To amend title 49, United States Code, to rename the Aviation Safety Whistleblower Investigation Office and to establish an Office of Professional Responsibility and an Office of the Ombudsman in the Federal Aviation Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WICKER introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title 49, United States Code, to rename the Aviation Safety Whistleblower Investigation Office and to establish an Office of Professional Responsibility and an Office of the Ombudsman in the Federal Aviation Administration, 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,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Federal Aviation Ad-
5 ministration Accountability Enhancement Act”.

SEC. 2. ENHANCEMENT OF THE AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE IN THE FEDERAL AVIATION ADMINISTRATION.

(a) Renaming of the Office.—Section 106(t)(1) of title 49, United States Code, is amended by striking “an Aviation Safety Whistleblower Investigation Office” and inserting “the Office of Accountability and Whistleblower Protection”.

(b) Duties.—

(1) In general.—Section 106(t)(3) of title 49, United States Code, is amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting “and investigate in accordance with subsection (w)” after “receive”; and

(II) by striking “(if the certificate holder does not have a similar in-house whistleblower or safety and regulatory noncompliance reporting process)”;

(ii) in clause (ii), by striking “and” at the end;

(iii) in clause (iii), by striking the period at the end and inserting “; and”; and

(iv) adding at the end the following:
“(iv) investigate in accordance with subsection (w) any misconduct alleged or discovered as a result of an investigation conducted pursuant to clause (i);

“(v) receive and investigate in accordance with subsection (w) complaints and information concerning whistleblower retaliation by employees of the Agency;

“(vi) assess the results of any investigation under clause (i), (iv), or (v), and if there is a finding of whistleblower retaliation or related misconduct, provide a recommendation for a range of disciplinary actions to the Agency proposing official;

“(vii) if the Agency proposing official deviates from the recommended range of disciplinary action described in clause (vi), or if the Agency deciding official deviates from the range of disciplinary actions proposed by the Agency proposing official, notify Congress in writing not later than 10 days after such deviation; and

“(viii) comply with all legal requirements concerning disciplinary actions related to whistleblower retaliation.”;
(B) in subparagraph (B), by striking “sub-
paragraph (A)(i)” and inserting “clause (i),
(iv), or (v) of subparagraph (A)”;

(C) in subparagraph (C), by striking “sub-
paragraph (A)(i)” and inserting “clause (i),
(iv), or (v) of subparagraph (A)”;

(D) in subparagraph (D)—

(i) by striking “assessment” and in-
serting “investigation”;

(ii) by striking “subparagraph (A)(i)”
and inserting “clause (i), (iv), or (v) of
subparagraph (A)”;

(iii) by inserting “, misconduct, or
whistleblower retaliation” after “aviation
safety”.

(2) LIMITATION.—Section 106(t)(2) of title 49,
United States Code, is amended by adding at the
end the following:

“(E) LIMITATION OF DUTIES.— The Ad-
ministrator may only assign to the Director re-
 sponsibilities relating to the duties of the Office
described in paragraph (3).”.

(3) CONFORMING AMENDMENTS.—Section
106(t) of title 49, United States Code, as amend-
ed—
(A) in paragraph (5), by inserting ‘‘misconduct, or whistleblower retaliation’’ after ‘‘aviation safety’’;

(B) in paragraph (7)—

(i) in the matter preceding subparagraph (A)—

(I) by striking ‘‘October 1’’ and inserting ‘‘November 15’’; and

(II) by inserting ‘‘directly’’ after ‘‘the Director shall submit’’; and

(ii) in subparagraph (A), by striking ‘‘paragraph (3)(A)(i) in the preceding 12-month period’’ and inserting ‘‘clause (i), (iv), or (v) of paragraph 3(A) in the preceding fiscal year’’; and

(C) by adding at the end the following:

‘‘(8) STAFF AND RESOURCES.—The Administrator shall ensure that the Director has such staff, resources, and access to information as may be necessary to carry out the functions of the Office.’’.

SEC. 3. OFFICE OF THE WHISTLEBLOWER OMBUDSMAN IN THE FEDERAL AVIATION ADMINISTRATION.

Section 106 of title 49, United States Code, is amended by adding at the end the following:
“(u) Office of the Whistleblower Ombudsman.—

“(1) Establishment.—The Administrator shall establish in the Federal Aviation Administration (in this subsection referred to as the ‘Agency’) an Office of the Whistleblower Ombudsman (in this subsection referred to as the ‘Office’).

“(2) Ombudsman.—The Office shall be headed by an Ombudsman, who shall be appointed by the Administrator.

“(3) Duties.—The Ombudsman shall carry out the following duties:

“(A) Educate Agency employees about prohibitions on retaliation and any specific rights or remedies with respect to any retaliatory practice.

“(B) Serve as an independent confidential resource for Agency employees to discuss any specific retaliation allegation and available rights or remedies based on the circumstances.

“(C) Coordinate with Human Resource Management, the Office of Accountability and Whistleblower Protection, the Office of Professional Responsibility, and the Office of the Chief Counsel, as necessary.
“(D) Coordinate with the Office of the Inspector General of the Department of Transportation’s Whistleblower Protection Coordinator and the Office of the Special Counsel, as necessary.

“(E) Conduct outreach and training within the Agency to mitigate retaliation and promote timely and appropriate processing of any protected disclosure or allegation of retaliation.

“(4) STAFF AND RESOURCES.—The Administrator shall ensure that the Ombudsman has such staff, resources, and access to information as may be necessary to carry out the functions of the Office.”.

SEC. 4. OFFICE OF PROFESSIONAL RESPONSIBILITY IN THE FEDERAL AVIATION ADMINISTRATION. Section 106 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following:

“(v) OFFICE OF PROFESSIONAL RESPONSIBILITY.—

“(1) ESTABLISHMENT.—The Administrator shall establish in the Federal Aviation Administration (in this subsection referred to as the ‘Agency’) an Office of Professional Responsibility (in this subsection referred to as the ‘Office’).
“(2) DUTIES.—The Office shall carry out the following duties:

“(A) Receive any complaints and information concerning misconduct by managers within the Agency.

“(B) Assess any complaint and information concerning misconduct by managers received under this paragraph and determine whether sufficient information exists to initiate an investigation in accordance with subsection (w).

“(C) Except as provided in subparagraph (D), refer each misconduct case, based on the nature of the allegations, to—

“(i) the Office of the Inspector General of the Department of Transportation for investigation and appropriate referral, as necessary; or

“(ii) the appropriate venue within the Agency for investigation in accordance with subsection (w) and adjudication in accordance with subsection (x), unless the Office decides to retain such case.

“(D) Retain and independently investigate in accordance with subsection (w) any allega-
tion, other than an allegation investigated by
the Office of Accountability and Whistleblower
Protection or referred outside of the Agency,
that carries a possible penalty of suspension of
pay for more than 14 days.

“(E) Record and track the disposition of
each misconduct case received under this para-
graph.

“(3) STAFF AND RESOURCES.—The Adminis-
trator shall ensure that the Office has such staff, re-
sources, and access to information as may be nec-
essary to carry out the functions of the Office.

“(4) DEFINITION.—For purposes of this sub-
section, the term ‘manager’ means an employee of
the Agency who is a supervisor or management offi-
cial, as defined in section 7103(a) of title 5, United
States Code.”.

SEC. 5. MISCONDUCT INVESTIGATIONS AND ADJUDICA-
TIONS IN THE FEDERAL AVIATION ADMINIS-
TRATION.

Section 106 of title 49, United States Code, as
amended by section 4, is amended by adding at the end
the following:

“(w) MISCONDUCT INVESTIGATIONS.—

“(1) ESTABLISHMENT OF POLICY.—
“(A) IN GENERAL.—The Administrator shall establish an investigative policy that governs any investigation of misconduct by a manager conducted by the Federal Aviation Administration (in this subsection referred to as the ‘Agency’).

“(B) PRESERVATION OF COLLECTIVE BARGAINING AGREEMENTS.—The investigative policy established under subparagraph (A) shall not apply to, or in the future, be extended by the Administrator to apply to, any employee covered by or eligible to be covered by a collective bargaining agreement entered into by the Agency.

“(2) REQUIREMENTS.—The investigative policy established under paragraph (1) shall require the utilization of investigative best practices to ensure independent and objective investigation and accurate recording and reporting of such investigation, including—

“(A) managing case files to ensure the integrity of the information contained in such case files;
“(B) conducting interviews in a manner that ensures truthful answers and accurate records of such interviews;

“(C) coordinating with the Office of the Inspector General of the Department of Transportation, the Office of the Special Counsel, and the Attorney General, as necessary; and

“(D) completing investigations in a timely manner.

“(3) DEFINITION.—For purposes of this subsection, the term ‘manager’ has the meaning given such term in subsection (v)(4).

“(x) DISCIPLINE MANAGEMENT.—

“(1) ESTABLISHMENT OF POLICY.—

“(A) IN GENERAL.—The Administrator shall establish a discipline management policy that governs any adjudication of an investigation of misconduct by a manager conducted by the Federal Aviation Administration (in this subsection referred to as the ‘Agency’).

“(B) PRESERVATION OF COLLECTIVE BARGAINING AGREEMENTS.—The discipline management policy established under subparagraph (A) shall not apply to, or in the future, be extended by the Administrator to apply to, any
employee covered by or eligible to be covered by a collective bargaining agreement entered into by the Agency.

“(2) REQUIREMENTS.—The discipline management policy established under paragraph (1) shall require—

“(A) except as provided in subsection (t)(3)(A) or in a case where the allegation involved carries a possible penalty of suspension of pay for 14 days or less, the Administrator to appoint an individual to serve as the Agency proposing official in any adjudication conducted by the Agency;

“(B) except in a case where the allegation involved carries a possible penalty of suspension of pay for 14 days or less, the Administrator to appoint an individual to serve as the Agency deciding official in any adjudication conducted by the Agency;

“(C) the Agency to conduct any adjudication in accordance with best practices; and

“(D) the Agency to complete—

“(i) the discipline proposal process, including an opportunity for employee response, not later than 60 days after the re-
receipt of a completed misconduct investigation; and

“(ii) the decision process, including any employee appeal, not later than 60 days after the conclusion of the discipline proposal process.

“(3) DEFINITION.—For purposes of this subsection, the term ‘manager’ has the meaning given such term in subsection (v)(4).”.