to issue guidance on the efficiency, effectiveness, and economy of those products, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the District of Columbia (Ms. NORTON) that the House suspend the rules and pass the bill.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 347, nays 78, not voting 7, as follows:

[Roll No. 430]

YEAS—347

Adams	DeLauro	Johnson (LA)
Aderholt	DelBene	Johnson (SD)
Aguilar	Demings	Johnson (TX)
Amodei	DeSaulnier	Jones
Armstrong	DesJarlais	Joyce (OH)
Auchincloss	Deutch	Kahele
Axne	Diaz-Balart	Kaptur
Bacon	Dingell	Katko
Baird	Doggett	Keating
Balderson	Doyle, Michael F.	Keller
Barr	Dunn	Kelly (IL)
Barragán	Emmer	Kelly (MS)
Bass	Escobar	Kelly (PA)
Beatty	Eshoo	Khanna
Bentz	Espaillat	Kildee
Bera	Evans	Kilmer
Bergman	Fallon	Kim (CA)
Beyer	Feenstra	Kim (NJ)
Bice (OK)	Finstad	Kind
Bilirakis	Fischbach	Kirkpatrick
Bishop (GA)	Fitzgerald	Krishnamoorthi
Blumenauer	Fitzpatrick	Kuster
Blunt Rochester	Fleischmann	Kustoff
Bonamici	Fletcher	LaHood
Bost	Flood	Lamb
Bourdeaux	Flores	Langevin
Bowman	Foster	Larsen (WA)
Boyle, Brendan F.	Frankel, Lois	Larson (CT)
Brady	Franklin, C. Scott	Latta
Brown (MD)	Gallagher	LaTurner
Brown (OH)	Gallego	Lawrence
Brownley	Garamendi	Lawson (FL)
Buchanan	Garbarino	Lee (CA)
Bucshon	Garcia (CA)	Lee (NV)
Bush	García (IL)	Leger Fernandez
Bustos	Garcia (TX)	Letlow
Butterfield	Gibbs	Levin (CA)
Calvert	Gimenez	Levin (MI)
Carbajal	Golden	Lieu
Cárdenas	Gomez	Lofgren
Carl	Gonzales, Tony	Long
Carson	Gonzalez (OH)	Lowenthal
Carter (LA)	Gonzalez, Vicente	Lucas
Cartwright	Gottheimer	Luetkemeyer
Case	Graves (LA)	Luria
Casten	Graves (MO)	Lynch
Castor (FL)	Green (TN)	Malinowski
Castro (TX)	Green, Al (TX)	Malliotakis
Cawthorn	Grijalva	Maloney, Carolyn B.
Chabot	Guest	Maloney, Sean
Cherfilus-McCormick	Guthrie	Mann
Chu	Harder (CA)	Manning
Cicilline	Hartzler	Mast
Clark (MA)	Hayes	Matsui
Clarke (NY)	Hern	McBath
Cleaver	Herrell	McCarthy
Clyburn	Herrera Beutler	McCaul
Cohen	Higgins (NY)	McClain
Cole	Hill	McClintock
Connolly	Himes	McCollum
Conway	Hinson	McEachin
Correa	Hollingsworth	McGovern
Costa	Horsford	McHenry
Courtney	Houlahan	McKinley
Craig	Hoyer	McNerney
Crawford	Hudson	Meeks
Crenshaw	Huffman	Meijer
Crow	Huizenga	Meng
Cuellar	Issa	Mfume
Curtis	Jackson Lee	Miller (WV)
Davids (KS)	Jacobs (CA)	Miller-Meeks
Davis, Danny K.	Jacobs (NY)	Moolenaar
Davis, Rodney	Jayapal	Mooney
Dean	Jeffries	Moore (AL)
DeFazio	Johnson (GA)	Moore (UT)
DeGette	Johnson (LA)	Moore (WI)
Moulton	Ruppersberger	Morelle
Mrvan	Rush	Takano
Murphy (FL)	Ryan (NY)	Tenney
Murphy (NC)	Ryan (OH)	Thompson (CA)
Nadler	Salazar	Thompson (MS)
Napolitano	Sánchez	Thompson (PA)
Neal	Sarbanes	Timmons
Neguse	Scanlon	Titus
Nehls	Schakowsky	Tlaib
Newhouse	Schiff	Tonko
Newman	Schneider	Torres (CA)
Norcross	Schrader	Torres (NY)
O'Halleran	Schrier	Trahan
Ocasio-Cortez	Scott (VA)	Trone
Omar	Scott, Austin	Turner
Palazzo	Scott, David	Underwood
Pallone	Sewell	Upton
Palmer	Sherman	Valadao
Panetta	Sherrill	Van Drew
Pappas	Simpson	Vargas
Pascrell	Sires	Veasey
Payne	Slotkin	Velázquez
Peltola	Smith (MO)	Walberg
Perlmutter	Smith (NJ)	Waltz
Peters	Smith (WA)	Wasserman Schultz
Phillips	Smucker	Waters
Pingree	Soto	Watson Coleman
Pocan	Spanberger	Welch
Porter	Spartz	Wenstrup
Pressley	Speier	Westerman
Price (NC)	Stansbury	Wexton
Raskin	Stanton	Wild
Reschenthaler	Stauber	Williams (GA)
Rice (NY)	Steel	Williams (TX)
Rodgers (WA)	Stefanik	Wilson (FL)
Rogers (AL)	Steil	Wilson (SC)
Rogers (KY)	Stevens	Wittman
Ross	Strickland	Womack
Roybal-Allard	Suozzi	Yarmuth
Ruiz	Swalwell	Zeldin

NAYS—78

Allen	Fulcher	Mullin
Arrington	Gaetz	Norman
Babin	Gohmert	Obernolte
Banks	Good (VA)	Owens
Biggs	Gooden (TX)	Pence
Bishop (NC)	Gosar	Perry
Boebert	Granger	Pfluger
Brooks	Greene (GA)	Posey
Buck	Griffith	Rice (SC)
Burchett	Grothman	Rosendale
Burgess	Harris	Rouzer
Cammack	Harshbarger	Roy
Carey	Hice (GA)	Rutherford
Carter (GA)	Higgins (LA)	Scalise
Carter (TX)	Jackson	Schweikert
Cline	Johnson (OH)	Sempolinski
Cloud	Jordan	Sessions
Clyde	Joyce (PA)	Smith (NE)
Comer	LaMalfa	Steube
Davidson	Lamborn	Stewart
Donalds	Lesko	Taylor
Duncan	Loudermilk	Tiffany
Ellzey	Mace	Van Duyne
Estes	Massie	Wagner
Ferguson	Meuser	Weber (TX)
Foxx	Miller (IL)	Webster (FL)

NOT VOTING—7

Allred	Cooper	Rose
Budd	Kinzinger	
Cheney	Quigley	

□ 1603

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ALLRED. Mr. Speaker, I was participating in a Presidential Delegation to the Republic of Kenya and absent during the time of votes. Had I been present, I would have voted:

YEA on Roll Call No. 424, H. Res. 1339, on Ordering the Previous Question;

YEA on Roll Call No. 425, H. Res. 1339, on Agreeing to the Resolution;

YEA on Roll Call No. 426, Motion to Suspend the Rules and Pass Certain Bills (H.R. 1468, S. 4205, H.R. 7939, H.R. 7846, H.R. 7735, H.R. 5916, H.R. 8260, and H.R. 5865);

YEA on Roll Call No. 427, H.R. 884, the National Aviation Preparedness Plan Act;

YEA on Roll Call No. 428, H.R. 5774, the Expediting Disaster Recovery Act;

YEA on Roll Call No. 429, S. 2293, the Crew Act; and

YEA on Roll Call No. 430, S. 442, the BRIGHT Act.

MEMBERS RECORDED PURSUANT TO HOUSE RESOLUTION 8, 117TH CONGRESS

Baird (Bucshon)	Kirkpatrick (Pallone)	Rice (NY) (Deutch)
Bass (Correa)	Lawrence (Beatty)	Schiff (Deutch)
Bush (Bowman)	Lawson (FL) (Evans)	Schrader (Correa)
Cárdenas (Correa)	Levin (MI) (Correa)	Scott (VA) (Beyer)
Conway (Valadao)	McEachin (Beyer)	Scott, Austin (Cammack)
DeSaulnier (Beyer)	Miller (WV) (Kim (CA))	Stansbury (Pallone)
Dingell (Kuster)	Moore (WI) (Beyer)	Stevens (Kuster)
Fallon (Nehls)	Newman (Beyer)	Tlaib (Bowman)
Gaetz (Cawthorn)	Payne (Pallone)	Upton (Katko)
Higgins (NY) (Pallone)	Pingree (Kuster)	Wexton (Beyer)
Johnson (TX) (Jeffries)		
Jones (Beyer)		

WHISTLEBLOWER PROTECTION IMPROVEMENT ACT OF 2021

GENERAL LEAVE

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and insert extraneous material on the bill before us today.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 1339 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2988.

The Chair appoints the gentleman from Oregon (Mr. BLUMENAUER) to preside over the Committee of the Whole.

□ 1608

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2988) to amend title 5, United States Code, to modify and enhance protections for Federal Government whistleblowers, and for other purposes, with Mr. BLUMENAUER in the chair.

The CHAIR. The House is in the Committee of the Whole House on the state of the Union for the consideration of H.R. 2988, which the Clerk will report by title.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall be confined to the bill and shall not exceed 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Reform or their respective designees.

The gentlewoman from New York (Mrs. CAROLYN B. MALONEY) and the

gentleman from Kentucky (Mr. COMER) each will control 30 minutes.

The Chair recognizes the gentlewoman from New York.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I yield myself such time as I may consume.

I rise in strong support of H.R. 2988, the Whistleblower Protection Improvement Act of 2021. In May 2021, I introduced the Whistleblower Protection Improvement Act, along with Representative NANCY MACE, ranking member of the Civil Rights and Civil Liberties Subcommittee.

Federal whistleblowers serve a critical role by shedding a light on government corruption, waste, fraud, and abuse and wrongdoing, often through reporting such actions to Congress. Their disclosures protect taxpayers' dollars, improve Federal programs, and even save lives. Unfortunately, the Oversight Committee has seen too many examples of employers retaliating against whistleblowers. In one instance, the TSA, the Transportation Security Administration, that provides security at airports, moved an airport employee hundreds of miles away to a new duty station when they revealed security flaws at the TSA at the airports.

In another troubling example, a White House supervisor moved files beyond the reach of a disabled employee after the employee disclosed violations of security clearance procedures.

A GAO report earlier this year also revealed that employees at four scientific research agencies did not report instances of political interference in scientific decisionmaking out of fear of retaliation and uncertainty of how to best voice their concerns.

As these examples make clear, whistleblowers often make disclosures at great personal risk. That is why protections for whistleblowers have long received bipartisan support in this Congress. I thank my colleagues, including Representative MACE, for continuing that tradition today.

The Whistleblower Protection Improvement Act would enact long-overdue reforms to protect whistleblowers from retaliation to the greatest extent possible, and to provide meaningful remedies if whistleblowers still encounter retaliation.

The bill would prohibit agencies from launching retaliatory investigations against employees who blow the whistle and would limit the public disclosure of a whistleblower's identity.

The bill would also provide Federal whistleblowers with faster legal recourse for retaliation claims and would allow them to have their claims tried before a jury in a Federal District Court. Access to jury trials has long been a priority of whistleblower advocates.

The last major reform to whistleblower protection was in 2012. I am proud to continue this important bipartisan effort to protect whistleblowers today.

The bill we are considering also clarifies that whistleblowers who prevail are entitled to recover attorney's fees and to receive the necessary relief to make them whole.

Finally, the bill would make clear that no Federal employee, including the President or the Vice President of the U.S., may interfere or retaliate against a whistleblower for disclosing information to Congress.

The Whistleblower Protection Improvement Act has received public support from more than 100 stakeholder organizations, including the Government Accountability Project, the National Taxpayers Union, the Project on Government Oversight, the Taxpayer Protection Alliance, and Whistleblowers of America.

Mr. Chair, I include in the RECORD a letter of support from 100 different organizations.

JULY 14. 2022.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR SPEAKER PELOSI: During the last month, our nation has been fixated on evidence about threats to our democracy exposed in the January 6 Select Committee hearings. The undersigned organizations commend your leadership creating the January 6 Committee for exposing the truth. The undersigned organizations now seek your leadership protecting those who provide the evidence.

The Committee on Oversight and Reform has marked up HR 6762. the Whistleblower Protection Improvement Act (WPIA). The legislation deserves floor time for a House vote so that we can highlight its passage on July 30. 2022, National Whistleblower Appreciation Day. The House has voted for this reform in the Protect Our Democracy Act. but Senate action requires standalone legislation.

The WPIA would be the fifth generation of pioneering whistleblower rights first passed in 1978. These rights have been excellent global pacesetters that Congress unanimously has reaffirmed three time since 1978, the last in the Whistleblower Protection Enhancement Act of 2012. The two Achilles heels, however, have been loopholes and lack of credible due process enforcement.

Those problems only have become worse since 2012. For example, the administrative Merit Systems Protection Board has a monopoly on enforcement. but its vulnerability to political pressure blocked confirmations and led to an empty Board with a 3,500 case back log. Lacking judicial independence, its Administrative Judges who conduct hearings rule against whistleblowers in over 95% of initial merits decisions.

The WPIA addresses both the loopholes and due process gaps by providing parity for federal civil service employee whistleblower rights with those enacted by Congress 16 times in each or 17 private sector whistleblower law enacted since 2002. To illustrate it would—

Permit jury trials if there is no timely administrative decision. This would take the politics out of whistleblowerjustice for federal employees the nation's only major labor group denied a day in court to challenge violation of their free speech rights despite making the disclosures most significant for voters.

Permit lawsuits when retaliatory investigations are opened. Investigations are a kneejerk first reaction to find any dirt on whistleblowers that will distract from government fraud, waste and abuse. As long as a probe is open, it has a broad chilling effect even if later dropped. This key provision would establish parity with all other whistleblower laws, even the Military Whistleblower Protection Act.

Establish realistic legal burdens to obtain temporary relief. Temporary relief is almost never available under current law and is essential when cases commonly drag out over five years. By that time, even winning may be too late for those who have lost their homes, gone bankrupt frequently lost their families and had their professional deputations irrevocably ruined.

Close loopholes that erase the law's benefits. Currently, Public Health Service (PHS) whistleblowers are excluded from the Whistleblower Protection Act and limited to military remedies, as are employees of the National Oceanic and Atmospheric Agency (NOAA). However, these are the professionals from whom we need the truth about public health threats like the pandemic and environmental threats like climate change. Loopholes in remedies mean that whistleblowers still can ''lose by winning.'' The WPIA fills these and similar gaps.

This legislation is a political opportunity supported by 86% of likely voters in a Marist Poll survey just before the last election, and more than 265 organizations across the issue and political spectrum have already expressed support for its passage. It extends the same rights to federal employees defending the public that Congress repeatedly has provided to corporate employees defending the shareholders. We need your leadership, so that those who defend the public can defend themselves.

Sincerely,

20/20 Vision DC, Academics Stang Against Poverty, Accountability Lab, Affiliation of Christian Engineers, African Centre for Media & Information Literacy, Alliance to Counter Crime Online, American Association for Justice, American-Arab Anti-Discrimination Committee (ADC), Animals Are Sentient Beings Inc, Arab American Institute, Bekker Compliance Consulting Partners, LLC, Blueprint for Free Speech, Broward for Progress, Center for Auto Safety, Center for Progressive Reform, Center for Science in the Public Interest (CSPI), Citizens for Responsibility and Ethics in Washington (CREW) Citizens' Environmental Coalition, Clean Elections Texas, Climate Science Legal Defense Fund.

Columbia Legal Services, Community Science Institute, Inc., Concerned Citizens for Nuclear Safety, Consumer Action, Cook Inletkeeper, Corruption kills, Council for a Livable World, Demand Progress, DemCast USA, Dr. Yolanda Whyte Pediatrics, Equal Justice Society, Federally Employed Women, Fight for the Future, Food & Water Watch, Forest Service Employees for Environmental Ethics, Government Accountability Project, Government Information Watch, Harrington Investments, Inc., Human Environmental and Leadership Prevalent Center (HELP Center), Indivisible Santa Fe.

Information Trust, International Association of Whistleblowers (IAW), International Fund for Animal Welfare, Iowa Institute for Public Accountability, Jacobs Institute of Women's Health, Law Enforcement Action Partnership (LEAP), League of Conservation Voters, Liberty Shared, Mainers for Accountable Leadership, Mehri & Skalet PLLC, Michiganders for Fair & Transparent Elections, Muslim American Law Enforcement Association, National Air Disaster Foundation, National Coalition Against Censorship, National Employment Law Project, National Organization for Women, National Whistleblower Center, NETWORK Lobby for Catholic Social Justice, No Violence.org, Open

MIC (Open Media and Information Companies Initiative).

Open The Government, Oregonizers, Pax Christi USA, People's Parity Project, Project Censored and Media Freedom Foundation, Project On Government Oversight (POGO), Protect All Children's Environment, Protect Democracy, Public Citizen, Public Employees for Environmental Responsibility (PEER), Public Justice Center, Restore The Fourth, Robert F. Kennedy Human Rights, Rock the Vote, RootsAction.org, Rural Coalition, Secure Elections Network, Shriver Center on Poverty Law, Society of Professional Journalists, Strategies For Justice, BWMP LLC.

Taxpayers Protection Alliance, The Center for International Policy, The Coalition For Change Inc. (C4C), The Digital Democracy Project, The Ecotopian Society, The Freedom BLOC, The James Madison Project, The Revolving Door Project, The Rutherford Institute, The Signals Network, The Vindman Group, The Workers Circle, Transparency International—U.S. Office, Truckers Justice Center, Tully Center for Free Speech, Syracuse University.

Union of Concerned Scientists, Washington Coalition for Open Government, Washington Lawyers' Committee for Civil Rights and Urban Affairs, Washington Office on Latin America (WOLA), WESPAC Foundation, Inc., Whistleblower Network News, Whistleblowers of America, WhistleblowersUK, Wind of the Spirit Immigrant Resource Center, Women's International League for Peace and Freedom US, Women's Action for New Directions (WAND), Workplace Fairness, X-Lab.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I strongly urge my colleagues on both sides of the aisle to support this bill and to support the heroes and heroines who disclose wrongdoing and corruption in our government, leading to reforms to make our government stronger and better able to serve the American people.

Mr. Chair, I reserve the balance of my time.

□ 1615

Mr. COMER. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, I will admit the Whistleblower Protection Improvement Act has a great name because Congress cares about protecting whistleblowers. As the ranking member of the Oversight Committee, I appreciate and value whistleblowers' service and sacrifice to make government better.

In fact, ensuring whistleblowers have protections against abuse or retaliation is a bipartisan issue here in Congress. That probably explains why there are already so many protections that whistleblowers have access to in statutes, regulations, executive orders, and agency policies. There is the Whistleblower Protection Act, the Intelligence Community Whistleblower Protection Act, the Whistleblower Protection Enhancement Act, the very catchy Notification and Federal Employee Antidiscrimination and Retaliation Act.

Congress has consistently sought to protect people working in the Federal Government who report waste, fraud, and abuse—and for good reason. Whistleblowers are often the only means of knowing what is happening in an agency, and that is especially important under the Biden administration when the Democrats in Congress have refused to conduct any meaningful or serious oversight.

But how many more whistleblower laws do we need with so many already on the books?

Further, Republicans oppose this bill because it is a step too far. A simple version of this bill would have just applied the existing whistleblower protections to the few corners of the Federal Government that aren't already covered by the law. However, H.R. 2988 goes much further by making it nearly impossible—and only after a long, expensive process—to address performance or employment issues in anyone claiming to be a whistleblower, even if the person is not really a whistleblower but just bad at his or her job.

In the real world, if you are undermining your boss, participating in misconduct, or just lazy, your employer has options to hold you accountable. In the Federal Government, if you claim you are a whistleblower, you can be as terrible as you want and almost any attempt to remove you from your station is characterized as retaliation.

There is a difference between retaliation and plain repercussions, but this bill would make them the same. It would prohibit opening an investigation into someone who claims to be a whistleblower, even if there is good reason to investigate the employee's conduct.

Under this bill, it would be nearly impossible to reveal the identity of a whistleblower in order to evaluate the validity of his or her claims.

In large part, this bill is just an excuse to further idolize the people who pushed the sham impeachment against former President Trump. The actions of President Trump were, of course, vindicated by the Senate.

Entrenching Federal Government employees by enacting laws like H.R. 2988 is, in large part, why President Trump got elected in the first place: to drain the swamp. Democrats may be wise to remember this concern of the American people and stop working to further entrench the executive branch bureaucracy.

Mr. Chair, I reserve the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I yield 2 minutes to the gentleman from Virginia (Mr. CONNOLLY), the distinguished chairman of the Subcommittee on Government Operations.

Mr. CONNOLLY. Mr. Chair, I thank the distinguished chairwoman of our committee for yielding time.

I hardly think President Donald Trump drained the swamp. He filled it with alligators.

I rise today in support of H.R. 2988, the Whistleblower Protection Improvement Act. I am committed to protecting, supporting, and empowering our 2.1 million civil servants to use their acumen and expertise to do what is right for the country.

As chairman of the Subcommittee on Government Operations, I am intimately familiar with how whistleblowers and the inspector general community protect our government's most valuable asset, the Federal workforce.

The Whistleblower Protection Improvement Act would bolster whistleblower protections, ensure due process and equitable relief, and expand protections for more Federal employees. The bill clarifies that no one may interfere with a Federal employee's right to provide information to Congress, including the President of the United States.

During the Trump Presidency, we saw repeated and consistent efforts to silence and retaliate against brave whistleblowers. In May, the Department of Defense IG found that Trump loyalists retaliated against Colonel Yevgeny Vindman, who bravely reported that President Trump had an unlawful phone call with Ukrainian President Zelenskyy.

Even in the wake of a damning impeachment trial, and in full view of the public, Mr. Trump felt emboldened to attack Active Duty servicemembers who had the courage and common sense to expose that extortion.

Federal employees must feel safe and supported when rooting out waste, fraud, abuse, and corruption. We must celebrate expertise and adherence to principles of law, transparency, and deliberation that serve as the foundation of our democratic system. We must protect public servants and defend the Federal merit system against partisan interference.

I thank the chair of the Oversight Committee, Mrs. MALONEY, for sponsoring this bill and for always lifting up the subcommittee's work on whistleblowers and inspectors general.

Mr. COMER. Mr. Chair, I reserve the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON), the distinguished chairwoman of the Committee on Transportation and Infrastructure's Subcommittee on Highways and Transit.

Ms. NORTON. Mr. Chair, I thank my good friend, the chair of our committee, for yielding time.

I come to speak in strong support of the Whistleblower Protection Improvement Act, of which I am a cosponsor. I especially appreciate this bill since, as a Member of Congress for the District of Columbia, many Federal employees are my constituents.

Importantly, this bill would expand whistleblower protections and ensure due process and enable relief for whistleblowers. We should appreciate and celebrate our Federal employees, especially our whistleblowers, and I am particularly pleased that this bill would clarify that Federal employees cannot be retaliated against for sharing information with Congress.

It is important that Congress have full information about the operations

of our government, and this good-governance measure will help with that goal.

I am grateful to Chairwoman MALONEY for introducing this important bill, and I am pleased to speak in support of it.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, there are no more speakers, and I am prepared to close if my colleagues on the Republican side are ready to close, as well.

Mr. Chair, I reserve the balance of my time.

Mr. COMER. Mr. Chair, whistleblowers in the Federal Government are covered by some of the most comprehensive protections for employees in the country.

Whistleblowers serve a valuable role in our government, especially in an administration like the Biden administration, which is subject to almost no oversight by Congress.

But giving this bill a great title, Whistleblower Protection Improvement Act, does not and should not provide cover for the actual requirements and consequences of this bill. Bill titles don't govern our government, but the substance within them does.

The Whistleblower Protection Improvement Act is a step too far and would help further entrench Federal Government employees in their jobs.

Mr. Chair, I oppose H.R. 2988, and I urge my colleagues to do the same.

Mr. Chair, I yield back the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I yield myself the balance of my time.

Mr. Chair, this bill does not prohibit agencies from investigating actual misconduct. It merely prohibits launching an investigation as retaliation for blowing the whistle.

When an agency becomes aware of a disclosure of waste, fraud, and abuse, the concern of the agency should be addressing those issues rather than retaliating against the employee who discloses the problems.

This change fills a critical role created by the 2020 appeals court decision that held that current whistleblower laws only prohibit a retaliatory investigation if the investigation ultimately resulted in a significant change in the employee's working conditions. This decision ignored the effect that a retaliatory investigation has on a whistleblower when an investigation is going on. So, I disagree with the gentleman's statement, and I am now prepared to close.

Mr. Chair, I want to stress the urgency and importance of this legislation and talk about how important it is to protect our whistleblowers.

They play a critical role in exposing wrongdoing within the government, sometimes at great personal risk. They need to be able to alert agency leaders and Congress without fear of retaliation.

Passing H.R. 2988 would help give whistleblowers the protection they deserve. The key reforms in the bill would prohibit agencies from launching retaliatory investigations and extend whistleblowers the right to a jury trial, which they have long sought, and permit whistleblowers to receive attorney fees if they win their lawsuits.

This bill establishes new protections for whistleblowers who have a crucial role in shedding light on government corruption and wrongdoing.

This bill is also strongly supported by well over 100 stakeholder organizations. Just today, the National Taxpayers Union announced its inclusion of this bill as one of its ''No Brainers'' list for bills that Congress should pass. Only a few bills receive this kind of recognition. This is landmark legislation, both for freedom of speech and for government accountability.

I thank my colleagues on both sides of the aisle who have cosponsored this important legislation and spoken in support of it. Mr. Chair, I strongly urge my colleagues to vote in favor of this bill.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

The amendment in the nature of a substitute recommended by the Committee on Oversight and Reform printed in the bill, modified by the amendment printed in part B of House Report 117–464, shall be considered as adopted. The bill, as amended, shall be considered as an original bill for purpose of further amendment under the 5-minute rule and shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2988

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Whistleblower Protection Improvement Act of 2021''.

SEC. 2. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) INVESTIGATIONS AS PERSONNEL ACTIONS.—(1) IN GENERAL.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (xi), by striking ''and'' at the end;

(B) by redesignating clause (xii) as clause (xiii); and

(C) by inserting after the clause (xi) the following:

''(xii) for purposes of subsection (b)(8)—

''(I) the commencement, expansion, or extension of an investigation, but not including any investigation that is ministerial or nondiscretionary (including a ministerial or nondiscretionary investigation described in section 1213) or any investigation that is conducted by an Inspector General of an entity of the Government of an employee not employed by the office of that Inspector General; and

''(II) a referral to an Inspector General of an entity of the Government, except for a referral that is ministerial or nondiscretionary; and''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to any investigation opened, or referral made, as described under clause (xii) of section 2302(a)(2)(A) of title 5, United States Code, as added by such paragraph, on or after the date of enactment of this Act.

(b) RIGHT TO PETITION CONGRESS.—

(1) IN GENERAL.—Section 2302(b)(9) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking ''or'' at the end;

(B) in subparagraph (D), by adding ''or'' after the semicolon at the end; and

(C) by adding at the end the following:

''(E) the exercise of any right protected under section 7211;''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to the exercise of any right described in section 2302(b)(9)(E) of title 5, United States Code, as added by paragraph (1), occurring on or after the date of enactment of this Act.

(c) PROHIBITION ON DISCLOSURE OF WHISTLEBLOWER IDENTITY.—

(1) IN GENERAL.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

''(g)(1) No employee of an agency may willfully communicate or transmit to any individual who is not an officer or employee of the Government the identity of, or personally identifiable information about, any other employee because that other employee has made, or is suspected to have made, a disclosure protected by subsection (b)(8), unless—

''(A) the other employee provides express written consent prior to the communication or transmission of their identity or personally identifiable information;

''(B) the communication or transmission is made in accordance with the provisions of section 552a;

''(C) the communication or transmission is made to a lawyer for the sole purpose of providing legal advice to an employee accused of whistleblower retaliation; or

''(D) the communication or transmission is required or permitted by any other provision of law.

''(2) In this subsection, the term 'officer or employee of the Government' means—

''(A) the President;

''(B) a Member of Congress;

''(C) a member of the uniformed services;

''(D) an employee as that term is defined in section 2105, including an employee of the United States Postal Service, the Postal Regulatory Commission, or the Department of Veterans Affairs (including any employee appointed pursuant to chapter 73 or 74 of title 38); and

''(E) any other officer or employee in any branch of the Government of the United States.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to any transmission or communication described in subsection (g) of section 2302 of title 5, United States Code, as added by paragraph (1), made on or after the date of enactment of this Act.

(d) RIGHT TO PETITION CONGRESS.—

(1) IN GENERAL.—Section 7211 of title 5, United States Code, is amended to read as follows:

''§ 7211. Employees' right to petition or furnish information or respond to Congress

''(a) IN GENERAL.—Each officer or employee of the Federal Government, individually or collectively, has a right to—

''(1) petition Congress or a Member of Congress;

''(2) furnish information, documents, or testimony to either House of Congress, any Member of Congress, or any committee or subcommittee of the Congress; or

''(3) respond to any request for information, documents, or testimony from either House of Congress or any Committee or subcommittee of Congress.

''(b) PROHIBITED ACTIONS.—No officer or employee of the Federal Government may interfere

with or deny the right set forth in subsection (a), including by—

''(1) prohibiting or preventing, or attempting or threatening to prohibit or prevent, any other officer or employee of the Federal Government from engaging in activity protected in subsection (a); or

''(2) removing, suspending from duty without pay, demoting, reducing in rank, seniority, status, pay, or performance or efficiency rating, denying promotion to, relocating, reassigning, transferring, disciplining, or discriminating in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government or attempting or threatening to commit any of the foregoing actions protected in subsection (a).

''(c) APPLICATION.—This section shall not be construed to authorize disclosure of any information that is—

''(1) specifically prohibited from disclosure by any other provision of Federal law; or

''(2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, unless disclosure is otherwise authorized by law.

''(d) DEFINITION OF OFFICER OR EMPLOYEE OF THE FEDERAL GOVERNMENT.—For purposes of this section, the term 'officer or employee of the Federal Government' includes—

''(1) the President;

''(2) a Member of Congress;

''(3) a member of the uniformed services;

''(4) an employee (as that term is defined in section 2105);

''(5) an employee of the United States Postal Service or the Postal Regulatory Commission; and

''(6) an employee appointed under chapter 73 or 74 of title 38.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 72 of title 5, United States Code, is amended by striking the item related to section 7211 and inserting the following:

''7211. Employees' right to petition or furnish information or respond to Congress.''.

SEC. 3. ENHANCEMENT OF WHISTLEBLOWER PROTECTIONS.

(a) DISCLOSURES RELATING TO OFFICERS OR EMPLOYEES OF AN OFFICE OF INSPECTOR GENERAL.—Section 1213(c) of title 5, United States Code, is amended by adding at the end the following:

''(3) If the information transmitted under this subsection disclosed a violation of law, rule, or regulation, or gross waste, gross mismanagement, abuse of authority, or a substantial and specific danger to public health or safety, by any officer or employee of an Office of Inspector General, the Special Counsel may refer the matter to the Council of the Inspectors General on Integrity and Efficiency, which shall comply with the standards and procedures applicable to investigations and reports under subsection (c).''.

(b) RETALIATORY REFERRALS TO INSPECTORS GENERAL.—Section 1214(d) of title 5, United States Code, is amended by adding at the end the following:

''(3) In any case in which the Special Counsel determines that a referral to an Inspector General of an entity of the Federal Government was in retaliation for a disclosure or protected activity described in section 2302(b)(8) or in retaliation for exercising a right described in section 2302(b)(9)(A)(i), the Special Counsel shall transmit that finding in writing to the Inspector General within seven days of making the finding. The Inspector General shall consider that finding and make a determination on whether to initiate an investigation or continue an investigation based on the referral that the Special Counsel found to be retaliatory.''.

(c) ENSURING TIMELY RELIEF.—

(1) INDIVIDUAL RIGHT OF ACTION.—Section 1221 of title 5, United States Code, is amended by striking ''section 2302(b)(8) or section 2302(b)(9)(A)(i), (B), (C), or (D),'' each place it appears and inserting ''section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g),''.

(2) STAYS.—Section 1221(c)(2) of title 5, United States Code, is amended to read as follows:

''(2) Any stay requested under paragraph (1) shall be granted within 10 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date the request is made, if the Board determines—

''(A) that there is a substantial likelihood that protected activity was a contributing factor to the personnel action involved; or

''(B) the Board otherwise determines that such a stay would be appropriate.''.

(3) APPEAL OF STAY.—Section 1221(c) of title 5, United States Code, is amended by adding at the end the following:

''(4) If any stay requested under paragraph (1) is denied, the employee, former employee, or applicant may, within 7 days after receiving notice of the denial, file an appeal for expedited review by the Board. The agency shall have 7 days thereafter to respond. The Board shall provide a decision not later than 21 days after receiving the appeal. During the period of appeal, both parties may supplement the record with information unavailable to them at the time the stay was first requested.''.

(4) ACCESS TO DISTRICT COURT; JURY TRIALS.—

(A) IN GENERAL.—Section 1221(i) of title 5, United States Code, is amended—

(i) by striking ''(i) Subsections'' and inserting ''(i)(1) Subsections''; and

(ii) by adding at the end the following:

''(2)(A) If, in the case of an employee, former employee, or applicant for employment who seeks corrective action from the Merit Systems Protection Board based on an alleged prohibited personnel practice described in section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g), no final order or decision is issued by the Board within 180 days after the date on which a request for such corrective action has been duly submitted to the Board, such employee, former employee, or applicant may, after providing written notice to the Special Counsel and the Board and only within 20 days after providing such notice, bring an action for review de novo before the appropriate United States district court, and such action shall, at the request of either party to such action, be tried before a jury. Upon filing of an action with the appropriate United States district court, any proceedings before the Board shall cease and the employee, former employee, or applicant for employment waives any right to refile with the Board.

''(B) If the Board certifies (in writing) to the parties of a case that the complexity of such case requires a longer period of review, subparagraph (A) shall be applied by substituting '240 days' for '180 days'.

''(C) In any such action brought before a United States district court under subparagraph (A), the court—

''(i) shall apply the standards set forth in subsection (e); and

''(ii) may award any relief which the court considers appropriate, including any relief described in subsection (g).''.

(B) APPLICATION.—

(i) The amendments made by subparagraph (A) shall apply to any corrective action duly submitted to the Merit Systems Protection Board, during the five-year period preceding the date of enactment of this Act, by an employee, former employee, or applicant for employment based on an alleged prohibited personnel practice described in section 2302(b)(8), 2302(b)(9)(A)(i), (B), (C), or (D), or 2302(b)(13) of title 5, United States Code, with respect to which no final order or decision has been issued by the Board.

(ii) In the case of an individual described in clause (i) whose duly submitted claim to the Board was made not later than 180 days before the date of enactment of this Act, such individual may only bring an action before a United States district court as described in section 1221(i)(2) of title 5, United States Code, (as added by subparagraph (A) if that individual—

(I) provides written notice to the Office of Special Counsel and the Merit Systems Protection Board not later than 90 days after the date of enactment of this Act; and

(II) brings such action not later than 20 days after providing such notice.

(d) RECIPIENTS OF WHISTLEBLOWER DISCLOSURES.—Section 2302(b)(8)(B) of title 5, United States Code, is amended by striking ''or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures'' and inserting ''the Inspector General of an agency, a supervisor in the employee's direct chain of command up to and including the head of the employing agency, or to an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures''.

(e) ATTORNEY FEES.—

(1) IN GENERAL.—Section 7703(a) of title 5, United States Code, is amended by adding at the end the following:

''(3) If an employee, former employee, or applicant for employment is the prevailing party under a proceeding brought under this section, the employee, former employee, or applicant for employment shall be entitled to attorney fees for all representation carried out pursuant to this section. In such an action for attorney fees, the agency responsible for taking the personnel action shall be the respondent and shall be responsible for paying the fees.''.

(2) APPLICATION.—In addition to any proceeding brought by an employee, former employee, or applicant for employment on or after the date of enactment of this Act to a Federal court under section 7703 of title 5, United States Code, the amendment made by paragraph (1) shall apply to any proceeding brought by an employee, former employee, or applicant for employment under such section before the date of enactment of this Act with respect to which the applicable Federal court has not issued a final decision.

(f) EXTENDING WHISTLEBLOWER PROTECTION ACT TO CERTAIN EMPLOYEES.—

(1) IN GENERAL.—Section 2302(a)(2)(A) of title 5, United States Code, is amended in the matter following clause (xiii)—

(A) by inserting ''subsection (b)(9)(A)(i), (B), (C), (D), or (E), subsection (b)(13), or subsection (g),'' after ''subsection (b)(8),''; and

(B) by inserting after ''title 31'' the following: '', a commissioned officer or applicant for employment in the Public Health Service, and an officer or applicant for employment in the commissioned officer corps of the National Oceanic and Atmospheric Administration.

(2) CONFORMING AMENDMENTS.—Section 261 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071) is amended—

(A) in subsection (a)—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) through (26) as paragraphs (8) through (25), respectively; and

(B) in subsection (b), by striking the second sentence.

(3) APPLICATION.—

(A) IN GENERAL.—With respect to an officer or applicant for employment in the commissioned officer corps of the National Oceanic and Atmospheric Administration, the amendments made by paragraphs (1) and (2) shall apply to any personnel action taken against such officer or applicant on or after the date of enactment of

the National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2020 (Public Law 116–259) for making any disclosure protected under section 2302(8) of title 5, United States Code.

(B) EXCEPTION.—Subparagraph (A) shall not apply to any personnel action with respect to which a complaint has been filed pursuant to section 1034 of title 10, United States Code, and a final decision has been rendered regarding such complaint.

(g) RELIEF.—

(1) IN GENERAL.—Section 7701(b)(2)(A) of title 5, United States Code, is amended by striking ''upon the making of the decision'' and inserting ''upon making of the decision, necessary to make the employee whole as if there had been no prohibited personnel practice, including training, seniority and promotions consistent with the employee's prior record''.

(2) APPLICATION.—In addition to any appeal made on or after the date of enactment of this Act to the Merit Systems Protection Board under section 7701 of title 5, United States Code, the amendment made by paragraph (1) shall apply to any appeal made under such section before the date of enactment of this Act with respect to which the Board has not issued a final decision.

SEC. 4. CLASSIFYING CERTAIN FURLOUGHS AS ADVERSE PERSONNEL ACTIONS.

(a) IN GENERAL.—Section 7512 of title 5, United States Code, is amended—

(1) in paragraph (4), by striking ''and'' at the end; and

(2) by striking paragraph (5) and inserting the following:

''(5) a furlough of more than 14 days but less than 30 days; and

''(6) a furlough of 13 days or less that is not due to a lapse in appropriations;''.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to any furlough covered by such section 7512(5) or (6) (as amended by such subsection) occurring on or after the date of enactment of this Act.

SEC. 5. CODIFICATION OF PROTECTIONS FOR DISCLOSURES OF CENSORSHIP RELATED TO RESEARCH, ANALYSIS, OR TECHNICAL INFORMATION.

(a) IN GENERAL.—Section 2302 of title 5, United States Code, as amended by section 2(c)(1), is further amended by adding at the end the following:

''(h)(1) In this subsection—

''(A) the term 'applicant' means an applicant for a covered position;

''(B) the term 'censorship related to research, analysis, or technical information' means any effort to distort, misrepresent, or suppress research, analysis, or technical information; and

''(C) the term 'employee' means an employee in a covered position in an agency.

''(2)(A) Any disclosure of information by an employee or applicant for employment that the employee or applicant reasonably believes is evidence of censorship related to research, analysis, or technical information—

''(i) shall come within the protections of subsection (b)(8)(A) if—

''(I) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

''(aa) any violation of law, rule, or regulation; or

''(bb) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

''(II) such disclosure is not specifically prohibited by law or such information is not specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs; and

''(ii) shall come within the protections of subsection (b)(8)(B) if—

''(I) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

''(aa) any violation of law, rule, or regulation; or

''(bb) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

''(II) the disclosure is made to the Special Counsel, or to the Inspector General of an agency or another person designated by the head of the agency to receive such disclosures, consistent with the protection of sources and methods.

''(3) A disclosure shall not be excluded from paragraph (2) for any reason described under subsection (f)(1) or (2).

''(4) Nothing in this subsection shall be construed to imply any limitation on the protections of employees and applicants afforded by any other provision of law, including protections with respect to any disclosure of information believed to be evidence of censorship related to research, analysis, or technical information.''.

(b) REPEAL.—

(1) IN GENERAL.—Section 110 of the Whistleblower Protection Enhancement Act of 2012 (Public Law 112–199) is hereby repealed.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit or otherwise affect any action under such section 110 commenced before the date of enactment of this Act or any protections afforded by such section with respect to such action.

SEC. 6. TITLE 5 TECHNICAL AND CONFORMING AMENDMENTS.

Title 5, United States Code, is amended—

(1) in section 1212(h), by striking ''or (9)'' each place it appears and inserting '', (b)(9), (b)(13), or (g)'';

(2) in section 1214—

(A) in subsections (a) and (b), by striking ''section 2302(b)(8) or section 2302(b)(9)(A)(i), (B), (C), or (D)'' each place it appears and inserting ''section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)''; and

(B) in subsection (i), by striking ''section 2302(b)(8) or subparagraph (A)(i), (B), (C), or (D) of section 2302(b)(9)'' and inserting ''section 2302(b)(8), subparagraph (A)(i), (B), (C), (D), or (E) of section 2302(b)(9), section 2302(b)(13), or section 2302(g)'';

(3) in section 1215(a)(3)(B), by striking ''section 2302(b)(8), or 2302(b)(9)(A)(i), (B), (C), or (D)'' each place it appears and inserting ''section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)'';

(4) in section 2302—

(A) in subsection (a)—

(i) in paragraph (1), by inserting ''or (g)'' after ''subsection (b)''; and

(ii) in paragraph (2)(C)(i), by striking ''subsection (b)(8) or section 2302(b)(9)(A)(i), (B), (C), or (D)'' and inserting ''section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)''; and

(B) in subsection (c)(1)(B), by striking ''paragraph (8) or subparagraph (A)(i), (B), (C), or (D) of paragraph (9) of subsection (b)'' and inserting ''paragraph (8), subparagraph (A)(i), (B), (C), or (D) of paragraph (9), or paragraph (13) of subsection (b) or subsection (g)'';

(5) in section 7515(a)(2), by striking ''paragraph (8), (9), or (14) of section 2302(b)'' and inserting ''paragraph (8), (9), (13), or (14) of section 2302(b) or section 2302(g)'';

(6) in section 7701(c)(2)(B), by inserting ''or section 2302(g)'' after ''section 2302(b)''; and

(7) in section 7703(b)(1)(B), by striking ''section 2302(b)(8), or 2302(b)(9)(A)(i), (B), (C), or (D)'' and inserting ''section 2302(b)(8), section 2302(b)(9)(A)(i), (B), (C), (D), or (E), section 2302(b)(13), or section 2302(g)''.

The Acting CHAIR. No further amendment to the bill, as amended, shall be in order except those printed in part C of House Report 117–464 and amendments en bloc described in section 4 of House Resolution 1339.

Each such further amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It shall be in order at any time for the chair of the Committee on Oversight and Reform or her designee to offer amendments en bloc consisting of amendments printed in part C of the report not earlier disposed of. Amendments en bloc shall be considered as read, shall be debatable for 20 minutes equally divided and controlled by the chair and ranking minority member of the committee or their designees, shall not be subject to amendment, and shall not be subject to demand for division of the question.

AMENDMENTS EN BLOC OFFERED BY MRS. CAROLYN B. MALONEY OF NEW YORK

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, pursuant to House Resolution 1339, I offer amendments en bloc.

The Acting CHAIR. The Clerk will designate the amendments en bloc.

Amendments en bloc consisting of amendment Nos. 1, 2, 3, and 4, printed in part C of House Report 117–464, offered by Mrs. CAROLYN B. MALONEY of New York:

AMENDMENT NO. 1 OFFERED BY MR. AUCHINCLOSS OF MASSACHUSETTS

At the end of section 3(c)(4), insert the following:

(C) GAO REPORT.—Not later than 4 years after the date of enactment of this Act, the Comptroller General shall—

(i) conduct a study on actions brought before Federal court pursuant to paragraph (2) of section 1221(i) of title 5, United States Code (as added by subparagraph (A) of this paragraph) that, at the minimum, examines the timeliness of Merit Systems Protection Board whistleblower complaint rulings, the rates of individuals opting for a district court trial under such paragraph, and recommendations for the Board to make improvements to its whistleblower claim review process; and

(ii) submit a report on such study to Congress and publish such report on the Government Accountability Office's public website.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON LEE OF TEXAS

Add at the end the following:

SEC. 7. INSPECTOR GENERAL WHISTLEBLOWER INFORMATION COLLECTION SYSTEMS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Inspector General of each Federal agency and each designated Federal entity (as those terms are defined in sections 12(5) and 8G, respectively, of the Inspector General Act of 1978) shall establish and thereafter maintain a mechanism for the inspector general to receive anonymous whistleblower information (including fraud, waste, and abuse).

(b) REQUIREMENTS.—

(1) ANONYMITY.—Any whistleblower mechanism established under subsection (a) by an

inspector general shall maintain total anonymity for any individual who submits information through such mechanism.

(2) ACCEPTABLE SYSTEMS.—In order to maintain anonymity, any such mechanism may not include the use of any computer or telephone systems in collecting such information, but may include the use of the United States mail, physical receptacles for receiving information, or any other system that can assure anonymity.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit or otherwise prohibit an inspector general from using computer or telephone systems when carrying out any other program, project, or activity not authorized by this section.

AMENDMENT NO. 3 OFFERED BY MS. PORTER OF CALIFORNIA

Insert the following at the end of section 3:

(h) IG SEMIANNUAL REPORTS.—Section 5(a)(20) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the semicolon at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(C) the number of instances in which the Office did not make a determination regarding whether there were reasonable grounds to believe that a prohibited personnel practice had occurred, existed, or was to be taken within 240 days after receiving a whistleblower retaliation complaint;''.

AMENDMENT NO. 4 OFFERED BY MS. SPANBERGER OF VIRGINIA

Page 3, line 13, strike ''(xiii)'' and insert ''(xiv)''.

Page 4, line 6, strike ''and''.

Page 4, after line 12, insert the following

(3) SECURITY CLEARANCES.—Section 2302(a)(2)(A) of title 5, United States Code, as amended by paragraph (1), is further amended by inserting after clause (xii) the following:

''(xiii) a suspension, revocation, denial, or other determination relating to a security clearance or any other access determination made by an agency; and''.

Page 15, line 25, strike ''(xiii)'' and insert ''(xiv)''.

The Acting CHAIR. Pursuant to House Resolution 1339, the gentlewoman from New York (Mrs. CAROLYN B. MALONEY) and the gentleman from Kentucky (Mr. COMER) each will control 10 minutes.

The Chair recognizes the gentlewoman from New York.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I rise to offer amendments en bloc.

The amendment offered by Congresswoman KATIE PORTER would require inspectors general to report in their semiannual reports the number of times their office was not able to resolve a whistleblower retaliation complaint within 8 months of receiving that complaint. This requirement ensures that inspectors general are promptly investigating whistleblower retaliation complaints.

The next amendment, offered by Congressman JAKE AUCHINCLOSS, would require the Government Accountability Office to examine and report on whistleblower protection actions, including the timeliness with which the Merit Systems Protection Board issues rulings on whistleblower complaints, how often individuals choose a jury trial, and recommendations to improve the claim review process.

□ 1630

This requirement evaluates whether the whistleblower review process is effective and identifies areas for improvement.

The amendment offered by Congresswoman SHEILA JACKSON LEE would require inspectors general to maintain a mechanism to receive anonymous whistleblower reports. In certain instances, this offers the protection and comfort a whistleblower needs to report government abuses and corruption.

The next amendment, offered by Congresswoman ABIGAIL SPANBERGER, would enable whistleblowers, outside the intelligence community, to appeal adverse security clearance actions to the Merit Systems Protection Board.

Mr. Chair, I urge my colleagues to adopt this commonsense package of amendments, and I reserve the balance of my time.

Mr. COMER. Mr. Chair, I rise to oppose the amendments en bloc. I rise in opposition to the en bloc package of amendments offered by Chairwoman MALONEY.

This package contains an amendment offered by Representative AUCHINCLOSS, which would require the Government Accountability Office to conduct a study of whistleblower complaints ruled on by the Merit Systems Protection Board and make recommendations about the whistleblower review process.

The problem with this amendment is that the MSPB's Office of General Counsel already performs the oversight functions for the MSPB under the Inspector General Act of 1978. This office is capable of doing the work the amendment would task to the GAO.

Reviewing the MSPB determinations and monitoring the Federal courts is not a smart use of the GAO's limited resources. The GAO needs to remain focused on pending statutorily mandated work.

I also oppose the amendment offered by Representative JACKSON Lee, which is trying to help inspectors general offices receive anonymous whistleblower information, but it actually makes it far more difficult.

This amendment won't allow IG offices to use any telephone or computer systems to receive the anonymous whistleblower information. Instead, they will have to rely on receiving such sensitive information by mail, which is obviously problematic, including complicating an IG's ability to evaluate the validity and authenticity of these tips and complaints.

I also oppose the amendment offered by Representative PORTER, which attempts to create another unnecessary reporting requirement for the inspectors general to report to Congress on the timeliness of resolving whistleblower retaliation complaints.

The problem is that IG offices are already required to include this information in their semiannual report to Congress, provided every 6 months. This includes information on what, if any, consequences have been imposed to hold the official who engaged in retaliation accountable. This amendment's duplicative reporting requirement only wastes more time that an IG should be spending on investigating waste, fraud, and abuse.

Finally, I oppose the amendment offered by Representative SPANBERGER, which would prohibit the suspension, revocation, denial, or other determination relating to a security clearance of a whistleblower. This complete prohibition could put national security at risk.

For example, an employee working to undermine a national security policy or program could claim that he or she is a whistleblower and continue to have access to sensitive information, even while the agency evaluated the merits of the whistleblower's accusation.

There are approved procedures for whistleblowing in the intelligence community, but this amendment would prohibit revoking a security clearance, even if the so-called whistleblower ignores those procedures. This is an unacceptable risk to our Nation. Those holding security clearances have assumed a special level of public trust, and with that comes special expectations.

Mr. Chair, I oppose these amendments, and I reserve the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE), the distinguished chairwoman of the Committee on the Judiciary Subcommittee on Crime, Terrorism and Homeland Security.

Ms. JACKSON LEE. Mr. Chair, I thank the distinguished gentlewoman for her work as chairwoman of the Committee on Oversight and Reform. Again, I give her my deepest appreciation for the enormous legacy of leadership that she has given to issues of empowerment, civil rights, civil liberties, and the rights of women. I thank Chairwoman MALONEY.

I rise today to support the underlying bill, H.R. 2988, and address my amendment, of which I am very grateful has been included in the en bloc.

It does make a difference. Whistleblowers can help change governments for the best. They are part of the constitutional infrastructure of ensuring due process and the rights of the vulnerable.

My amendment reinforces the spirit of confidentiality by providing another way to communicate whistleblower information to an OIG that poses less risk of confidentiality being lost or being breached while not affecting existing mechanisms, especially in some cases when there is a concern about the threat of retaliation. A potential whistleblower might be unwilling to provide information for fear of consequences if their identity is disclosed.

I am very glad to say that the Government Accountability Project is supporting my amendment. They wrote in their letter of support for my amendment: ''This is solid, commonsense legislation to restore what works if we let it. For many whistleblowers, the decisive factor whether they bear witness or remain silent observers is whether they will remain anonymous.''

''It will increase the flow of evidence and prevent retaliation.''

Mr. Chair, I include in the RECORD the Government Accountability Project letter dated September 13, 2022.

GOVERNMENT ACCOUNTABILITY PROJECT,
Washington, DC, September 13, 2022.

Hon. SHEILA JACKSON LEE,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE LEE: This letter is to express support and appreciation for your amendment to the Whistleblower Protection Improvement Act that would upgrade the safety of channels for anonymous whistleblowing disclosures to Offices of Inspector General. The amendment would require OIG's to restore traditional, effective channels to share evidence that had been canceled for more convenient but unreliable high tech options such as the internet or telephones. In addition to those channels, agencies would have to restore services such as secure drop boxes and accept anonymous disclosures by mail.

This is solid, common-sense legislation to restore what works if we let it. For many whistleblowers, the decisive factor whether they bear witness or remain silent observers is whether they will remain anonymous. Unfortunately, many understandably do not trust OIG confidentiality safeguards, because OIG's routinely breach them with impunity. While nearly all lG's have anonymous hotlines or phone channels, those engaging in surveillance often are one step ahead with tactics that expose the witness. This is an instance where the old-fashioned way is the safest. But at too many agencies it no longer is available, as risky high-tech options now monopolize the disclosure channel.

The bottom line is that sometimes tried and true approaches can work best, even if less convenient. Your amendment would apply that truth where it counts most—shielding the identify of endangered whistleblowers. It will increase the flow of evidence and prevent retaliation.

Appreciatively,

TOM DEVINE,
Legal Director.

Ms. JACKSON LEE. Mr. Chair, I ask my colleagues to support the en bloc, the underlying legislation, and the Jackson Lee amendment.

Mr. Chair, I rise in strong support of H.R. 2988, the Whistleblower Protection Improvement Act, and thank you for bringing this important legislation to the floor today.

I applaud the Committee on Oversight and Reform for this timely and purposeful bill. By strengthening whistleblower protections, H.R. 2988 would enhance the capabilities of the Offices of Inspector General at each government agency to improve government accountability and transparency.

Whistleblowers are uniquely positioned to know of actions that derogate from laws, regulations, stated government objectives, and the best interests of the American people.

As a matter of public policy, potential whistleblowers should be encouraged to come forth with information that improves our government's operations, efficiency, and effectiveness.

To incentivize such noble conduct, whistleblowers must be assured of protection and insulated from retaliation for the accountability they facilitate when an OIG pursues their leads.

Indeed, being a whistleblower is an act of patriotism—helping our government serve Americans more responsibly—and those who provide this service should be honored, not vilified.

I would also like to thank the Rules Committee for making my amendment in order, and the Committee on Oversight and Reform for including it in the En Bloc amendment.

My amendment adds a key mechanism to amplify the operational impact of the bill, and it is supported by the Government Accountability Project.

H.R. 2988 addresses very important aspects of the handling of whistleblower complaints, whistleblower rights against any retaliatory action, and vital protections to avoid disclosures of identity, breaches of confidentiality, and retaliation.

My amendment reinforces the spirit of confidentiality by providing another way to communicate whistleblower information to an OIG that poses less risk of confidentiality being breached, while not affecting existing mechanisms.

In some cases—especially when there is concern about a threat of retaliation—a potential whistleblower might be unwilling to provide information for fear of consequences if their identity is disclosed.

To encourage whistleblowers to share information in these situations, my amendment directs the Office of Inspector General in each agency to establish a mechanism to receive whistleblower information that is completely anonymous and assured of remaining anonymous.

By being able to submit information in a way that anonymity is assured, some potential whistleblowers who might otherwise not be willing to share information with the OIG may be willing to do so.

As the Government Accountability Project wrote in their letter of support for my amendment, ''This is solid, common-sense legislation to restore what works if we let it. For many whistleblowers, the decisive factor whether they bear witness or remain silent observers is whether they will remain anonymous. . . . It will increase the flow of evidence and prevent retaliation.''

The anonymous method could be by sending a letter through the mail, dropping a paper note into a receptacle, or some other mechanism devised by the OIGs that cannot be traced back to the whistleblower.

These approaches assure anonymity, unlike submission through a website or phone call, which could be traced back to the person submitting the information.

By submitting facts with full anonymity, a whistleblower does not run the risk of their identity being disclosed either accidentally, by court order, or by other means.

Ideally, an OIG may prefer to know the identity of the person providing insights so they can contact them for more details.

Yet, since some people with vital information may refuse to submit it due to the risk of exposure, the public interest in receiving useful insights from an anonymous source outweighs an OIG's interest in contacting them.

With the information that it receives, the OIG could pursue facts and elevate its investigation through other channels.

My amendment would create a channel for this to occur.

Mr. COMER. Mr. Chair, I reserve the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I yield 2 minutes to the gentleman from Massachusetts (Mr. AUCHINCLOSS), the vice chair of the Committee on Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation.

Mr. AUCHINCLOSS. Mr. Chair, I rise today in support of my amendment to the Whistleblower Protection Improvement Act.

Historically, there has been a double standard between Federal and corporate whistleblowers seeking reprieve for retaliatory actions taken against them. While corporate whistleblowers can have their day in court, Federal whistleblowers' cases fall only under the jurisdiction of the Merit Systems Protection Board. The Whistleblower Protection Improvement Act would remedy this by allowing certain Federal whistleblowers to file their claims in district court.

My amendment would ensure that we continue to make evidence-based improvements to the Federal whistleblower case review process by requiring the GAO to study the outcomes of this bill. Specifically, my amendment calls on the GAO to report on the timeliness of MSPB rulings and the rates of Federal whistleblowers opting for district court trials. It requires the GAO to offer recommendations for the MSPB to make improvements to its review process so that Federal whistleblowers who put their jobs, careers, and reputations on the line to call out wrongdoing are given the respect of a timely review.

This bill is critical to improving protections for Federal whistleblowers and enhancing accountability across the Federal Government. My amendment would ensure that we collect the evidence necessary to continue to make improvements.

Mr. Chair, I urge my colleagues to support the amendments en bloc.

Mr. COMER. Mr. Chair, I reserve the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I am prepared to close, and I reserve the balance of my time.

Mr. COMER. Mr. Chair, I yield myself the balance of my time for closing.

Let me conclude by saying this: We have countless rules on the books pertaining to whistleblower protection. We have good whistleblower rules. I can assure my friends on the other side of the aisle, we have plenty of whistleblowers coming forward now with issues, and they are going to be protected. The rules on the books will protect those whistleblowers.

What my friends on the other side of the aisle are trying to do, I fear, is create a situation where any poor-performing employee who is receiving

poor reviews from their agency can claim to be a whistleblower, and therefore, they will be on the Federal payroll for the rest of their career. Then they can retire and draw a pension for the rest of their life.

This is unacceptable in the private sector. We care about whistleblowers. We welcome whistleblowers to come to the House Committee on Oversight and Reform to speak to the Republican minority members. They are and they will be protected because we have good whistleblower laws on the books.

These proposed amendments make our good whistleblower laws worse, and we need to oppose them.

Mr. Chair, I yield back the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I yield myself the balance of my time.

The underlying bill is both landmark legislation for freedom of speech and for government accountability. I strongly urge my colleagues to vote in favor of this landmark legislation, and I yield back the balance of my time.

Mr. Chair, I move that the committee now rise.

The CHAIR. Will the gentlewoman withdraw her motion?

Mrs. CAROLYN B. MALONEY of New York. I withdraw my motion.

The CHAIR. The motion is withdrawn.

The question is on the amendments en bloc offered by the gentlewoman from New York (Mrs. CAROLYN B. MALONEY).

The question was taken; and the Chair announced that the noes appeared to have it.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendments en bloc offered by the gentlewoman from New York will be postponed.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. VEASEY) having assumed the chair, Mr. BLUMENAUER, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2988) to amend title 5, United States Code, to modify and enhance protections for Federal Government whistleblowers, and for other purposes, had come to no resolution thereon.

A FAIR AND ACCURATE CENSUS ACT

GENERAL LEAVE

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 8326.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 1339 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 8326.

The Chair appoints the gentleman from Oregon (Mr. BLUMENAUER) to preside over the Committee of the Whole.

□ 1642

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 8326) to amend title 13, United States Code, to improve the operations of the Bureau of the Census, and for other purposes, with Mr. BLUMENAUER in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall be confined to the bill and shall not exceed 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Reform or their respective designees.

The gentlewoman from New York (Mrs. CAROLYN B. MALONEY) and the gentleman from Kentucky (Mr. COMER) will each control 30 minutes.

The Chair recognizes the gentlewoman from New York.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, I rise in strong support of H.R. 8326, the Ensuring a Fair and Accurate Census Act.

The decennial Census is a critical part of our democratic system. In fact, it is required by the Constitution. The results of the Census determine the distribution of over $1.5 trillion in Federal funds, apportionment of the House of Representatives and State legislative districts, and public and private sector investments.

□ 1645

It is critical that the Census count is complete, fair, and accurate. The Ensuring a Fair and Accurate Census Act will help make sure that it is.

This bill is informed by the Oversight Committee's multi-year investigation into political interference by the previous administration during the 2020 Census, including the effort to add a citizenship question despite strong opposition from expert statisticians and demographers at the Census Bureau.

In fact, the Census Bureau's top data scientist warned that the citizenship question ''harms the quality of the Census count.''

The Supreme Court ruled in favor with the Democrats and ultimately stepped in to block the citizenship question, ruling that the rationale for adding it to the Census ''seems to have been contrived.''

The previous administration took other steps that risked undermining the independent, nonpartisan nature of the Census. They appointed an unprecedented eight political appointees where there were previously only three, and they tried to rush the processing of the Census data, despite repeated warnings from career staff that this would compromise the integrity of the Census count.

Partisan manipulation of the Census is simply wrong. My bill would protect the Census and ensure this cannot happen again, regardless of which party is in power.

We are considering this legislation at a critical time. While the 2030 Census is years away, the design and planning began at the Bureau even before the 2020 numbers were released.

As our Nation's largest peacetime mobilization, the Census requires detailed and thorough planning. However, even the best plans face challenges in the field, and the 2020 Census faced unprecedented obstacles.

In the runup to the 2020 Census, the Bureau was consistently denied the appropriations—the funding that it needed—to execute its operational plans. Among other impacts, this uncertainty forced cutbacks in outreach to communities that are considered hard to reach.

The coronavirus pandemic forced the Census Bureau to suspend field operations at the most critical time; and most damaging, the previous administration demanded a last-minute, untested question on citizenship, and installed a record number of political appointees with unclear duties to get that done.

This legislation would vest key decision-making authority over the Census in the appropriate Senate-confirmed official, the Census Director. It would limit the number of political appointees within the Bureau to no more than four, which is consistent with historical precedent.

This bill would also require that new Census questions be thoroughly researched and analyzed, certified by the Secretary of Commerce, evaluated by the GAO, and shared with Congress before being added to the Census questionnaire.

This bill will also increase transparency and support long-term planning by requiring the Bureau to submit its projected 5-year budget estimates to both the President and Congress.

Finally, the bill codifies existing advisory committees charged with engaging with hard-to-count communities and advancing best practices in the field of data science. It also establishes an advisory committee aimed directly at ensuring the 2030 Census is successful.

I am proud that my bill has the support of four former directors of the Census Bureau, who served under administrations led by both Democrats and Republicans. These former directors have 15 years of experience serving