

HR 985

Whistleblower Protection Enhancement Act of 2007

Congress: 110 (2007–2009, Ended)

Chamber: House

Policy Area: Government Operations and Politics

Introduced: Feb 12, 2007

Current Status: Committee on Homeland Security and Governmental Affairs referred to Subcommittee on Oversight of Gov

Latest Action: Committee on Homeland Security and Governmental Affairs referred to Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia. (Jun 6, 2007)

Official Text: <https://www.congress.gov/bill/110th-congress/house-bill/985>

Sponsor

Name: Rep. Waxman, Henry A. [D-CA-30]

Party: Democratic • **State:** CA • **Chamber:** House

Cosponsors (29 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Davis, Tom [R-VA-11]	R · VA		Feb 12, 2007
Rep. Platts, Todd Russell [R-PA-19]	R · PA		Feb 12, 2007
Rep. Van Hollen, Chris [D-MD-8]	D · MD		Feb 12, 2007
Del. Norton, Eleanor Holmes [D-DC-At Large]	D · DC		Feb 13, 2007
Rep. Braley, Bruce L. [D-IA-1]	D · IA		Feb 13, 2007
Rep. Clay, Wm. Lacy [D-MO-1]	D · MO		Feb 13, 2007
Rep. Cooper, Jim [D-TN-5]	D · TN		Feb 13, 2007
Rep. Cummings, Elijah E. [D-MD-7]	D · MD		Feb 13, 2007
Rep. Davis, Danny K. [D-IL-7]	D · IL		Feb 13, 2007
Rep. Kanjorski, Paul E. [D-PA-11]	D · PA		Feb 13, 2007
Rep. Kucinich, Dennis J. [D-OH-10]	D · OH		Feb 13, 2007
Rep. Maloney, Carolyn B. [D-NY-14]	D · NY		Feb 13, 2007
Rep. McCollum, Betty [D-MN-4]	D · MN		Feb 13, 2007
Rep. Shays, Christopher [R-CT-4]	R · CT		Feb 13, 2007
Rep. Watson, Diane E. [D-CA-33]	D · CA		Feb 13, 2007
Rep. Yarmuth, John A. [D-KY-3]	D · KY		Feb 13, 2007
Rep. Murphy, Christopher [D-CT-5]	D · CT		Feb 14, 2007
Rep. Welch, Peter [D-VT-At Large]	D · VT		Feb 27, 2007
Rep. Allen, Thomas H. [D-ME-1]	D · ME		Mar 1, 2007
Rep. Berman, Howard L. [D-CA-28]	D · CA		Mar 1, 2007
Rep. Miller, George [D-CA-7]	D · CA		Mar 1, 2007
Rep. Nadler, Jerrold [D-NY-8]	D · NY		Mar 1, 2007
Rep. Ellison, Keith [D-MN-5]	D · MN		Mar 5, 2007
Rep. Israel, Steve [D-NY-2]	D · NY		Mar 5, 2007
Rep. Ackerman, Gary L. [D-NY-5]	D · NY		Mar 9, 2007
Rep. Conyers, John, Jr. [D-MI-14]	D · MI		Mar 9, 2007
Rep. Lofgren, Zoe [D-CA-16]	D · CA		Mar 9, 2007
Rep. McHugh, John M. [R-NY-23]	R · NY		Mar 9, 2007
Rep. Schwartz, Allyson Y. [D-PA-13]	D · PA		Mar 9, 2007

Committee Activity

Committee	Chamber	Activity	Date
Armed Services Committee	House	Referred to	Mar 14, 2007
Homeland Security and Governmental Affairs Committee	Senate	Referred to	Jun 6, 2007
Homeland Security Committee	House	Bills of Interest - Exchange of Letters	Dec 5, 2007
Oversight and Government Reform Committee	House	Reported By	Mar 12, 2007

Subjects & Policy Tags

Policy Area:

Government Operations and Politics

Related Bills

Bill	Relationship	Last Action
110 HRES 239	Procedurally related	Mar 14, 2007: On agreeing to the resolution Agreed to by the Yeas and Nays: 223 - 193 (Roll no. 146). (text: CR H2510)

Whistleblower Protection Enhancement Act of 2007 - (Sec. 2) Expands the types of whistleblower disclosures protected from personnel reprisals to include disclosures without restriction as to time, place, form, motive, context, forum, or prior disclosures made to any person by an employee or applicant for employment, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is a violation of any law.

(Sec. 3) Defines "disclosure" as a formal or informal communication, not including a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee providing the disclosure reasonably believes that it evidences: (1) any violation of law; or (2) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Defines "clear and convincing evidence" as evidence indicating that the matter to be proved is highly probable or reasonably certain, for purposes of Merit Systems Protection Board (MSPB) reviews of prohibited personnel practices.

(Sec. 4) Provides that any presumption relating to the performance of a duty by an employee with personnel authority may be rebutted by substantial evidence.

Codifies the legal standard (i.e., disinterested observer with knowledge of the essential facts) for determining whether an employee or applicant for employment has a reasonable belief of the validity of their whistleblower disclosures.

(Sec. 5) Includes as a prohibited personnel practice the implementation or enforcement of any nondisclosure policy, form, or agreement.

Prohibits any agency from: (1) implementing or enforcing any nondisclosure policy, form, or agreement if it does not contain a specified statement of employee rights and obligations; or (2) conducting an investigation (other than that necessary to the agency's mission) of an employee or applicant for employment because of any protected whistleblower activity.

(Sec. 6) Includes as an agency exempt from whistleblower restrictions the National Geospatial-Intelligence Agency. Requires the removal of any agency or unit by the President from whistleblower protection coverage to be made before any personnel action is taken against a whistleblower at that agency.

(Sec. 7) Expands the authority of the MSPB to discipline an employee who takes adverse personnel action against a whistleblower if it finds that the protected activity was the primary motivating factor in such employee's action.

(Sec. 8) Directs the Comptroller General to conduct a study on certain security clearance revocations and to report to Congress on such study.

(Sec. 9) Allows an employee, former employee, or applicant for employment who seeks corrective action from the MSPB for an alleged prohibited personnel practice to bring legal action in federal district court for de novo review and seek a jury trial, if the MSPB fails to issue a timely final order or decision.

Allows the MSPB to award interest and reasonable expert witness fees as compensatory damages.

(Sec. 10) Prohibits adverse personnel actions against an employee of a covered national security agency (i.e., Federal Bureau of Investigation, the Office of the Director of National Intelligence, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the National

Reconnaissance Office, and any other executive branch agency determined by the President to have as its principal function the conduct of foreign intelligence or counterintelligence activities) for making whistleblower disclosures to an authorized Member of Congress or executive branch official or to the Inspector General of the covered agency that employs the whistleblower.

Requires: (1) the Inspector General to investigate any claim of adverse personnel actions against an employee of a covered agency; and (2) the head of such agency to make a determination of whether a prohibited personnel practice has taken place and take corrective action.

Authorizes a whistleblower to seek judicial review of an adverse determination by an agency head.

(Sec. 11) Requires the head of a civilian executive agency, within 180 days of an employee complaint, to determine whether a private contractor has subjected an employee whistleblower to a reprisal and to either issue an order denying relief or take corrective action. Allows such employee whistleblower to request a jury trial in a federal district court and seek compensatory damages if the agency head does not issue an order or take corrective action.

(Sec. 12) Extends federal whistleblower protections to individuals holding or applying for a position in the Transportation Security Administration (TSA).

(Sec. 13) Modifies the definition of "abuse of authority" with respect to prohibited personnel practices against a whistleblower relating to scientific and other research to include: (1) any action that compromises the validity or accuracy of federally funded research or analysis; (2) the dissemination of false or misleading scientific, medical, or technical information; (3) any action that restricts or prevents publication of scientific material; and (4) any action that discriminates for or against any employee or applicant on the basis of religion (as defined in this Act).

(Sec. 14) Makes the provisions of this Act effective 30 days after enactment (except for TSA employee whistleblower provisions which are effective immediately upon enactment).

Actions Timeline

- **Jun 6, 2007:** Committee on Homeland Security and Governmental Affairs referred to Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia.
- **Mar 15, 2007:** Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governmental Affairs.
- **Mar 14, 2007:** Referred to the Subcommittee on Readiness.
- **Mar 14, 2007:** Rule H. Res. 239 passed House.
- **Mar 14, 2007:** Considered under the provisions of rule H. Res. 239. (consideration: CR H2517-2543; text of measure as reported in House: CR H2527-2530)
- **Mar 14, 2007:** Rule provides for consideration of H.R. 985 with 1 hour and 20 minutes of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. An amendment in the nature of a substitute consisting of the text of the bill, modified by the amendments recommended by the Committee on Oversight and Government Reform now printed in the bill, shall be considered as the original bill for the purpose of further amendment under the five-minute rule.
- **Mar 14, 2007:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 239 and Rule XVIII.
- **Mar 14, 2007:** The Speaker designated the Honorable Ed Pastor to act as Chairman of the Committee.
- **Mar 14, 2007:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour and twenty minutes of debate on H.R. 985.
- **Mar 14, 2007:** DEBATE - Pursuant to the provisions of H.Res. 239, the Committee of the Whole proceeded with 10 minutes of debate on the Stupak amendment.
- **Mar 14, 2007:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Stupak amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. Tom Davis (VA) demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Mar 14, 2007:** DEBATE - Pursuant to the provisions of H. Res. 239, the Committee of the Whole proceeded with 10 minutes of debate on the Platts No. 2 amendment.
- **Mar 14, 2007:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Platts amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the noes had prevailed. Mr. Platts demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Mar 14, 2007:** DEBATE - Pursuant to the provisions of H. Res. 239, the Committee of the Whole proceeded with 10 minutes of debate on the Platts No. 3 amendment.
- **Mar 14, 2007:** DEBATE - Pursuant to the provisions of H.Res. 239, the Committee of the Whole proceeded with 10 minutes of debate on the Sali amendment.
- **Mar 14, 2007:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Sali amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the noes had prevailed. Mr. Sali demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Mar 14, 2007:** DEBATE - Pursuant to the provisions of H.Res. 239, the Committee of the Whole proceeded with 10 minutes of debate on the Tierney amendment.
- **Mar 14, 2007:** PROCEEDINGS VACATED - Mr. Platts asked unanimous consent that the proceedings by which a recorded vote was demanded on the Platts amendment numbered 2 be vacated and that the question on adoption of the amendment be put de novo. Agreed to without objection.
- **Mar 14, 2007:** UNFINISHED BUSINESS - The Chair announced that the unfinished business was the question of adoption of amendments which had been debated earlier and on which further proceedings had been postponed.
- **Mar 14, 2007:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 985.
- **Mar 14, 2007:** The previous question was ordered pursuant to the rule. (consideration: CR H2539)
- **Mar 14, 2007:** The House adopted the remaining amendments en gross as agreed to by the Committee of the Whole House on the state of the Union.
- **Mar 14, 2007:** Mr. Westmoreland moved to recommit with instructions to Oversight and Government. (consideration: CR H2540-2541; text: CR H2540)

- Mar 14, 2007:** DEBATE - The House proceeded with 10 minutes of debate on the Westmoreland motion to recommit with instructions. The instructions contained in the motion seek to require the bill to be reported back to the House with sundry amendments.
- **Mar 14, 2007:** The previous question on the motion to recommit with instructions was ordered without objection. (consideration: CR H2541)
 - **Mar 14, 2007:** On motion to recommit with instructions Agreed to by recorded vote: 426 - 0 (Roll no. 152). (consideration: CR H2541-2542)
 - **Mar 14, 2007:** Pursuant to the instructions contained in the motion to recommit just adopted, sundry amendments were submitted to the House.
 - **Mar 14, 2007:** Passed/agreed to in House: On passage Passed by the Yeas and Nays: 331 - 94 (Roll no. 153).
 - **Mar 14, 2007:** On passage Passed by the Yeas and Nays: 331 - 94 (Roll no. 153).
 - **Mar 14, 2007:** Motion to reconsider laid on the table Agreed to without objection.
 - **Mar 13, 2007:** Rules Committee Resolution H. Res. 239 Reported to House. Rule provides for consideration of H.R. 985 with 1 hour and 20 minutes of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. An amendment in the nature of a substitute consisting of the text of the bill, modified by the amendments recommended by the Committee on Oversight and Government Reform now printed in the bill, shall be considered as the original bill for the purpose of further amendment under the five-minute rule.
 - **Mar 12, 2007:** PERMISSION TO FILE SUPPLEMENTAL REPORT - Mr. Tierney asked unanimous consent that the Committee on Oversight and Government Reform may have permission to file a supplemental report on H.R. 985. Agreed to without objection.
 - **Mar 12, 2007:** Supplemental report filed by the Committee on Oversight and Government, H. Rept. 110-42, Part II.
 - **Mar 9, 2007:** Reported (Amended) by the Committee on Oversight and Government. H. Rept. 110-42, Part I.
 - **Mar 9, 2007:** Committee on Armed Services discharged.
 - **Mar 9, 2007:** Placed on the Union Calendar, Calendar No. 18.
 - **Feb 14, 2007:** Committee Consideration and Mark-up Session Held.
 - **Feb 14, 2007:** Ordered to be Reported (Amended) by the Yeas and Nays: 28 - 0.
 - **Feb 12, 2007:** Introduced in House
 - **Feb 12, 2007:** Referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.