

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 169

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

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

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

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Notification and Fed-  
5       eral Employee Antidiscrimination and Retaliation Act of  
6       2001”.

7       **SEC. 2. FINDINGS.**

8       The Congress finds that—

1           (1) good science requires a tolerance of oppos-  
2           ing viewpoints;

3           (2) Federal agencies cannot be run effectively if  
4           they practice or tolerate discrimination;

5           (3) the Committee on Science of the House of  
6           Representatives has heard testimony from individ-  
7           uals, including representatives of the National Asso-  
8           ciation for the Advancement of Colored People and  
9           the National Whistleblower Center, that point to  
10          chronic problems of discrimination and retaliation  
11          against Federal employees at the Environmental  
12          Protection Agency;

13          (4) in August 2000, a jury found that the Envi-  
14          ronmental Protection Agency had discriminated  
15          against a senior social scientist, and awarded that  
16          scientist \$600,000;

17          (5) in October 2000, an Occupational Safety  
18          and Health Administration investigation found that  
19          the Environmental Protection Agency had retaliated  
20          against a senior scientist for disagreeing with that  
21          agency on a matter of science and for helping Con-  
22          gress to carry out its oversight responsibilities;

23          (6) notifying Federal employees of their rights  
24          under discrimination and whistleblower statutes  
25          should increase agency compliance with the law;

1           (7) requiring annual reports to Congress on the  
2           number and severity of discrimination and whistle-  
3           blower cases brought against each Federal agency  
4           should enable Congress to improve its oversight over  
5           agencies' compliance with the law; and

6           (8) penalizing Federal agencies by requiring  
7           them to pay for any discrimination or whistleblower  
8           judgment, award, or settlement should improve  
9           agency accountability with respect to whistleblower  
10          and discrimination laws.

11 **SEC. 3. REIMBURSEMENT REQUIREMENT.**

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

21           (1) any provision of law cited in subsection (c);

22          or

23           (2) any other provision of law which prohibits  
24          any form of discrimination, as identified under regu-  
25          lations prescribed under section 6.

1 (b) REQUIREMENT.—An amount equal to the amount  
2 of each payment described in subsection (a) shall be reim-  
3 bursed to the fund described in section 1304 of title 31,  
4 United States Code, out of any appropriation, fund, or  
5 other account available for operating expenses of the Fed-  
6 eral agency to which the discriminatory conduct involved  
7 is attributable, as determined under section 6.

8 (c) SCOPE.—The provisions of law cited in this sub-  
9 section are section 322(a) of the Clean Air Act (42 U.S.C.  
10 7622(a)), section 110(a) of the Comprehensive Environ-  
11 mental Response, Compensation, and Liability Act (42  
12 U.S.C. 9610(a)), section 507(a) of the Federal Water Pol-  
13 lution Control Act (33 U.S.C. 1367(a)), section 1450(i)(1)  
14 of the Safe Drinking Water Act (42 U.S.C. 300j–9(i)(1)),  
15 section 7001(a) of the Solid Waste Disposal Act (42  
16 U.S.C. 6971(a)), and section 23(a) of the Toxic Sub-  
17 stances Control Act (15 U.S.C. 2622(a)).

18 **SEC. 4. NOTIFICATION REQUIREMENT.**

19 (a) IN GENERAL.—Written notification of the rights  
20 and protections available to Federal employees, former  
21 Federal employees, and applicants for Federal employ-  
22 ment (as the case may be) in connection with the respec-  
23 tive provisions of law covered by paragraphs (1) and (2)  
24 of section 3(a) shall be provided to such employees, former  
25 employees, and applicants—

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

3           (2) if to the extent that no such notification  
4           would otherwise be required, in such time, form, and  
5           manner as shall under section 6 be required in order  
6           to carry out the purposes of this section.

7           (b) POSTING ON THE INTERNET.—Any written noti-  
8           fication under this section shall include, but not be limited  
9           to, the posting of the information required under para-  
10          graph (1) or (2) (as applicable) of subsection (a) on the  
11          Internet site of the Federal agency involved.

12          **SEC. 5. REPORTING REQUIREMENT.**

13          Each Federal agency shall submit to the Congress  
14          and the Attorney General an annual report which shall  
15          include, with respect to the prior calendar year—

16                 (1) the number of cases arising under each of  
17                 the respective provisions of law covered by para-  
18                 graphs (1) and (2) of section 3(a) in which discrimi-  
19                 nation on the part of such agency was alleged;

20                 (2) the status or disposition of cases described  
21                 in paragraph (1);

22                 (3) the amount of money required to be reim-  
23                 bursed by such agency under section 3 in connection  
24                 with each of those cases, if any; and

1           (4) the number of employees disciplined for dis-  
2           crimination, retaliation, harassment, or any other in-  
3           fraction of any provision of law referred to in para-  
4           graph (1).

5 **SEC. 6. REGULATIONS.**

6           Any regulations necessary to carry out this Act shall  
7           be prescribed by the President or his designee.

8 **SEC. 7. CLARIFICATION OF REMEDIES.**

9           Consistent with Federal law, nothing in this Act shall  
10          prevent any Federal employee, former Federal employee,  
11          or applicant for Federal employment from exercising any  
12          right otherwise available under the United States Code.

13 **SEC. 8. DEFINITIONS.**

14          For purposes of this Act—

15               (1) the term “Federal agency” means an Exec-  
16               utive agency, as defined by section 105 of title 5,  
17               United States Code;

18               (2) the term “Federal employee” means an in-  
19               dividual employed in or under a Federal agency;

20               (3) the term “former Federal employee” means  
21               an individual formerly employed in or under a Fed-  
22               eral agency; and

1           (4) the term “applicant for Federal employ-  
2           ment” means an individual applying for employment  
3           in or under a Federal agency.

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