

112TH CONGRESS
1ST SESSION

H. R. 3108

To amend the Congressional Accountability Act of 1995 to provide enhanced enforcement authority for occupational safety and health protections applicable to the legislative branch, to provide whistleblower protections and other antidiscrimination protections for employees of the legislative branch, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2011

Ms. NORTON introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committees on the Judiciary and Education and the Workforce, 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

A BILL

To amend the Congressional Accountability Act of 1995 to provide enhanced enforcement authority for occupational safety and health protections applicable to the legislative branch, to provide whistleblower protections and other antidiscrimination protections for employees of the legislative branch, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Congress Leads by
3 Example Act of 2011”.

4 **SEC. 2. ENHANCED ENFORCEMENT OF PROTECTIONS OF**
5 **OCCUPATIONAL SAFETY AND HEALTH ACT**
6 **APPLICABLE TO LEGISLATIVE BRANCH.**

7 (a) SUBPOENA AUTHORITY FOR OFFICE OF COMPLI-
8 ANCE.—Section 215(c)(1) of the Congressional Account-
9 ability Act of 1995 (2 U.S.C. 1341(c)(1)) is amended—

10 (1) by striking “subsections (a),” and inserting
11 “subsections (a), (b),”; and

12 (2) by striking “657(a),” and inserting
13 “657(a), (b),”.

14 (b) RECORDKEEPING REQUIREMENTS FOR EMPLOY-
15 ING OFFICES.—Section 215(c) of such Act (2 U.S.C.
16 1341(c)) is amended—

17 (1) by redesignating paragraphs (3) through
18 (6) as paragraphs (4) through (7);

19 (2) in paragraph (6), as so redesignated, by
20 striking “paragraph (3) or (4)” and inserting “para-
21 graph (4) or (5)”; and

22 (3) by inserting after paragraph (2) the fol-
23 lowing new paragraph:

24 “(3) RECORDKEEPING REQUIREMENTS.—Each
25 employing office shall be subject to the requirements
26 of subsection (c) of section 8 of the Occupational

1 Safety and Health Act of 1970 (29 U.S.C. 657(e))
2 that are applicable to employers under such section,
3 and the General Counsel shall exercise the authori-
4 ties granted to the Secretary of Labor under such
5 subsection.”.

6 (c) PROHIBITING RETALIATION.—

7 (1) IN GENERAL.—Section 215 of such Act (2
8 U.S.C. 1341) is amended—

9 (A) by redesignating subsections (d), (e),
10 (f), and (g) as subsections (e), (f), (g), and (h);
11 and

12 (B) by inserting after subsection (c) the
13 following new subsection:

14 “(d) PROHIBITING RETALIATION.—

15 “(1) IN GENERAL.—An employing office may
16 not discharge or in any manner discriminate against
17 any covered employee because such employee has re-
18 quested the General Counsel to take any action au-
19 thorized under this section, or has instituted or
20 caused to be instituted, or has testified or is about
21 to testify in, any proceeding that arises from the ap-
22 plication of this section to the employing office, or
23 because of the exercise by such employee on behalf
24 of himself or others of any right provided under this
25 section.

1 “(2) ENFORCEMENT.—

2 “(A) CHARGE FILED WITH GENERAL
3 COUNSEL.—Any covered employee who believes
4 that he has been discharged or otherwise dis-
5 criminated against by an employing office in
6 violation of paragraph (1) may file a charge
7 against the employing office with the General
8 Counsel not later than 180 days after the oc-
9 currence of the alleged violation. The General
10 Counsel shall investigate the charge.

11 “(B) MEDIATION.—If, upon investigation
12 under subparagraph (A), the General Counsel
13 believes that a violation of paragraph (1) may
14 have occurred and that mediation may be help-
15 ful in resolving the dispute, the General Coun-
16 sel may request mediation under subsections (b)
17 through (d) of section 1403 between the cov-
18 ered employee and the employing office.

19 “(C) COMPLAINT; HEARING; BOARD RE-
20 VIEW.—If mediation under subparagraph (B)
21 has not succeeded in resolving the dispute (or
22 if the General Counsel does not request medi-
23 ation under such subparagraph) and the Gen-
24 eral Counsel believes that a violation of para-
25 graph (1) may have occurred, the General

1 Counsel may file with the Office a complaint
2 against the employing office. The complaint
3 shall be submitted to a hearing officer for deci-
4 sion pursuant to subsections (b) through (h) of
5 section 1405 and any person who has filed a
6 charge under subparagraph (A) may intervene
7 as of right, with the full rights of a party. The
8 decision of the hearing officer shall be subject
9 to review by the Board pursuant to section
10 1406.

11 “(D) JUDICIAL REVIEW.—An individual
12 who is aggrieved by a final decision of the
13 Board under subparagraph (C) may file a peti-
14 tion for review in the United States Court of
15 Appeals for the Federal Circuit, pursuant to
16 section 1407.”.

17 (2) CONFORMING AMENDMENTS.—Section 215
18 of such Act (2 U.S.C. 1341) is amended—

19 (A) in subsection (g), as redesignated by
20 paragraph (1)(A), by striking “subsection
21 (e)(1)” and inserting “subsection (f)(1)” and by
22 striking “subsection (e)(2)” and inserting “sub-
23 section (f)(2)”; and

1 (B) in subsection (h)(1), as redesignated
2 by paragraph (1)(A), by striking “(e)(3)” and
3 inserting “(f)(3)”.

4 (d) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Subject to paragraph (2),
6 the amendments made by this section shall take ef-
7 fect upon the adoption of regulations promulgated
8 by the Board of Directors of the Office of Compli-
9 ance to implement the amendments in accordance
10 with section 304 of the Congressional Accountability
11 Act of 1995 (2 U.S.C. 1384).

12 (2) INTERIM APPLICABILITY.—During the pe-
13 riod that begins on the date of the enactment of this
14 Act and ends on the effective date of the regulations
15 referred to in paragraph (1), the amendments made
16 by this section shall be implemented by the Board
17 of Directors of the Office of Compliance, the General
18 Counsel of the Office of Compliance, or a hearing of-
19 ficer or court under the Congressional Accountability
20 Act of 1995 (as the case may be) by applying (to the
21 extent necessary and appropriate) the most relevant
22 substantive executive agency regulations promul-
23 gated to implement the provisions of law that are
24 made applicable to employing offices and covered
25 employees (as such terms are defined in the Con-

1 gressional Accountability Act of 1995) by such
2 amendments.

3 **SEC. 3. APPLICATION TO LEGISLATIVE BRANCH EMPLOY-**
4 **EES OF WHISTLEBLOWER PROTECTION**
5 **RULES AND RESTRICTIONS ON DISCHARGE**
6 **BY REASON OF GARNISHMENT AND DIS-**
7 **CRIMINATORY TREATMENT BY REASON OF**
8 **BANKRUPTCY.**

9 (a) IN GENERAL.—Part A of title II of the Congres-
10 sional Accountability Act of 1995 (2 U.S.C. 1311 et seq.)
11 is amended—

12 (1) in the heading, by striking “**FAIR LABOR**
13 **STANDARDS,**” and all that follows and inserting
14 “**AND OTHER PROTECTIONS AND BENEFITS**”;

15 (2) by redesignating section 207 as section 209;
16 and

17 (3) by inserting after section 206 the following
18 new sections:

19 **“SEC. 207. RIGHTS AND PROTECTIONS UNDER WHISTLE-**
20 **BLOWER PROTECTION RULES.**

21 **“(a) RIGHTS AND PROTECTIONS DESCRIBED.—**

22 **“(1) IN GENERAL.—**No employing office may
23 take or fail to take, or threaten to take or fail to
24 take, a personnel action (within the meaning of
25 chapter 23 of title 5, United States Code) with re-

1 spect to any covered employee or applicant for em-
2 ployment because of—

3 “(A) any disclosure of information by a
4 covered employee or applicant which the em-
5 ployee or applicant reasonably believes evi-
6 dences—

7 “(i) a violation of any law, rule, or
8 regulation, or

9 “(ii) gross mismanagement, a gross
10 waste of funds, an abuse of authority, or
11 a substantial and specific danger to public
12 health or safety,

13 if such disclosure is not specifically prohibited
14 by law and if such information is not specifi-
15 cally required by Executive order or the rules of
16 the House of Representatives or Senate to be
17 kept secret in the interest of national defense or
18 the conduct of foreign affairs; or

19 “(B) any disclosure to the General Coun-
20 sel, or to the Inspector General of an executive
21 agency or office of the legislative branch or an-
22 other employee designated by the head of the
23 agency or office to receive such disclosures, of
24 information which the employee or applicant
25 reasonably believes evidences—

1 “(i) a violation of any law, rule, or
2 regulation, or

3 “(ii) gross mismanagement, a gross
4 waste of funds, an abuse of authority, or
5 a substantial and specific danger to public
6 health or safety.

7 “(2) DEFINITIONS.—For purposes of this sec-
8 tion and for purposes of applying the procedures es-
9 tablished under title IV for the consideration of al-
10 leged violations of this section—

11 “(A) the term ‘covered employee’ includes
12 an employee of the Government Accountability
13 Office or Library of Congress; and

14 “(B) the term ‘employing office’ includes
15 the Government Accountability Office and the
16 Library of Congress.

17 “(b) REMEDY.—The remedy for a violation of sub-
18 section (a) shall be such remedy as would be appropriate
19 if awarded under chapter 12 of title 5, United States
20 Code, with respect to a prohibited personnel practice de-
21 scribed in section 2302(b)(8) of such title.

22 “(c) REGULATIONS TO IMPLEMENT SECTION.—

23 “(1) IN GENERAL.—The Board shall, pursuant
24 to section 304, issue regulations to implement this
25 section.

1 “(2) AGENCY REGULATIONS.—The regulations
2 issued under paragraph (1) shall be the same as the
3 substantive regulations promulgated by the Merit
4 Systems Protection Board to implement chapters 12
5 and 23 of title 5, United States Code, except to the
6 extent that the Board of Directors of the Office of
7 Compliance may determine, for good cause shown
8 and stated together with the regulation, that a modi-
9 fication of such regulations would be more effective
10 for the implementation of the rights and protections
11 under this section.

12 **“SEC. 208. RESTRICTION ON DISCHARGE FROM EMPLOY-**
13 **MENT BY REASON OF GARNISHMENT OR DIS-**
14 **CRIMINATORY TREATMENT BY REASON OF**
15 **BANKRUPTCY.**

16 “(a) GARNISHMENT.—

17 “(1) RIGHTS AND PROTECTIONS DESCRIBED.—
18 No employing office may discharge any covered em-
19 ployee by reason of the fact that the employee’s
20 earnings have been subjected to garnishment for any
21 one indebtedness.

22 “(2) REMEDY.—The remedy for a violation of
23 paragraph (1) shall be such remedy as would be ap-
24 propriate if awarded under section 304(b) of the

1 Consumer Credit Protection Act (15 U.S.C.
2 1674(b)).

3 “(b) BANKRUPTCY.—

4 “(1) RIGHTS AND PROTECTIONS DESCRIBED.—

5 No employing office may deny employment to, termi-
6 nate the employment of, or discriminate with respect
7 to employment against, a covered employee who is or
8 has been a debtor under title 11, United States
9 Code, or a bankrupt or a debtor under the Bank-
10 ruptcy Act, or another covered employee with whom
11 such bankrupt or debtor has been associated, solely
12 because such bankrupt or debtor—

13 “(A) is or has been a debtor under such
14 title or a debtor or bankrupt under such Act;

15 “(B) has been insolvent before the com-
16 mencement of a case under such title or during
17 the case but before the grant or denial of a dis-
18 charge; or

19 “(C) has not paid a debt that is discharge-
20 able in a case under such title or that was dis-
21 charged under such Act.

22 “(2) REMEDY.—The remedy for a violation of
23 paragraph (1) would be such remedy as would be
24 appropriate if awarded with respect to a violation of
25 section 525(a) or (b) of title 11, United States Code.

1 “(c) DEFINITIONS.—For purposes of this section and
2 for purposes of applying the procedures established under
3 title IV for the consideration of alleged violations of this
4 section—

5 “(1) the term ‘covered employee’ includes an
6 employee of the Government Accountability Office or
7 the Library of Congress; and

8 “(2) the term ‘employing office’ includes the
9 Government Accountability Office and the Library of
10 Congress.

11 “(d) REGULATIONS TO IMPLEMENT SECTION.—

12 “(1) IN GENERAL.—The Board shall, pursuant
13 to section 304, issue regulations to implement this
14 section.

15 “(2) AGENCY REGULATIONS.—The regulations
16 issued under paragraph (1) shall be the same as the
17 substantive regulations promulgated to implement
18 section 304 of the Consumer Credit Protection Act
19 (15 U.S.C. 1674) and the substantive regulations
20 promulgated to implement section 525 of title 11,
21 United States Code, except to the extent that the
22 Board of Directors of the Office of Compliance may
23 determine, for good cause shown and stated together
24 with the regulation, that a modification of any such
25 regulation would be more effective for the implemen-

1 tation of the rights and protections under this sec-
2 tion.”.

3 (b) CONFORMING AMENDMENT TO BANKRUPTCY
4 CODE.—Section 525 of title 11, United States Code, is
5 amended by adding at the end the following new sub-
6 section:

7 “(d)(1) In the case of an alleged violation of sub-
8 section (a) or (b) by a governmental unit which is a legis-
9 lative branch employing office with respect to an employee
10 of such office who is a legislative branch covered employee,
11 the procedures for consideration of the alleged violation
12 shall consist of the procedures applicable under title IV
13 of the Congressional Accountability Act of 1995.

14 “(2) In this subsection—

15 “(A) the term ‘legislative branch employing of-
16 fice’ means an employing office described in section
17 101(9) of the Congressional Accountability Act of
18 1995, and includes the Government Accountability
19 Office and the Library of Congress; and

20 “(B) the term ‘legislative branch covered em-
21 ployee’ means a covered employee described in sec-
22 tion 101(3) of the Congressional Accountability Act
23 of 1995, and includes an employee of the Govern-
24 ment Accountability Office or the Library of Con-
25 gress.”.

1 (c) OTHER CONFORMING AMENDMENT.—Section
2 102(a) of the Congressional Accountability Act of 1995
3 (2 U.S.C. 1302(a)) is amended by adding at the end the
4 following new paragraphs:

5 “(12) Section 2302(b)(8) of title 5, United
6 States Code.

7 “(13) Section 304 of the Consumer Credit Pro-
8 tection Act (15 U.S.C. 1674).

9 “(14) Section 525 of title 11, United States
10 Code.”.

11 (d) CLERICAL AMENDMENT.—The table of contents
12 for part A of title II of the Congressional Accountability
13 Act of 1995 is amended—

14 (1) in the item relating to part A, by striking
15 **“FAIR LABOR STANDARDS,”** and all that
16 follows and inserting **“AND OTHER PROTEC-**
17 **TIONS AND BENEFITS”**;

18 (2) by redesignating the item relating to section
19 207 as relating to section 209; and

20 (3) by inserting after the item relating to sec-
21 tion 206 the following:

“Sec. 207. Rights and protections under whistleblower protection rules.

“Sec. 208. Restriction on discharge from employment by reason of garnishment
or discriminatory treatment by reason of bankruptcy.”.

1 **SEC. 4. REQUIRING RETENTION OF RECORDS NECESSARY**
2 **TO ADMINISTER ANTI-DISCRIMINATION LAWS**
3 **APPLICABLE TO COVERED EMPLOYEES.**

4 (a) TITLE VII OF THE CIVIL RIGHTS ACT; AGE DIS-
5 CRIMINATION IN EMPLOYMENT ACT; AMERICANS WITH
6 DISABILITIES ACT.—Section 201 of the Congressional Ac-
7 countability Act of 1995 (2 U.S.C. 1311) is amended—

8 (1) by redesignating subsections (c) and (d) as
9 subsections (d) and (e); and

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

12 “(c) RETENTION OF RECORDS.—

13 “(1) REQUIRING EMPLOYING OFFICES TO RE-
14 TAIN RECORDS NECESSARY TO ADMINISTER RIGHTS
15 AND PROTECTIONS.—To the extent that the fol-
16 lowing provisions of law require the keeping of
17 records necessary or appropriate for the administra-
18 tion of this section, such provisions of law shall
19 apply to employing offices:

20 “(A) Section 709(c) of the Civil Rights Act
21 of 1964 (42 U.S.C. 2000e–8(c)).

22 “(B) Section 7(a) of the Age Discrimina-
23 tion in Employment Act of 1967 (29 U.S.C.
24 626(a)).

25 “(C) Section 107(a) of the Americans with
26 Disabilities Act of 1990 (42 U.S.C. 12117(a)).

1 “(2) EFFECTIVE DATE.—This subsection shall
2 apply with respect to records generated on or after
3 the expiration of the 60-day period that begins on
4 the date of the enactment of this subsection.”.

5 (b) FAMILY AND MEDICAL LEAVE ACT OF 1993.—

6 (1) IN GENERAL.—Section 202(a)(1) of such
7 Act (2 U.S.C. 1312(a)(1)) is amended by striking
8 “sections 101 through 105” and inserting “sections
9 101 through 105 and section 106(b)”.

10 (2) EFFECTIVE DATE.—

11 (A) IN GENERAL.—Subject to subpara-
12 graph (B), the amendment made by paragraph
13 (1) shall take effect upon the adoption of regu-
14 lations promulgated by the Board of Directors
15 of the Office of Compliance to implement the
16 amendment.

17 (B) INTERIM APPLICABILITY.—During the
18 period that begins on the date of the enactment
19 of this Act and ends on the effective date of the
20 regulations referred to in subparagraph (A), the
21 amendment made by paragraph (1) shall be im-
22 plemented by the Board of Directors of the Of-
23 fice of Compliance or a hearing officer or court
24 under the Congressional Accountability Act of
25 1995 (as the case may be) by applying (to the

1 extent necessary and appropriate) the most rel-
2 evant substantive executive agency regulations
3 promulgated to implement the provision of law
4 that is made applicable to employing offices and
5 covered employees (as such terms are defined in
6 the Congressional Accountability Act of 1995)
7 by such amendment.

8 (c) FAIR LABOR STANDARDS ACT OF 1938.—

9 (1) IN GENERAL.—Section 203(a)(1) of such
10 Act (2 U.S.C. 1313(a)(1)) is amended—

11 (A) by striking “and section 12(c)” and in-
12 serting “section 11(c), and section 12(c)”; and

13 (B) by striking “212(c)” and inserting
14 “211(c), 212(c)”.

15 (2) EFFECTIVE DATE.—

16 (A) IN GENERAL.—Subject to subpara-
17 graph (B), the amendment made by paragraph
18 (1) shall take effect upon the adoption of regu-
19 lations promulgated by the Board of Directors
20 of the Office of Compliance to implement the
21 amendment.

22 (B) INTERIM APPLICABILITY.—During the
23 period that begins on the date of the enactment
24 of this Act and ends on the effective date of the
25 regulations referred to in subparagraph (A), the

1 amendment made by paragraph (1) shall be im-
2 plemented by the Board of Directors of the Of-
3 fice of Compliance or a hearing officer or court
4 under the Congressional Accountability Act of
5 1995 (as the case may be) by applying (to the
6 extent necessary and appropriate) the most rel-
7 evant substantive executive agency regulations
8 promulgated to implement the provision of law
9 that is made applicable to employing offices and
10 covered employees (as such terms are defined in
11 the Congressional Accountability Act of 1995)
12 by such amendment.

13 **SEC. 5. REQUIRING EMPLOYING OFFICES TO POST NOTICE**
14 **OF RIGHTS OF COVERED EMPLOYEES AND**
15 **PROVIDE TRAINING REGARDING RIGHTS AND**
16 **REMEDIES.**

17 (a) IN GENERAL.—Title V of the Congressional Ac-
18 countability Act of 1995 (2 U.S.C. 1431 et seq.) is amend-
19 ed by inserting after section 506 the following new section:

20 **“SEC. 507. REQUIRING EMPLOYING OFFICES TO POST NO-**
21 **TICE OF RIGHTS OF COVERED EMPLOYEES**
22 **AND PROVIDE TRAINING REGARDING RIGHTS**
23 **AND REMEDIES.**

24 “(a) NOTICES OF RIGHTS.—Each employing office
25 shall post and keep posted (in conspicuous places upon

1 its premises where notices to covered employees are cus-
 2 tomarily posted) notices provided by the Board that de-
 3 scribe the rights and protections applicable to covered em-
 4 ployees of the office under this Act or any other Federal
 5 law made applicable to covered employees pursuant to this
 6 Act.

7 “(b) TRAINING.—Each employing office shall provide
 8 to the covered employees of such office training regarding
 9 the rights and protections and remedies applicable to such
 10 employees under this Act or any other Federal law relating
 11 to the terms and conditions of employment.

12 “(c) EFFECTIVE DATE.—This section shall take ef-
 13 fect 60 days after the date of the enactment of this sec-
 14 tion.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
 16 of such Act is amended by amending the item relating to
 17 section 507 to read as follows:

“Sec. 507. Requiring employing offices to post notice of rights of covered em-
 ployees and provide training regarding rights and remedies.”.

18 **SEC. 6. COVERAGE OF LEGISLATIVE BRANCH EMPLOYEES**
 19 **UNDER RULES PROTECTING JURORS’ EM-**
 20 **PLOYMENT.**

21 (a) IN GENERAL.—Section 1875(a) of title 28,
 22 United States Code, is amended—

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

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

2 “(2) In this section—

3 “(A) the term ‘employer’ includes an employing
4 office under section 101(9) of the Congressional Ac-
5 countability Act of 1995, the Government Account-
6 ability Office, the Government Printing Office, and
7 the Library of Congress; and

8 “(B) the term ‘permanent employee’ includes
9 any covered employee under section 101(3) of the
10 Congressional Accountability Act of 1995 and any
11 employee of the Government Accountability Office,
12 the Government Printing Office, and the Library of
13 Congress, without regard to whether the employee’s
14 term of service or appointment is permanent.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) apply with respect to individuals summoned
17 for juror service or serving on juries on or after the date
18 of the enactment of this Act.

○