

AMENDMENT NO. _____ Calendar No. _____

Purpose: To modify the findings and provide a sense of Congress, and for other purposes.

IN THE SENATE OF THE UNITED STATES—107th Cong., 2d Sess.

H.R. 169

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.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. LIEBERMAN

Viz:

- 1 On page 2, between lines 8 and 9, strike the matter
- 2 relating to title I and insert the following:

TITLE I—GENERAL PROVISIONS

- Sec. 101. Findings.
- Sec. 102. Sense of Congress.
- Sec. 103. Definitions.
- Sec. 104. Effective date.

- 3 On page 2, line 10, strike all through page 4, line
- 4 13, and insert the following:

1 **SEC. 101. FINDINGS.**

2 Congress finds that—

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

5 (2) Congress has heard testimony from individ-
6 uals, including representatives of the National Asso-
7 ciation for the Advancement of Colored People and
8 the American Federation of Government Employees,
9 that point to chronic problems of discrimination and
10 retaliation against Federal employees;

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

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

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

1 States Marshals Service, the Department of Agri-
2 culture, the United States Information Agency, and
3 the Social Security Administration;

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

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

12 (8) requiring Federal agencies to pay for any
13 discrimination or whistleblower judgment, award, or
14 settlement should improve agency accountability
15 with respect to discrimination and whistleblower
16 laws.

17 **SEC. 102. SENSE OF CONGRESS.**

18 It is the sense of Congress that—

19 (1) Federal agencies should not retaliate for
20 court judgments or settlements relating to discrimi-
21 nation and whistleblower laws by targeting the
22 claimant or other employees with reductions in com-
23 pensation, benefits, or workforce to pay for such
24 judgments or settlements;

1 (2) the mission of the Federal agency and the
2 employment security of employees who are blameless
3 in a whistleblower incident should not be com-
4 promised;

5 (3) Federal agencies should not use a reduction
6 in force or furloughs as means of funding a reim-
7 bursement under this Act;

8 (4)(A) accountability in the enforcement of em-
9 ployee rights is not furthered by terminating—

10 (i) the employment of other employees; or

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

13 (B) this Act is not intended to authorize those
14 actions;

15 (5)(A) nor is accountability furthered if Federal
16 agencies react to the increased accountability under
17 this Act by taking unfounded disciplinary actions
18 against managers or by violating the procedural
19 rights of managers who have been accused of dis-
20 crimination; and

21 (B) Federal agencies should ensure that man-
22 agers have adequate training in the management of
23 a diverse workforce and in dispute resolution and
24 other essential communication skills; and

1 (6)(A) Federal agencies are expected to reim-
2 burse the General Fund of the Treasury within a
3 reasonable time under this Act; and

4 (B) a Federal agency, particularly if the
5 amount of reimbursement under this Act is large
6 relative to annual appropriations for that agency,
7 may need to extend reimbursement over several
8 years in order to avoid—

9 (i) reductions in force;

10 (ii) furloughs;

11 (iii) other reductions in compensation or
12 benefits for the workforce of the agency; or

13 (iv) an adverse effect on the mission of the
14 agency.

15 On page 4, line 14, strike “**SEC. 102.**” and insert
16 “**SEC. 103.**”.

17 On page 5, line 9, strike “**SEC. 103.**” and insert
18 “**SEC. 104.**”.