *Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam); *United States v. Klein*, 80 U.S. (13 Wall.) 128 (1872); *Ex Parte Garland*, 71 U.S. (4 Wall.) 333 (1866). Yet the amendment threatens just such an intrusion.

Even as to those exclusive powers encompassed within one of the six categories where the President may stop an audit, investigation, or subpoena, the bill would intrude upon the executive function. The Inspector General would have authority to investigate, audit, and issue subpoenas in these areas unless the President prevented the Inspector General from exercising the authority. The President could act only after the Inspector General decided to investigate, audit, or issue a subpoena, and even then, the President would have to make written findings and submit those findings to the Inspector General who would transmit them to Congress. In these findings, the President would

have to determine that "disclosure" of the information would "interfere with the core functions of the constitutional responsibilities of the President." But where the President is exercising, or has exercised, exclusive constitutional authority, Congress is wholly without authority to impose such requirements on the President or the President's advisors.

Furthermore, it is far from clear that all investigations, audits, or subpoenas concerning the exercise of exclusive constitutional powers would even fall within any of the six categories as to which the President would have preventive authority. For example, unless the deliberations of the President and his advisors regarding whom to nominate for a Federal office are "policy matters," the President would be without statutory authority to prohibit the Inspector General from performing investigations and audits of the exercise of that power or from reporting to Congress on these matters. Another example is the pardon power. Even if the grant of a reprieve or pardon is a "criminal . . . proceeding[.]" this category applies only to "ongoing" proceedings. Thus, the bill would subject the President's deliberations on pardons that already have been granted to investigation and audit, and ultimately disclosure. The Constitution prohibits Congress from doing this.

With regard to those presidential powers that are not exclusive—powers in those spheres where Congress possesses authority to legislate—the doctrine of separation of powers still limits Congress's ability to adopt legislation that infringes on the President's constitutional role. In this area, a bill's validity depends on "the extent to which the bill prevents the Executive Branch from performing its constitutionally assigned functions." *Nixon v. Administrator of Gen. Servs.*, 433 U.S. 425, 443 (1977); see *Morrison v. Olson*, 487 U.S. 654 (1988); *CFTC v. Schor*, 478 U.S. 833 (1986). "Only where the potential for disruption is present must we then determine whether that impact is justified by an overriding need to promote objectives within the constitutional authority of Congress." *Administrator of Gen. Servs.*, 425 U.S. at 443.

Here, where the bill would invade powers exclusively committed to the President, it is unnecessary also to identify all of the ways in which the bill could invalidly intrude on the President's powers that are not exclusive. Rather, we note only that the amendment would create a strong potential for extensive interference with the ability of the President to perform all of his constitutional functions. At the least, the necessity for the President's constant vigilance about possible intrusions on his exclusive powers would impede the President's discharge of his non-exclusive constitutional powers. As we have recently observed, "the Constitution's very structure suggests the importance of maintaining the 'hallmarks of executive administration essential to effective action.'" The Constitutional Separation of Powers between the President and Congress at 12 (May 7, 1996) (quoting *Myers v. United States*, 272 U.S. 52, 134 (1926)). Application of the Inspector General Act to the Executive Office of the President would seriously undermine this constitutional structure and this should be strongly resisted.

Thank you for the opportunity to present our views on H.R. 3452. The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

(For ANDREW FOIS,  
Assistant Attorney General).  
ANN M. HARKINS.

Madam Speaker, I reserve the balance of my time.

Mr. HORN. Madam Speaker, I yield myself 30 seconds.

I just want to say to my dear colleague, who has been immensely helpful this year in getting much legislation out of our subcommittee, the role of the inspector general in the House might be somewhat limited, but I can recall that the inspector general reviewed all the travel accounts. I found the work he did immensely helpful in untangling financial filings between member offices, central services, so forth, what was done.

Having been an executive most of my life, I would certainly welcome that kind of staff support.

Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER], our distinguished chairman of the full Committee on Government Reform and Oversight.

Mr. CLINGER. Madam Speaker, I thank the gentleman for yielding me the time and commend him for bringing this legislation to the floor. I also want to commend the gentleman from Florida [Mr. MICA], the subcommittee chairman, who is the principal author of the legislation, and the gentleman from New York [Mrs. MALONEY]. They have all done yeoman work, I think, in getting this legislation out.

Frankly, I did not think we would be able to achieve this goal as rapidly and as expeditiously as we have. So I am pleased to rise in support of this measure, the Presidential and Executive Office Accountability Act.

Madam Speaker, this bill extends to the White House 11 civil rights, labor, and employment laws which are currently applicable to Congress and the private sector in an effort to improve accountability and oversight in the White House. The bill extends the rights and protections under these laws to all covered employees, and permits administrative and judicial dispute-resolution procedures.

After many years on the Government Oversight Committee, the last 2 years as chairman, the one oversight tenet of which I am most supportive is that all public institutions should follow sound financial management practices, which includes the establishment of a chief financial officer organization, the preparation of annual financial statements, and the audit of those statements by an independent inspector general. Nearly every agency of the U.S. Government has implemented those practices, including the House of Representatives. The one Government organization which does not have sound management practices, but obviously needs it the most, is the Executive Office of the President.

I cannot think of a single White House scandal which could not have been avoided, or at least minimized, if the President could have called upon the help of a trusted inspector general. The secrecy of the health care task

<sup>1</sup>The categories are ongoing criminal investigations or proceedings, undercover operations, the identity of confidential sources, deliberations and the decisions on policy matters, intelligence or counterintelligence matters, or other matters the disclosure of which constitute a serious threat to national security or cause significant impairment to the national interest. See section 3 (adding section 8F(a) to 5 U.S.C. app. 3).

force, the waste and fraud at the White House Communications Agency, the political firings of the Travel Office workers, the abuse of private FBI files, the proliferation of the White House access passes to political friends and lobbyists, and the random and selective use of drug tests, could have all been avoided if a proper management structure was in place. We have accepted the concept of protecting workers' rights, of mandating financial statements, and establishing an inspector general at every other agency in the Government. It is time that the lead agency, the Office of the President, accept these reforms as well.

Now, to some who argue that this bill might interfere with the constitutional responsibilities of the President, let me assure you that every safeguard has been included to protect the ability of the President to perform his responsibilities. Using the statute creating an inspector general at the Central Intelligence Agency as a model, this legislation would allow the President to select his own inspector general and limit the scope of any investigation. In any regard, both the financial management and inspector general reforms included in this bill go only to the administrative functions of the Executive Office. Policymaking functions are not covered and, specifically, the inspector general has no authority to conduct any oversight into the policymaking responsibilities of the President or his staff.

Madam Speaker, I understand how in an election season, this bill could be easily misconstrued. I encourage my colleagues, however, to understand the sound reforms included in this legislation. Its provisions do not become effective until after the next Presidential election and its requirements are applicable to both Democrat and Republican office holders. I can think of no reason why, on policy grounds, this legislation should not receive the full endorsement of the House of Representatives.

Mr. HORN. Madam Speaker, I yield 5 minutes to the gentleman from New Hampshire [Mr. BASS] who is the author of the inspector general provision.

Mr. BASS. Madam Speaker, I rise today in strong support of H.R. 3452. This bill applies 11 civil rights employment and labor statutes to the White House. H.R. 3452 is a commonsense bill that mirrors the Congressional Accountability Act, which has been discussed before by previous speakers.

I also support H.R. 3452 because it includes my bill, the White House Inspector General Act, which I know my friend from New York has talked about in some detail in her discussion, which I introduced with the gentleman from Pennsylvania, Chairman CLINGER, and the gentleman from California, Mr. HORN.

My bill establishes an office of inspector general in the Executive Office of the President to serve as the principal watchdog of White House finan-

cial management procedures and fiscal resources. This provision not only provides the President with an essential tool for rooting out waste, fraud and abuse, but it also complements H.R. 3452's provision applying the Chief Financial Officer Act to the White House.

I would also like at this moment to thank the chairman of the committee, Congressman CLINGER, who has been a staunch supporter of this concept now for many years. As many of my colleagues know, the Inspector General Act of 1978 established inspectors general to protect the integrity of Federal programs and resources. IG's are appointed without regard to political affiliation and solely on the basis of a strong background in accounting, auditing, financial management or investigations.

They are provided with the authority and independence to perform audits and investigations in order to combat waste, fraud and abuse, and indeed the act has worked: 61 Federal entities today have IG's, including all 14 Cabinet departments. In 1994 IG investigations and audits led to over 14,000 successful criminal and civil prosecutions and returned \$1.9 billion in investigative recoveries to the U.S. Treasury resulting in efficiency recommendations that would save a total of \$24 billion.

My bill provides the White House IG the basic powers that all IG's are granted under the Inspector General Act of 1978, but it also includes special provisions that protect the constitutional prerogatives and operational effectiveness of the Presidency.

The first exemption ensures that the inspector general will not interfere in areas relating to policy, intelligence, national security interests or other sensitive matters. It will focus solely on fiscal financial management and abuses of power.

The second broad exemption ensures that the IG does not hinder the President in carrying out his constitutional responsibilities. The President would have broad and sweeping authority to prohibit the IG from, and I quote, interfering with the core functions of the constitutional responsibilities of the President.

Some have raised legitimate questions about this provision violating the separation of powers doctrine. The Justice Department, as was mentioned by my colleague from New York, raised concerns about the intrusion on the President's constitutional responsibilities. As she also mentioned, the CRS, Congressional Research Service, American Law Division, concluded, however, that the legislation should withstand a constitutional challenge due to the broad exemptions that I just explained.

Some have also objected to the provisions because they feel that it is a partisan attack on the White House. However, since the bill, as Chairman CLINGER mentioned, will not take effect until next year, it would impact either a Clinton administration or a Dole administration in an identical

fashion. Despite what some might think, this is surely not a partisan issue.

This legislation is intended to institute a strong, effective and independent inspector general in the White House that balances the interests of both the President in carrying out his constitutional responsibilities and the Congress in conducting effective oversight of the executive branch and ensuring accountability.

In conclusion, Madam Speaker, inspectors general have a solid track record in rooting out waste, fraud and abuse. Establishing a White House IG will provide further Presidents, both Republican and Democrat, a useful tool in identifying and eliminating financial mismanagement and abuse in the White House.

I urge my colleagues to support passage of this bill.

Mrs. MALONEY. Madam Speaker, I yield myself such time as I may consume.

I would like to add to the RECORD an amendment that I offered at the subcommittee as a substitute to the Bass amendment, which would put forward in the White House the exact same IG that we have in the House of Representatives, in this Congress.

That amendment was defeated. It is true that my colleague on the committee pointed out that the House has an IG, but it is limited to financial audits of nonlegislative offices and reports only to the leadership. The Bass IG would go well beyond that, providing for program audits of all presidential activities and with reporting to Congress.

So I merely was trying to have the same oversight in both offices in the amendment that I put forward. I would like to put my amendment in the RECORD as a clarifying point, and also a comparison that I did on the Bass amendment and House rule VI for the Office of the Inspector General.

The amendment referred to previously is as follows:

Substitute amendment offered by Mrs. MALONEY for the amendment offered by Mr. BASS: At the end of the bill add the following new section:

**SEC. . ESTABLISHMENT OF INSPECTOR GENERAL FOR EXECUTIVE OFFICE OF THE PRESIDENT.**

(a) ESTABLISHMENT OF OFFICE.—There is established an Office of Inspector General in the Executive Office of the President

(b) INSPECTOR GENERAL.—The head of the Office shall be the Inspector General of the Executive Office of the President, who shall be appointed by the President.

(c) RESPONSIBILITIES.—Subject to the direction and control of the President, the Inspector General shall be responsible only for—

(1) conducting periodic audits of the financial and administration functions of the Executive Office of the President;

(2) informing officials who are the subject of an audit of the results of that audit and suggesting appropriate curative actions;

(3) notifying the President in the case of any financial irregularity discovered in the course of carrying out responsibilities under this section;

(4) submitting to the President a report of each audit conducted under this section; and

(5) reporting to the President information involving possible violations by any official or other employee of any law applicable to the performance of official duties or the discharge of official responsibilities that may require referral to appropriate Federal or State authorities.

(d) ANNUAL REPORT.—The Inspector General of the Executive Office of the President shall annually submit a report to the President and the Congress regarding the activities of the Inspector General under this section.

Mrs. MALONEY. Madam Speaker, I reserve the balance of my time.

Mr. HORN. Madam Speaker, how much time do we have left on this side?

The SPEAKER pro tempore (Ms. GREENE of Utah). The gentleman from California [Mr. HORN] has 1½ minutes remaining, and the gentlewoman from New York [Mrs. MALONEY] has 12 minutes remaining.

Mr. HORN. Madam Speaker, I yield myself such time as I may consume.

Let me note in response to my colleague from New York the point that the chairman of the full committee made, that the inspector generalship in the White House has been tailored so it does not get into policy areas. It is exactly the relationship the inspector general of the House of Representatives has in terms of not getting into the Members' and policymaking functions here.

I would say that any Chief Executive of the United States, I would think, regardless of party, be they Republicans or Democrats, would want as two basic tools to help in his administration, or her administration, as it might be someday, the chief financial officer and the inspector general.

This legislation is long overdue. It would have saved several Presidents from scandals and, hopefully, it will save future Presidents from scandals. I urge my colleagues to support this measure, which has strong support, I know, by many in both parties. I hope we would have the votes because this is good public policy, and future Presidents will thank us, not condemn us, for passing it.

Mr. GOODLING. Madam Speaker, I rise in support of the Presidential and Executive Office Accountability Act. This act is a logical step following passage of the Congressional Accountability Act [CAA] in the earliest days of this Congress, in that it extends to the Executive Offices of the President the same employment protections which were made applicable to the Congress under the CAA. Passage of the CAA was an important step in showing that the Republican Congress would not proceed with "business as usual" and ended the status of Congress as the "last plantation."

As it turns out, the White House and its related offices are now, in fact, the "last plantation" and the Presidential and Executive Office Accountability Act will end this unacceptable, albeit little known, special status under the law. When we passed the CAA, the hope was that the Congress would learn the practical impact of these laws, therefore have a better understanding of how they really work, and thus be able to give better, more informed consideration to legislation in the employment area.

Hopefully, the Presidential and Executive Office Accountability Act will have the same impact on those who develop policy at the highest level in the executive branch.

With regard to those provisions relating to the Federal Service Labor-Management Relations Act, I simply want to note that these provisions are modeled after those in the CAA and should be interpreted in the same manner. Thus, the Federal Labor Relations Authority should engage in extensive rulemaking to determine whether any employees in the offices cited should be exempted because of any of the three reasons listed—a conflict of interest; and appearance of a conflict of interest; or constitutional responsibilities.

Mr. HORN. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MALONEY. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and pass the bill, H.R. 3452, as amended.

The question was taken.

Mr. HORN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1445

#### GENERAL LEAVE

Mr. HORN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3452, the bill just considered.

The SPEAKER pro tempore (Ms. GREENE of Utah). Is there objection to the request of the gentleman from California?

There was no objection.

#### WAR CRIMES DISCLOSURE ACT

Mr. HORN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1281) to amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II, as amended.

The Clerk read as follows:

H.R. 1281

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

#### SECTION 1. FINDINGS.

The Congress finds that—

(1) during the 104th Congress, Americans commemorated the 50th anniversary of the conclusion of the Second World War and the end of the Holocaust, one of the worst tragedies in history;

(2) it is important to learn all that we can about this terrible era so that we can pre-

vent such a catastrophe from ever happening again;

(3) the Cold War is over;

(4) numerous nations, including those of the former Soviet Union, are making public their files on Nazi war criminals as well as crimes committed by agencies of their own governments;

(5) on April 17, 1995, President Clinton signed Executive Order 12958, which will make available certain previously classified national security documents that are at least 25 years old;

(6) that Executive Order stated: "Our democratic principles require that the American people be informed of the activities of their Government.";

(7) this year marks the 30th anniversary of the passage of the Freedom of Information Act;

(8) agencies of the United States Government possess information on individuals who ordered, incited, assisted, or otherwise participated in Nazi war crimes;

(9) some agencies have routinely denied Freedom of Information Act requests for information about individuals who committed Nazi war crimes;

(10) United States Government agencies may have been in possession of material about the war crimes facilitated by Kurt Waldheim but did not make this information public;

(11) it is legitimate not to disclose certain material in Government files if the disclosure would seriously and demonstrably harm current or future national defense, intelligence, or foreign relations activities of the United States and if protection of these matters from disclosure outweighs the public interest of disclosure;

(12) the disclosure of most Nazi war crimes information should not harm United States national interests; and

(13) the Office of Special Investigations of the Department of Justice is engaged in vital work investigating and expelling Nazi war criminals from the United States, accordingly, the records created by these investigations and other actions should not be disclosed, and the investigations and other actions should not be interfered with.

#### SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN] and the gentlewoman from New York [Mrs. MALONEY] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

Mr. HORN. Madam Speaker, I yield myself such time as I may consume.

Over a half century has passed since the ending of the Second World War and the revelation of the horrors of the Holocaust. The War Crimes Disclosure Act authored by my colleague, the gentlewoman from New York [Mrs. MALONEY], is intended to make available under the Freedom of Information Act records in the possession of Federal departments and agencies about individuals believed to have participated in Nazi war crimes. I join the bill's author, Representative MALONEY, in advancing this important legislation.

We are acting just a day after the Jewish high holiday of Yom Kippur,