

AMENDMENT

OFFERED BY MS. NORTON

Page 46, after line 17, add the following (and amend the table of contents of the bill accordingly):

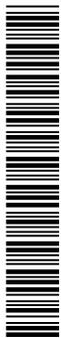
1 **TITLE IV—PROTECTION OF CER-**
2 **TAIN DISCLOSURES OF IN-**
3 **FORMATION BY FEDERAL EM-**
4 **PLOYEES**

5 **SEC. 401. PROTECTION OF CERTAIN DISCLOSURES OF IN-**
6 **FORMATION BY FEDERAL EMPLOYEES.**

7 (a) CLARIFICATION OF DISCLOSURES COVERED.—
8 Section 2302(b)(8) of title 5, United States Code, is
9 amended—

10 (1) in subparagraph (A)—

11 (A) by striking “which the employee or ap-
12 plicant reasonably believes evidences” and in-
13 serting “, without restriction as to time, place,
14 form, motive, context, or prior disclosure made
15 to any person by an employee or applicant, in-
16 cluding a disclosure made in the ordinary
17 course of an employee’s duties, that the em-
18 ployee or applicant reasonably believes is cred-
19 ible evidence of”;



1 (B) in clause (i), by striking “a violation”
2 and inserting “any violation”; and

3 (C) at the end, by striking “or” after “af-
4 fairs;”;

5 (2) in subparagraph (B)—

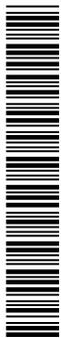
6 (A) by striking “of information which the
7 employee or applicant reasonably believes evi-
8 dences” and inserting “, without restriction as
9 to time, place, form, motive, context, or prior
10 disclosure made to any person by an employee
11 or applicant, including a disclosure made in the
12 ordinary course of an employee’s duties to the
13 Special Counsel, or to the Inspector General of
14 an agency or another employee designated by
15 the head of the agency to receive such disclo-
16 sures, of information that the employee or ap-
17 plicant reasonably believes is credible evidence
18 of”;

19 (B) in clause (i), by striking “a violation”
20 and inserting “any violation”; and

21 (C) at the end, by inserting “or” after
22 “safety;”;

23 (3) by adding at the end the following:

24 “(C) a disclosure that—



1 “(i) is made by an employee or appli-
2 cant of information required by law or Ex-
3 ecutive order to be kept secret in the inter-
4 est of national defense or the conduct of
5 foreign affairs that the employee or appli-
6 cant reasonably believes is credible evi-
7 dence of—

8 “(I) any violation of any law,
9 rule, or regulation;

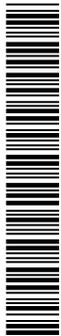
10 “(II) gross mismanagement, a
11 gross waste of funds, an abuse of au-
12 thority, or a substantial and specific
13 danger to public health or safety; or

14 “(III) a false statement to Con-
15 gress on an issue of material fact; and

16 “(ii) is made to—

17 “(I) a member of a committee of
18 Congress having a primary responsi-
19 bility for oversight of a department,
20 agency, or element of the Federal
21 Government to which the disclosed in-
22 formation relates;

23 “(II) any other Member of Con-
24 gress who is authorized to receive in-
25 formation of the type disclosed; or



1 “(III) an employee of the execu-
 2 tive branch or Congress who has the
 3 appropriate security clearance for ac-
 4 cess to the information disclosed;”.

5 (b) COVERED DISCLOSURES.—Section 2302(b) of
 6 title 5, United States Code, is amended—

7 (1) in the matter following paragraph (12), by
 8 striking “This subsection” and inserting the fol-
 9 lowing:

10 “‘This subsection’; and

11 (2) by adding at the end the following: “In this
 12 subsection, the term ‘disclosure’ means a formal or
 13 informal communication or transmission.”.

14 (c) NONDISCLOSURE POLICIES, FORMS, AND AGREE-
 15 MENTS.—

16 (1) PERSONNEL ACTION.—Section
 17 2302(a)(2)(A) of title 5, United States Code, is
 18 amended—

19 (A) in clause (x), by striking “and” after
 20 the semicolon;

21 (B) by redesignating clause (xi) as clause
 22 (xii); and

23 (C) by inserting after clause (x) the fol-
 24 lowing:



1 “(xi) the implementation or enforcement of
2 any nondisclosure policy, form, or agreement;
3 and”.

4 (2) PROHIBITED PERSONNEL PRACTICE.—Sec-
5 tion 2302(b) of title 5, United States Code, is
6 amended—

7 (A) in paragraph (11), by striking “or” at
8 the end;

9 (B) by redesignating paragraph (12) as
10 paragraph (13); and

11 (C) by inserting after paragraph (11) the
12 following:

13 “(12) implement or enforce any nondisclosure
14 policy, form, or agreement, if such policy, form, or
15 agreement does not contain the following statement:

16 ““These provisions are consistent with and
17 do not supersede, conflict with, or otherwise
18 alter the employee obligations, rights, or liabil-
19 ities created by Executive Order No. 12958;
20 section 7211 of title 5, United States Code
21 (governing disclosures to Congress); section
22 1034 of title 10, United States Code (governing
23 disclosure to Congress by members of the mili-
24 tary); section 2302(b)(8) of title 5, United
25 States Code (governing disclosures of illegality,



1 waste, fraud, abuse, or public health or safety
2 threats); the Intelligence Identities Protection
3 Act of 1982 (governing disclosures that could
4 expose confidential Government agents); and
5 the statutes which protect against disclosures
6 that could compromise national security, includ-
7 ing sections 641, 793, 794, 798, and 952 of
8 title 18, United States Code, and section 4(b)
9 of the Subversive Activities Control Act of
10 1950. The definitions, requirements, obliga-
11 tions, rights, sanctions, and liabilities created
12 by such Executive order and such statutory
13 provisions are incorporated into this agreement
14 and are controlling.’; or’.

