

HR 4361

Government Reform and Improvement Act of 2016

Congress: 114 (2015–2017, Ended)

Chamber: House

Policy Area: Government Operations and Politics

Introduced: Jan 11, 2016

Current Status: Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governm

Latest Action: Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governmental Affairs. (Jul 7, 2016)

Official Text: <https://www.congress.gov/bill/114th-congress/house-bill/4361>

Sponsor

Name: Rep. Palmer, Gary J. [R-AL-6]

Party: Republican • **State:** AL • **Chamber:** House

Cosponsors (1 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Westerman, Bruce [R-AR-4]	R · AR		Feb 26, 2016

Committee Activity

Committee	Chamber	Activity	Date
Homeland Security and Governmental Affairs Committee	Senate	Referred To	Jul 7, 2016
Oversight and Government Reform Committee	House	Reported By	May 31, 2016

Subjects & Policy Tags

Policy Area:

Government Operations and Politics

Related Bills

Bill	Relationship	Last Action
114 S 2975	Related bill	Sep 27, 2016: Placed on Senate Legislative Calendar under General Orders. Calendar No. 647.
114 HRES 803	Procedurally related	Jul 6, 2016: Motion to reconsider laid on the table Agreed to without objection.
114 HR 4921	Related bill	Jun 21, 2016: Placed on the Union Calendar, Calendar No. 494.
114 HR 4612	Related bill	Jun 10, 2016: Placed on the Union Calendar, Calendar No. 480.
114 HR 4358	Related bill	Apr 12, 2016: Placed on the Union Calendar, Calendar No. 369.
114 HR 4392	Related bill	Apr 12, 2016: Placed on the Union Calendar, Calendar No. 368.
114 HR 3023	Related bill	Mar 23, 2016: Placed on the Union Calendar, Calendar No. 358.
114 S 2582	Related bill	Feb 25, 2016: Read twice and referred to the Committee on Homeland Security and Governmental Affairs.
114 HR 901	Related bill	Feb 4, 2016: Placed on the Union Calendar, Calendar No. 316.

Highlights:

This bill establishes or revises government operations and personnel laws concerning the security of federal information systems, restrictions on access to websites, probationary periods, the senior executive service, employee use of official time, and the maintenance of Internal Revenue Service records.

It also prohibits agencies from proposing or adopting certain rules during a moratorium period after a presidential election before a new President is sworn in.

Full Summary:

Government Reform and Improvement Act of 2016

TITLE I--FEDERAL INFORMATION SYSTEMS SAFEGUARDS

(Sec. 101) This title exempts from federal employee labor-management relations requirements the actions of an executive agency that are necessary to restrict or prohibit access to a website presenting a security weakness or risk to the agency's information technology or information systems under the Federal Information Security Management Act of 2014.

An agency employee may not establish, operate, maintain, or permit the use of information technology that is not certified by the Office of Management and Budget (OMB), the head of the agency, the Department of Homeland Security, or the agency's chief information officer as being in compliance with the established information security policies.

TITLE II--ELIMINATING PORNOGRAPHY FROM AGENCIES

(Sec. 201) This title directs the OMB to issue guidelines that prohibit the access of a pornographic or other explicit website from a federal computer, with an exception for an investigative purpose.

TITLE III--EXTENSION OF PROBATIONARY PERIOD FOR CAREER EMPLOYEES

(Sec. 301) This title requires the probationary period before an appointment in the competitive civil service or an initial appointment as a supervisor or manager becomes final to be: (1) for any position that requires formal training, two years after such training is completed; (2) for any position that requires a license, two years after such license is granted; and (3) for any other position, at least two years. The probationary period for a preference eligible (i.e., a veteran) initially appointed to a position that exists as of 180 days after enactment of this bill shall not be longer than the period that applies on such date. The probationary period for a preference eligible appointed to a position that does not exist on such date shall not be longer than the length of time the President establishes.

Each agency must ensure that: (1) announcements of vacant positions and offers of appointment clearly state the terms and conditions of the probationary period, (2) individuals who are required to complete probationary periods receive timely notice of requirements to successfully complete such period, and (3) certification of such completion is made.

(Sec. 302) The definition of "employee" for purposes of adverse action provisions is revised to mean an individual in the competitive or excepted service who has completed at least two years (currently, one year) of current continuous service in the same or a similar position.

TITLE IV--SENIOR EXECUTIVE SERVICE ACCOUNTABILITY

(Sec. 401) This title revises personnel requirements for employees in the Senior Executive Service (SES) to:

- require each federal agency to include in its biennial report to the Office of Personnel Management (OPM) a justification for certain SES positions and the specific result expected from each position, including the impact of such result on the agency mission;
- extend the probationary period for SES employees from one year to two years;
- eliminate the authority for allowing an SES employee removed for a less than fully successful executive performance to retain an SES pay grade level if appointed to a civil service position;
- require a written description of employee performance requirements to be provided to SES employees by 30 calendar days before each rating period;
- make SES employees subject to the same 14-day (or less) suspension period, without duties and pay, applicable to other federal employees;
- expand the grounds for suspension or termination of an SES employee to include such cause as would promote the efficiency of the SES;
- allow an agency to place an SES employee on mandatory leave for misconduct, neglect of duty, malfeasance, or such cause as would promote the efficiency of the SES;
- provide for expedited removal of SES employees for performance or misconduct and for an expedited appeals process for removals; and
- require mandatory reassignments of SES employees at least once every five years.

TITLE V--OPM REPORT ON OFFICIAL TIME

(Sec. 501) This title requires the OPM to submit an annual report on the use by federal employees of official time (time granted to perform representational or consultative functions during which the employee would otherwise be in a duty status). Each such report shall include, for each agency and for all agencies:

- the total amount of official time granted;
- the average amount of official time expended per bargaining unit employee;
- the specific types of activities or purposes for which official time was granted and its impact on agency operations;
- the number of employees granted official time and the number of such employees who were not engaged in any activities or purposes except those involving the use of official time;
- the total amount of compensation (including fringe benefits) afforded to employees in connection with activities or purposes for which they were granted official time; and
- a description of any room or space designated at the agency where official time activities will be conducted.

TITLE VI--MIDNIGHT RULE RELIEF

(Sec. 601) This title prohibits a federal agency (excluding the Federal Election Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the U.S. Postal Service) from proposing or adopting any midnight rule unless the OMB's Office of Information and Regulatory Affairs (OIRA) finds that it will not result in: (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices; (3) significant adverse effects on competition, employment, wages, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete internationally; or (4) a significant economic impact on a substantial number of small businesses.

A "midnight rule" is an agency rule proposed or adopted during a moratorium period that begins on the day after the Tuesday next after the first Monday in November in every fourth year succeeding a presidential election and extends through January 20 of the following year in which a President is not serving a consecutive term.

(Sec. 602) The OIRA must publish a list of midnight rules that are exempt from the prohibition because they are required by statute, regulation, or judicial order to be proposed or adopted by a deadline that was established before the moratorium and that occurs during the moratorium.

(Sec. 603) Also exempt from the prohibition is any midnight rule that the President determines is necessary: (1) because of a state of emergency, (2) to enforce criminal laws, (3) to protect U.S. national security, or (4) to implement an international trade agreement. The moratorium does not apply to a midnight rule if the OIRA certifies that such rule is limited to repealing an existing rule.

(Sec. 604) Judicial review is available to persons or entities subject to any midnight rule promulgated in violation of this title.

TITLE VII--REQUIREMENT TO MAINTAIN RECORDS

(Sec. 701) This title requires the Internal Revenue Service (IRS) to maintain preserved records for at least three years after obtaining the record. A preserved record is any record maintained by a person other than the federal government pursuant to a rule, guidance, or other directive from the IRS.

Actions Timeline

- **Jul 7, 2016:** Passed/agreed to in House: On passage Passed by recorded vote: 241 - 181 (Roll no. 376).
- **Jul 7, 2016:** On passage Passed by recorded vote: 241 - 181 (Roll no. 376).
- **Jul 7, 2016:** Motion to reconsider laid on the table Agreed to without objection.
- **Jul 7, 2016:** Received in the Senate and Read twice and referred to the Committee on Homeland Security and Governmental Affairs.
- **Jul 6, 2016:** Rule H. Res. 803 passed House.
- **Jul 6, 2016:** Considered under the provisions of rule H. Res. 803. (consideration: CR H4334-4346)
- **Jul 6, 2016:** Rule provides for consideration of H.R. 4361 with 1 hour 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. Resolution also provides suspension authority through July 8, 2016.
- **Jul 6, 2016:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 803 and Rule XVIII.
- **Jul 6, 2016:** The Speaker designated the Honorable Randy Hultgren to act as Chairman of the Committee.
- **Jul 6, 2016:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 4361.
- **Jul 6, 2016:** DEBATE - Pursuant to the provisions of H. Res. 803, the Committee of the Whole proceeded with 10 minutes of debate on the Palmer amendment no. 1.
- **Jul 6, 2016:** DEBATE - Pursuant to the provisions of H. Res. 803, the Committee of the Whole proceeded with 10 minutes of debate on the Posey amendment no. 2, as modified.
- **Jul 6, 2016:** DEBATE - Pursuant to the provisions of H. Res. 803, the Committee of the Whole proceeded with 10 minutes of debate on the Norton amendment no. 3.
- **Jul 6, 2016:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Norton amendment, the Chair put the question on adoption of the amendment and announced by voice vote that the noes had prevailed. Ms. Norton demanded a recorded vote and the Chair postponed further proceedings on adoption of the amendment until later in the legislative day.
- **Jul 6, 2016:** DEBATE - Pursuant to the provisions of H. Res. 803, the Committee of the Whole proceeded with 10 minutes of debate on the Watson Coleman amendment no. 5.
- **Jul 6, 2016:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Watson Coleman amendment, the Chair put the question on adoption of the amendment and announced by voice vote that the noes had prevailed. Ms. Watson Coleman demanded a recorded vote and the Chair postponed further proceedings on adoption of the amendment until later in the legislative day.
- **Jul 6, 2016:** Mr. Palmer moved that the Committee now rise.
- **Jul 6, 2016:** On motion that the Committee now rise Agreed to by voice vote.
- **Jul 6, 2016:** Committee of the Whole House on the state of the Union rises leaving H.R. 4361 as unfinished business.
- **Jul 6, 2016:** Considered as unfinished business. (consideration: CR H4449-4460)
- **Jul 6, 2016:** The House resolved into Committee of the Whole House on the state of the Union for further consideration.
- **Jul 6, 2016:** 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.
- **Jul 6, 2016:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 4361.
- **Jul 6, 2016:** The previous question was ordered pursuant to the rule. (consideration: CR H4451)
- **Jul 6, 2016:** The House adopted the amendment in the nature of a substitute as agreed to by the Committee of the Whole House on the state of the Union. (text of amendment in the nature of a substitute: CR H4341-4344)
- **Jul 6, 2016:** Mr. Thompson (CA) moved to recommit with instructions to the Committee on Oversight and Government. (consideration: CR H4451-4459; text: CR H4451-4458)
- **Jul 6, 2016:** DEBATE - The House proceeded with 10 minutes of debate on the Thompson (CA) motion to recommit with instructions pending reservation of a point of order. The instructions contained in the motion seek to require the bill to be reported back to the House with an amendment which would bring to the floor H.R. 1076, Denying Firearms and Explosives to Dangerous Terrorists Act of 2015; the "No Fly, No Buy" legislation; and H.R. 1217, Public Safety and Second Amendment Rights Protection Act of 2015.
- **Jul 6, 2016:** Point of order sustained against the motion to recommit with instructions.
- **Jul 6, 2016:** Mr. Chaffetz raised a point of order against the motion to recommit with instructions. The instructions

contain provisions not germane to the bill. Sustained by the Chair.

- **Jul 6, 2016:** Mr. Thompson (CA) appealed the ruling of the chair. The question was then put on sustaining the ruling of the chair.
- **Jul 6, 2016:** Mr. Chaffetz moved to table the appeal of the ruling of the Chair.
- **Jul 6, 2016:** On motion to table the appeal of the ruling of the Chair Agreed to by recorded vote: 240 - 182 (Roll no. 375).
- **Jul 5, 2016:** Rules Committee Resolution H. Res. 803 Reported to House. Rule provides for consideration of H.R. 4361 with 1 hour 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. Resolution also provides suspension authority through July 8, 2016.
- **May 31, 2016:** Reported (Amended) by the Committee on Oversight and Government Reform. H. Rept. 114-599.
- **May 31, 2016:** Placed on the Union Calendar, Calendar No. 465.
- **Mar 1, 2016:** Committee Consideration and Mark-up Session Held.
- **Mar 1, 2016:** Ordered to be Reported (Amended) by the Yeas and Nays: 21 - 16.
- **Jan 11, 2016:** Introduced in House
- **Jan 11, 2016:** Referred to the House Committee on Oversight and Government Reform.