

“(III) a false statement to Congress on an issue of material fact; and

“(ii) is made to—

“(I) a member of a committee of Congress having a primary responsibility for oversight of a department, agency, or element of the Federal Government to which the disclosed information relates;

“(II) any other Member of Congress who is authorized to receive information of the type disclosed; or

“(III) an employee of the executive branch or Congress who has the appropriate security clearance for access to the information disclosed.”

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

(1) in the matter following paragraph (12), by striking “This subsection” and inserting the following:

“This subsection”; and

(2) by adding at the end the following:

“In this subsection, the term ‘disclosure’ means a formal or informal communication or transmission.”

(c) REBUTTABLE PRESUMPTION.—Section 2308(b) of title 5, United States Code, is amended by adding after the matter following paragraph (12) (as amended by subsection (b) of this section) the following:

“For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee may be rebutted by substantial evidence.”

(d) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.—

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

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

(B) by redesignating clause (xi) as clause (xii) and inserting after clause (x) the following:

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

(e) AUTHORITY OF SPECIAL COUNSEL RELATING TO CIVIL ACTIONS.—

(1) REPRESENTATION OF SPECIAL COUNSEL.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

“(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Special Counsel and represent the Special Counsel in any civil action brought in connection with section 2302(b)(8) or subchapter III of chapter 73, or as otherwise authorized by law.”

(2) JUDICIAL REVIEW OR MERIT SYSTEMS PROTECTION BOARD DECISIONS.—Section 7703 of title 5, United States Code, is amended by adding at the end the following:

“(e) The Special Counsel may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Special Counsel determines, in the discretion of the Special Counsel, that the Board erred in deciding a case arising under section 2302(b)(8) or subchapter III of chapter 73 and that the Board’s decision will have a substantial impact on the enforcement of section 2302(b)(8) or subchapter III of chapter 73. If the Special Counsel was not a party or did not intervene in a matter before the Board, the Special Counsel may not petition for review of a Board decision under this section unless the Special Counsel first petitions the Board for reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceedings before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.”

#### SEC. 4. NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.

(a) IN GENERAL.—Each agreement in Standard Forms, 312 and 414 of the Government and any other nondisclosure policy, form, or agreement shall contain the following statement:

“These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.”

Any nondisclosure policy, form, or agreement that does not contain the above statement may not be implemented or enforced to the extent that it conflicts with language in the above statement.

(b) PERSONS OTHER THAN FEDERAL EMPLOYEES.—Notwithstanding subsection (a), a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

#### STATEMENTS ON SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 312—RECOGNIZING THE IMPORTANCE OF AMERICAN HISTORY AND DESIGNATING JULY AS “AMERICAN HISTORY MONTH”

Mr. DEWINE (for himself and Mr. LEIBERMAN) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 312

Whereas July is an important month in American history because of the signing of the Declaration of Independence and various other events that have added to the rich heritage of our Nation;

Whereas learning American history is vital to attaining citizenship in our democratic republic;

Whereas we must encourage Americans of all ages and ethnicities to learn about the history and heritage of the United States;

Whereas the Senate recognizes the historical achievements and contributions of Americans from all walks of life, races, and ethnic groups;

Whereas an individual who has a strong knowledge of American history is likely to have a deeper appreciation of the need for historic preservation of properties, buildings, and artifacts;

Whereas many of the educators, parents, and concerned citizens of our Nation have cited a lack of American history knowledge in students of all ages from across the country;

Whereas surveys have shown that the next generation of American leaders and citizens is in danger of losing a fundamental knowledge of American history;

Whereas 1 survey showed that only 23 percent of college seniors could correctly identify James Madison as the “Father of the Constitution”, and 26 percent of those same students mistakenly thought that the Articles of Confederation established the division of powers between the States and the Federal Government; and

Whereas Congress affirmed its commitment to the teaching of American history by appropriating \$100,000,000 to teaching American history through the Leave No Child Behind Act of 2001 (Public Law 107-110): Now, therefore, be it

*Resolved*, That the Senate—

(1) designates July as “American History Month”;

(2) recognizes that “American History Month” is an important time to recognize, reflect, and affirm the importance of learning and appreciating the history of the United States; and

(3) encourages parents and educators to actively expose children to the importance of American history and historic preservation.

#### SENATE RESOLUTION 313—TO REFER S. 2833, ENTITLED “A BILL FOR THE RELIEF OF THE HEIRS OF CLARK M. BEGGERLY, SR., OF JACKSON COUNTY, MISSISSIPPI” TO THE CHIEF JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A REPORT THEREON

Mr. COCHRAN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 313

*Resolved*, That—

(a) S. 2833, entitled “A bill for the relief of the heirs of Clark M. Beggerly, Sr., of Jackson County, Mississippi” now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims; and

(b) the chief judge shall—

(1) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code; and

(2) report back to the Senate, at the earliest practicable date, providing—

(A) such findings of fact and conclusions that are sufficient to inform Congress of the nature, extent, and character of the claim for compensation referred to in such bill as a legal or equitable claim against the United States or a gratuity; and

(B) the amount, if any, legally or equitably due from the United States to the heirs of Clark M. Beggerly, Sr., of Jackson County, Mississippi.