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107TH CONGRESS
2^D SESSION**H. R. 169****[Report No. 107-143]**

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2001

Received; read twice and referred to the Committee on Governmental Affairs

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Reported by Mr. LIEBERMAN, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Notification and Federal Employee Antidiscrimination
 4 and Retaliation Act of ~~2001~~ 2002”.

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

Sec. 1. Short title; table of contents.

~~TITLE I—GENERAL PROVISIONS~~

~~Sec. 101. Findings.~~

~~Sec. 102. Definitions.~~

~~Sec. 103. Effective date.~~

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.

Sec. 102. Sense of Congress.

Sec. 103. Definitions.

Sec. 104. Effective date.

~~TITLE II—FEDERAL EMPLOYEE DISCRIMINATION AND
 RETALIATION~~

~~Sec. 201. Reimbursement requirement.~~

~~Sec. 202. Notification requirement.~~

~~Sec. 203. Reporting requirement.~~

~~Sec. 204. Rules and guidelines.~~

~~Sec. 205. Clarification of remedies.~~

~~Sec. 206. Study by General Accounting Office regarding exhaustion of adminis-
 trative remedies.~~

~~Sec. 206. Studies by General Accounting Office on exhaustion of remedies and
 certain Department of Justice costs.~~

~~TITLE III—EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT
 DATA DISCLOSURE~~

~~Sec. 301. Data to be posted by employing Federal agencies.~~

~~Sec. 302. Data to be posted by the Equal Employment Opportunity Commis-
 sion.~~

~~Sec. 303. Rules.~~

7 **TITLE I—GENERAL PROVISIONS**

8 **SEC. 101. FINDINGS.**

9 The Congress finds that—

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

3 (2) the Committee on the Judiciary of the
4 House of Representatives has heard testimony from
5 individuals, including representatives of the National
6 Association for the Advancement of Colored People
7 and the American Federation of Government Em-
8 ployees that point to chronic problems of discrimina-
9 tion and retaliation against Federal employees;

10 (3) in August 2000, a jury found that the Envi-
11 ronmental Protection Agency had discriminated
12 against a senior social scientist, and awarded that
13 scientist \$600,000;

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

20 (5) there have been several recent class action
21 suits based on discrimination brought against Fed-
22 eral agencies, including the Federal Bureau of Inves-
23 tigation, the Bureau of Alcohol, Tobacco, and Fire-
24 arms, the Drug Enforcement Administration, the

1 Immigration and Naturalization Service, and the
2 United States Marshals Service,

3 ~~(6) notifying Federal employees of their rights~~
4 ~~under discrimination and whistleblower laws should~~
5 ~~increase agency compliance with the law,~~

6 ~~(7) requiring annual reports to Congress on the~~
7 ~~number and severity of discrimination and whistle-~~
8 ~~blower cases brought against each Federal agency~~
9 ~~should enable Congress to improve its oversight over~~
10 ~~agencies' compliance with the law, and~~

11 ~~(8) penalizing Federal agencies by requiring~~
12 ~~them to pay for any discrimination or whistleblower~~
13 ~~judgments, awards, and settlements should improve~~
14 ~~agency accountability with respect to discrimination~~
15 ~~and whistleblower laws.~~

16 **SEC. 101. FINDINGS.**

17 *Congress finds that—*

18 *(1) Federal agencies cannot be run effectively if*
19 *those agencies practice or tolerate discrimination;*

20 *(2) Congress has heard testimony from individ-*
21 *uals, including representatives of the National Asso-*
22 *ciation for the Advancement of Colored People and*
23 *the American Federation of Government Employees,*
24 *that point to chronic problems of discrimination and*
25 *retaliation against Federal employees;*

1 (3) *in August 2000, a jury found that the Envi-*
2 *ronmental Protection Agency had discriminated*
3 *against a senior social scientist, and awarded that*
4 *scientist \$600,000;*

5 (4) *in October 2000, an Occupational Safety and*
6 *Health Administration investigation found that the*
7 *Environmental Protection Agency had retaliated*
8 *against a senior scientist for disagreeing with that*
9 *agency on a matter of science and for helping Con-*
10 *gress to carry out its oversight responsibilities;*

11 (5) *there have been several recent class action*
12 *suits based on discrimination brought against Federal*
13 *agencies, including the Federal Bureau of Investiga-*
14 *tion, the Bureau of Alcohol, Tobacco, and Firearms,*
15 *the Drug Enforcement Administration, the Immigra-*
16 *tion and Naturalization Service, the United States*
17 *Marshals Service, the Department of Agriculture, the*
18 *United States Information Agency, and the Social Se-*
19 *curity Administration;*

20 (6) *notifying Federal employees of their rights*
21 *under discrimination and whistleblower laws should*
22 *increase Federal agency compliance with the law;*

23 (7) *requiring annual reports to Congress on the*
24 *number and severity of discrimination and whistle-*
25 *blower cases brought against each Federal agency*

1 *should enable Congress to improve its oversight over*
2 *compliance by agencies with the law; and*

3 (8) *requiring Federal agencies to pay for any*
4 *discrimination or whistleblower judgment, award, or*
5 *settlement should improve agency accountability with*
6 *respect to discrimination and whistleblower laws.*

7 **SEC. 102. SENSE OF CONGRESS.**

8 *It is the sense of Congress that—*

9 (1) *Federal agencies should not retaliate for*
10 *court judgments or settlements relating to discrimina-*
11 *tion and whistleblower laws by targeting the claimant*
12 *or other employees with reductions in compensation,*
13 *benefits, or workforce to pay for such judgments or*
14 *settlements;*

15 (2) *the mission of the Federal agency and the*
16 *employment security of employees who are blameless*
17 *in a whistleblower incident should not be com-*
18 *promised;*

19 (3) *Federal agencies should not use a reduction*
20 *in force or furloughs as means of funding a reim-*
21 *bursement under this Act;*

22 (4)(A) *accountability in the enforcement of em-*
23 *ployee rights is not furthered by terminating—*

24 (i) *the employment of other employees; or*

1 (ii) the benefits to which those employees
2 are entitled through statute or contract; and

3 (B) this Act is not intended to authorize those
4 actions;

5 (5)(A) nor is accountability furthered if Federal
6 agencies react to the increased accountability under
7 this Act by taking unfounded disciplinary actions
8 against managers or by violating the procedural
9 rights of managers who have been accused of discrimi-
10 nation; and

11 (B) Federal agencies should ensure that man-
12 agers have adequate training in the management of
13 a diverse workforce and in dispute resolution and
14 other essential communication skills; and

15 (6)(A) Federal agencies are expected to reimburse
16 the General Fund of the Treasury within a reasonable
17 time under this Act; and

18 (B) a Federal agency, particularly if the amount
19 of reimbursement under this Act is large relative to
20 annual appropriations for that agency, may need to
21 extend reimbursement over several years in order to
22 avoid—

23 (i) reductions in force;

24 (ii) furloughs;

- 1 *(iii) other reductions in compensation or*
2 *benefits for the workforce of the agency; or*
3 *(iv) an adverse effect on the mission of the*
4 *agency.*

5 **SEC. ~~102.~~ 103. DEFINITIONS.**

6 For purposes of this Act—

- 7 (1) the term “applicant for Federal employ-
8 ment” means an individual applying for employment
9 in or under a Federal agency⁷;
- 10 (2) the term “basis of alleged discrimination”
11 shall have the meaning given such term under sec-
12 tion 303⁷;
- 13 (3) the term “Federal agency” means an Exec-
14 utive agency (as defined in section 105 of title 5,
15 United States Code), the United States Postal Serv-
16 ice, or the Postal Rate Commission⁷;
- 17 (4) the term “Federal employee” means an in-
18 dividual employed in or under a Federal agency⁷;
- 19 (5) the term “former Federal employee” means
20 an individual formerly employed in or under a Fed-
21 eral agency⁷; and
- 22 (6) the term “issue of alleged discrimination”
23 shall have the meaning given such term under sec-
24 tion 303.

1 **SEC. ~~103.~~ 104. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 take effect on the 1st day of the 1st fiscal year beginning
4 more than 180 days after the date of the enactment of
5 this Act.

6 **TITLE II—FEDERAL EMPLOYEE**
7 **DISCRIMINATION AND RETAL-**
8 **IATION**

9 **SEC. 201. REIMBURSEMENT REQUIREMENT.**

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

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

20 or

21 (2) any other provision of law which prohibits
22 any form of discrimination, as identified under rules
23 issued under section 204.

24 (b) **REQUIREMENT.**—An amount equal to the amount
25 of each payment described in subsection (a) shall be reim-
26 bursed to the fund described in section 1304 of title 31,

1 United States Code, out of any appropriation, fund, or
2 other account (excluding any part of such appropriation,
3 of such fund, or of such account available for the enforce-
4 ment of any Federal law) available for operating expenses
5 of the Federal agency to which the discriminatory conduct
6 involved is attributable as determined under section 204.

7 (c) SCOPE.—The provisions of law cited in this sub-
8 section are the following:

9 (1) Section 2302(b) of title 5 ~~of the~~, United
10 States Code, as applied to discriminatory conduct
11 described in paragraphs (1) and (8), or described in
12 paragraph (9) of such section as applied to discrimi-
13 natory conduct described in paragraphs (1) and (8),
14 of such section.

15 (2) The provisions of law specified in section
16 2302(d) of title 5 ~~of the~~, United States Code.

17 ~~(3) The Whistleblower Protection Act of 1986~~
18 ~~and the amendments made by such Act.~~

19 **SEC. 202. NOTIFICATION REQUIREMENT.**

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

1 of section 201(a) shall be provided to such employees,
2 former employees, and applicants—

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

5 (2) ~~if to the extent that~~ *if, or to the extent that,*
6 no such notification would otherwise be required, in
7 such time, form, and manner as shall under section
8 204 be required in order to carry out the require-
9 ments of this section.

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

15 (c) EMPLOYEE TRAINING.—Each Federal agency
16 shall provide to the employees of such agency training re-
17 garding the rights and remedies applicable to such employ-
18 ees under the laws cited in section 201(c).

19 **SEC. 203. REPORTING REQUIREMENT.**

20 (a) ANNUAL REPORT.—Subject to subsection (b), not
21 later than 180 days after the end of each fiscal year, each
22 Federal agency shall submit to the Speaker of the House
23 of Representatives, the President pro tempore of the Sen-
24 ate, *the Committee on Governmental Affairs of the Senate,*
25 *the Committee on Government Reform of the House of Rep-*

1 *representatives, each committee of Congress with jurisdiction*
2 *relating to the agency, the Equal Employment Opportunity*
3 *Commission, and the Attorney General an annual report*
4 *which shall include, with respect to the fiscal year—*

5 (1) the number of cases arising under each of
6 the respective provisions of law covered by para-
7 graphs (1) and (2) of section 201(a) in which dis-
8 crimination on the part of such agency was alleged;

9 (2) the status or disposition of cases described
10 in paragraph (1);

11 (3) the amount of money required to be reim-
12 bursed by such agency under section 201 in connec-
13 tion with each of such cases, separately identifying
14 the aggregate amount of such reimbursements at-
15 tributable to the payment of attorneys' fees, if any;

16 (4) the number of employees disciplined for dis-
17 crimination, retaliation, harassment, or any other in-
18 fraction of any provision of law referred to in para-
19 graph (1);

20 (5) the final year-end data posted under section
21 301(c)(1)(B) for such fiscal year (without regard to
22 section 301(c)(2)); and;

23 ~~(6) a detailed description of—~~

24 ~~(A) the policy implemented by such agency~~
25 ~~to discipline employees who are determined in~~

1 any judicial or administrative proceeding to
2 have discriminated against any individual in
3 violation of any of the laws cited in section
4 201(e), and

5 (B) with respect to each of such laws, the
6 number of employees who are disciplined in ac-
7 cordance with such policy and the specific na-
8 ture of the disciplinary action taken.

9 (6) a detailed description of—

10 (A) the policy implemented by that agency
11 relating to appropriate disciplinary actions
12 against a Federal employee who—

13 (i) discriminated against any indi-
14 vidual in violation of any of the laws cited
15 under section 201(a) (1) or (2); or

16 (ii) committed another prohibited per-
17 sonnel practice that was revealed in the in-
18 vestigation of a complaint alleging a viola-
19 tion of any of the laws cited under section
20 201(a) (1) or (2); and

21 (B) with respect to each of such laws, the
22 number of employees who are disciplined in ac-
23 cordance with such policy and the specific na-
24 ture of the disciplinary action taken;

1 (7) *an analysis of the information described*
 2 *under paragraphs (1) through (6) (in conjunction*
 3 *with data provided to the Equal Employment Oppor-*
 4 *tunity Commission in compliance with part 1614 of*
 5 *title 29 of the Code of Federal Regulations)*
 6 *including—*

7 (A) *an examination of trends;*

8 (B) *causal analysis;*

9 (C) *practical knowledge gained through ex-*
 10 *perience; and*

11 (D) *any actions planned or taken to im-*
 12 *prove complaint or civil rights programs of the*
 13 *agency; and*

14 (8) *any adjustment (to the extent the adjustment*
 15 *can be ascertained in the budget of the agency) to*
 16 *comply with the requirements under section 201.*

17 (b) **FIRST REPORT.**—The 1st report submitted under
 18 subsection (a) shall include for each item under subsection
 19 (a) data for each of the 5 immediately preceding fiscal
 20 years (or, if not available for all 5 fiscal years, for however
 21 ~~many of those 5 fiscal years for which data are available).~~
 22 *years (or, if data are not available for all 5 fiscal years,*
 23 *for each of those 5 fiscal years for which data are available).*

1 **SEC. 204. RULES AND GUIDELINES.**

2 (a) ISSUANCE OF RULES AND GUIDELINES.—The
3 President (or the designee of the President) shall issue—

4 (1) rules to carry out this title;

5 ~~(2) rules to require that a comprehensive study~~
6 ~~be conducted in the Executive Branch to determine~~
7 ~~the best practices for Federal agencies to take ap-~~
8 ~~propriate disciplinary actions against Federal em-~~
9 ~~ployees who are determined in any judicial or admin-~~
10 ~~istrative proceeding to have discriminated against~~
11 ~~any individual in violation of any of the laws cited~~
12 ~~in section 201(e); and~~

13 *(2) rules to require that a comprehensive study*
14 *be conducted in the executive branch to determine the*
15 *best practices relating to the appropriate disciplinary*
16 *actions against Federal employees who commit the ac-*
17 *tions described under clauses (i) and (ii) of section*
18 *203(a)(6)(A); and*

19 (3) based on the results of such study, advisory
20 guidelines incorporating best practices that Federal
21 agencies may follow to take such actions against
22 such employees.

23 (b) AGENCY NOTIFICATION REGARDING IMPLEMEN-
24 TATION OF GUIDELINES.—Not later than 30 days after
25 the issuance of guidelines under subsection (a), each Fed-
26 eral agency shall submit to the Speaker of the House of

1 Representatives, the President pro tempore of the Senate,
2 the Equal Employment Opportunity Commission, and the
3 Attorney General a written statement specifying in
4 detail—

5 (1) whether such agency has adopted and will
6 fully follow such guidelines;

7 (2) if such agency has not adopted such guide-
8 lines, the reasons for the failure to adopt such guide-
9 lines; and

10 (3) if such agency will not fully follow such
11 guidelines, the reasons for the decision not to fully
12 follow such guidelines and an explanation of the ex-
13 tent to which such agency will not follow such guide-
14 lines.

15 **SEC. 205. CLARIFICATION OF REMEDIES.**

16 Consistent with Federal law, nothing in this title shall
17 prevent any Federal employee, former Federal employee,
18 or applicant for Federal employment from exercising any
19 right otherwise available under the laws of the United
20 States.

21 **SEC. 206. STUDY BY GENERAL ACCOUNTING OFFICE RE-**
22 **GARDING EXHAUSTION OF ADMINISTRATIVE**
23 **REMEDIES.**

24 (a) **STUDY.**—Not later than 180 days after the date
25 of the enactment of this Act, the General Accounting Of-

1 fee shall conduct a study relating to the effects of elimi-
2 nating the requirement that Federal employees aggrieved
3 by violations of any of the laws specified in paragraphs
4 (7) and (8) of section 201(c) exhaust administrative rem-
5 edies before filing complaints with the Equal Employment
6 Opportunity Commission. Such study shall include a de-
7 tailed summary of matters investigated, of information
8 collected, and of conclusions formulated that lead to deter-
9 minations of how the elimination of such requirement
10 will—

11 (1) expedite handling of allegations of such vio-
12 lations within Federal agencies and will streamline
13 the complaint-filing process;

14 (2) affect the workload of the Commission;

15 (3) affect established alternative dispute resolu-
16 tion procedures in such agencies; and

17 (4) affect any other matters determined by the
18 General Accounting Office to be appropriate for con-
19 sideration.

20 (b) REPORT.—Not later than 90 days after comple-
21 tion of the study required by subsection (a), the General
22 Accounting Office shall submit to the Speaker of the
23 House of Representatives, the President pro tempore of
24 the Senate, the Equal Employment Opportunity Commis-

1 sion, and the Attorney General a report containing the in-
2 formation required to be included in such study.

3 **SEC. 206. STUDIES BY GENERAL ACCOUNTING OFFICE ON**
4 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**
5 **AND ON ASCERTAINMENT OF CERTAIN DE-**
6 **PARTMENT OF JUSTICE COSTS.**

7 (a) *STUDY ON EXHAUSTION OF ADMINISTRATIVE REM-*
8 *EDIES.*—

9 (1) *STUDY.*—

10 (A) *IN GENERAL.*—Not later than 180 days
11 after the date of enactment of this Act, the Gen-
12 eral Accounting Office shall conduct a study re-
13 lating to the effects of eliminating the require-
14 ment that Federal employees aggrieved by viola-
15 tions of any of the laws specified under section
16 201(c) exhaust administrative remedies before
17 filing complaints with the Equal Employment
18 Opportunity Commission.

19 (B) *CONTENTS.*—The study shall include a
20 detailed summary of matters investigated, infor-
21 mation collected, and conclusions formulated
22 that lead to determinations of how the elimi-
23 nation of such requirement will—

1 (i) expedite handling of allegations of
2 such violations within Federal agencies and
3 will streamline the complaint-filing process;

4 (ii) affect the workload of the Commis-
5 sion;

6 (iii) affect established alternative dis-
7 pute resolution procedures in such agencies;
8 and

9 (iv) affect any other matters deter-
10 mined by the General Accounting Office to
11 be appropriate for consideration.

12 (2) *REPORT.*—Not later than 90 days after com-
13 pletion of the study required by paragraph (1), the
14 General Accounting Office shall submit to the Speaker
15 of the House of Representatives, the President pro
16 tempore of the Senate, the Equal Employment Oppor-
17 tunity Commission, and the Attorney General a re-
18 port containing the information required to be in-
19 cluded in such study.

20 (b) *STUDY ON ASCERTAINMENT OF CERTAIN COSTS OF*
21 *THE DEPARTMENT OF JUSTICE IN DEFENDING DISCRIMI-*
22 *NATION AND WHISTLEBLOWER CASES.*—

23 (1) *STUDY.*—Not later than 180 days after the
24 date of enactment of this Act, the General Accounting
25 Office shall conduct a study of the methods that could

1 *be used for, and the extent of any administrative bur-*
2 *den that would be imposed on, the Department of*
3 *Justice to ascertain the personnel and administrative*
4 *costs incurred in defending in each case arising from*
5 *a proceeding identified under section 201(a) (1) and*
6 *(2).*

7 (2) *REPORT.—Not later than 90 days after com-*
8 *pletion of the study required by paragraph (1), the*
9 *General Accounting Office shall submit to the Speaker*
10 *of the House of Representatives and the President pro*
11 *tempore of the Senate a report containing the infor-*
12 *mation required to be included in the study.*

13 **TITLE III—EQUAL EMPLOYMENT**
14 **OPPORTUNITY COMPLAINT**
15 **DATA DISCLOSURE**

16 **SEC. 301. DATA TO BE POSTED BY EMPLOYING FEDERAL**
17 **AGENCIES.**

18 (a) *IN GENERAL.—Each Federal agency shall post*
19 *on its public Web site, in the time, form, and manner pre-*
20 *scribed under section 303 (in conformance with the re-*
21 *quirements of this section), summary statistical data relat-*
22 *ing to equal employment opportunity complaints filed with*
23 *such agency by employees or former employees of, or ap-*
24 *plicants for employment with, such agency.*

1 (b) CONTENT REQUIREMENTS.—The data posted by
2 a Federal agency under this section shall include, for the
3 then current fiscal year, the following:

4 (1) The number of complaints filed with such
5 agency in such fiscal year.

6 (2) The number of individuals filing those com-
7 plaints (including as the agent of a class).

8 (3) The number of individuals who filed 2 or
9 more of those complaints.

10 (4) The number of complaints (described in
11 paragraph (1)) in which each of the various bases of
12 alleged discrimination is alleged.

13 (5) The number of complaints (described in
14 paragraph (1)) in which each of the various issues
15 of alleged discrimination is alleged.

16 (6) The average length of time, for each step of
17 the process, it is taking such agency to process com-
18 plaints (taking into account all complaints pending
19 for any length of time in such fiscal year, whether
20 first filed in such fiscal year or earlier). Average
21 times under this paragraph shall be posted—

22 (A) for all such complaints,

23 (B) for all such complaints in which a
24 hearing before an administrative judge of the

1 Equal Employment Opportunity Commission is
2 not requested, and

3 (C) for all such complaints in which a
4 hearing before an administrative judge of the
5 Equal Employment Opportunity Commission is
6 requested.

7 (7) The total number of final agency actions
8 rendered in such fiscal year involving a finding of
9 discrimination and, of that number—

10 (A) the number and percentage that were
11 rendered without a hearing before an adminis-
12 trative judge of the Equal Employment Oppor-
13 tunity Commission, and

14 (B) the number and percentage that were
15 rendered after a hearing before an administra-
16 tive judge of the Equal Employment Oppor-
17 tunity Commission.

18 (8) Of the total number of final agency actions
19 rendered in such fiscal year involving a finding of
20 discrimination—

21 (A) the number and percentage involving a
22 finding of discrimination based on each of the
23 respective bases of alleged discrimination, and

1 (B) of the number specified under sub-
2 paragraph (A) for each of the respective bases
3 of alleged discrimination—

4 (i) the number and percentage that
5 were rendered without a hearing before an
6 administrative judge of the Equal Employ-
7 ment Opportunity Commission, and

8 (ii) the number and percentage that
9 were rendered after a hearing before an
10 administrative judge of the Equal Employ-
11 ment Opportunity Commission.

12 (9) Of the total number of final agency actions
13 rendered in such fiscal year involving a finding of
14 discrimination—

15 (A) the number and percentage involving a
16 finding of discrimination in connection with
17 each of the respective issues of alleged discrimi-
18 nation, and

19 (B) of the number specified under sub-
20 paragraph (A) for each of the respective issues
21 of alleged discrimination—

22 (i) the number and percentage that
23 were rendered without a hearing before an
24 administrative judge of the Equal Employ-
25 ment Opportunity Commission, and

1 (ii) the number and percentage that
2 were rendered after a hearing before an
3 administrative judge of the Equal Employ-
4 ment Opportunity Commission.

5 (10)(A) Of the total number of complaints
6 pending in such fiscal year (as described in the par-
7 enthetical matter in paragraph (6)), the number that
8 were first filed before the start of the then current
9 fiscal year.

10 (B) With respect to those pending complaints
11 that were first filed before the start of the then cur-
12 rent fiscal year—

13 (i) the number of individuals who filed
14 those complaints, and

15 (ii) the number of those complaints which
16 are at the various steps of the complaint proc-
17 ess.

18 (C) Of the total number of complaints pending
19 in such fiscal year (as described in the parenthetical
20 matter in paragraph (6)), the total number of com-
21 plaints with respect to which the agency violated the
22 requirements of section 1614.106(e)(2) of title 29 of
23 the Code of Federal Regulations (as in effect on
24 July 1, 2000, and amended from time to time) by
25 failing to conduct within 180 days of the filing of

1 such complaints an impartial and appropriate inves-
2 tigation of such complaints.

3 (c) TIMING AND OTHER REQUIREMENTS.—

4 (1) CURRENT YEAR DATA.—Data posted under
5 this section for the then current fiscal year shall in-
6 clude both—

7 (A) interim year-to-date data, updated
8 quarterly, and

9 (B) final year-end data.

10 (2) DATA FOR PRIOR YEARS.—The data posted
11 by a Federal agency under this section for a fiscal
12 year (both interim and final) shall include, for each
13 item under subsection (b), such agency's cor-
14 responding year-end data for each of the 5 imme-
15 diately preceding fiscal years (or, if not available for
16 all 5 fiscal years, for however many of those 5 fiscal
17 years for which data are available).

18 **SEC. 302. DATA TO BE POSTED BY THE EQUAL EMPLOY-**
19 **MENT OPPORTUNITY COMMISSION.**

20 (a) IN GENERAL.—The Equal Employment Oppor-
21 tunity Commission shall post on its public Web site, in
22 the time, form, and manner prescribed under section 303
23 for purposes of this section, summary statistical data re-
24 lating to—

1 (1) hearings requested before an administrative
2 judge of the Commission on complaints described in
3 section 301, and

4 (2) appeals filed with the Commission from
5 final agency actions on complaints described in sec-
6 tion 301.

7 (b) SPECIFIC REQUIREMENTS.—The data posted
8 under this section shall, with respect to the hearings and
9 appeals described in subsection (a), include summary sta-
10 tistical data corresponding to that described in paragraphs
11 (1) through (10) of section 301(b), and shall be subject
12 to the same timing and other requirements as set forth
13 in section 301(c).

14 (c) COORDINATION.—The data required under this
15 section shall be in addition to the data the Commission
16 is required to post under section 301 as an employing Fed-
17 eral agency.

18 **SEC. 303. RULES.**

19 The Equal Employment Opportunity Commission
20 shall issue any rules necessary to carry out this title.

Calendar No. 346

107TH CONGRESS
2^D SESSION

H. R. 169

[Report No. 107-143]

AN ACT

To require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.

APRIL 15, 2002

Reported with amendments