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110TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 110–42
Part 2

WHISTLEBLOWER PROTECTION ENHANCEMENT ACT OF 2007

MARCH 12, 2007.—Ordered to be printed

Mr. WAXMAN, from the Committee on Oversight and Government Reform, submitted the following

SUPPLEMENTAL REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 985]

LEGISLATIVE HISTORY

In the section labeled "Legislative History", amend the last sentence to read as follows:

"The Committee held a markup to consider H.R. 985 on February 14, 2007, and ordered the bill to be reported, as amended, by a roll-call vote of 28–0."

59–006

ROLL CALL VOTES

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
110TH CONGRESS
ROLL CALL

No: H.R. 985, the Whistleblower Date: 2/14/07
DESCRIPTION: Protection Enhancement Act of 2007

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MR. WAXMAN *Chairman)*	✓			MR. DAVIS (VA) *(Ranking)*	✓		
MR. LANTOS				MR. BURTON	✓		
MR. TOWNS	✓			MR. SHAYS	✓		
MR. KANJORSKI	✓			MR. McHUGH	✓		
MS. MALONEY	✓			MR. MICA			
MR. CUMMINGS	✓			MR. SOUDER			
MR. KUCINICH	✓			MR. PLATTS			
MR. DAVIS (IL)	✓			MR. CANNON			
MR. TIERNEY	✓			MR. DUNCAN	✓		
MR. CLAY	✓			MR. TURNER	✓		
MS. WATSON	✓			MR. ISSA	✓		
MR. LYNCH	✓			MR. MARCHANT	✓		
MR. HIGGINS				MR. WESTMORELAND			
MR. YARMUTH	✓			MR. McHENRY			
MR. BRALEY	✓			MS. FOXX			
MS. NORTON	✓			MR. BILBRAY			
MS. McCOLLUM	✓			MR. SALI			
MR. COOPER	✓			(Vacancy)			
MR. Van HOLLEN	✓						
MR. HODES	✓						
MR. MURPHY (CT)	✓						
MR. SARBANES							
MR. WELCH	✓						

Totals: Ayes 28 Nays 0 Present 0

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Amend the Statement of General Performance Goals and Objectives section to read as follows:

"In accordance with clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report including extending whistleblower protections to federal employees who work on national security issues; strengthening whistleblower rights for federal contractors; ensuring that employees of the Transportation Security Agency (TSA), in particular its baggage screeners, have whistleblower rights; providing explicit protections for federal employees who report instances where federal research is suppressed or distorted for political reasons; overrides several court and administrative decisions that undermined existing whistleblower protections; and providing whistleblowers access to federal district courts if the Merit Systems Protection Board (MSPB) or the Inspector General (IG) does not take action on their claims within 180 days."

EARMARK IDENTIFICATION

Amend the language in the Earmark Identification section to read as follows:

"H.R. 985 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI."

ADDITIONAL VIEWS

ADDITIONAL VIEWS OF REPRESENTATIVE TOM DAVIS

During the 109th Congress, the Committee approved legislation sponsored by Rep. Todd Platts (R–PA) to modernize, clarify, and expand the federal employee whistleblower protection laws. This legislation served as the basis for the whistleblower legislation introduced by Chairman Waxman as H.R. 985 during the 110th Congress.

Although H.R. 985 was reported by the Committee unanimously, I would like to take this opportunity to express my concern about two specific provisions in the bill.

First, language was included by amendment during Committee consideration that would allow for all circuits review of federal employee whistleblower complaints. This was not included in the bipartisan legislation approved by the Committee last year and it was not included in the version of H.R. 985 that was introduced, legislation that I cosponsored. My concern is that, with this new language allowing federal employees to appeal district court decisions to all circuits rather than the Federal Circuit Court of Appeals, we will lose any semblance of order regarding the consideration of federal employee whistleblower claims by the courts. For example, by allowing all appellate courts to hear appeals, a disclosure by a Border Patrol agent in Texas could be protected by a different set of standards than the disclosure of a Border Patrol agent in Maine. As such, the potential for disparity is worse than the disease this legislation is attempting to cure.

Second, language was included during Committee consideration that would grant whistleblower protections to those conducting federally funded research. My concern is that this amendment would turn legitimate scientific disagreement into a litigated personnel issue. Besides the fact that this measure would likely serve to chill legitimate scientific debate, I am not convinced that it belongs in a bill designed to protect Federal workers who expose waste, fraud or abuse.

TOM DAVIS.