

have evolved into multipurpose centers that do more than simply house Presidential records. For example, the William J. Clinton Library cost an estimated \$165 million, while the George W. Bush Presidential Center cost an estimated \$250 million to build, with President Bush having raised approximately half a billion dollars for his library, museum, and institute. We can expect that with each new President, these libraries are going to cost more. That is just natural.

Under current law, there is no requirement to disclose the identities of those who donate to a Presidential library, and a President is able to secure an unlimited amount of private donations while still in office.

The bill before us would make a simple but very important change in existing law. Under this bill, organizations that raise money to build Presidential libraries would be required to disclose the identity of any individual who donates more than \$200. It seems reasonable to me, Mr. Speaker. The National Archives and Records Administration would then be required to post the donation information in a manner that is free to access and downloadable.

Additionally, this legislation would create criminal penalties for individuals who report false information on donations and for fundraising organizations that omit donation information.

A group of 15 good government organizations, including Citizens for Responsibility and Ethics in Washington and the Sunlight Foundation, sent a letter urging the House to support this bill. Here is what they wrote:

“Under the current opaque system, Presidents raise funds privately to establish their Presidential libraries. These efforts, which often begin long before they leave office, are unregulated and undisclosed, creating opportunities for, or the appearance of, influence-peddling. Improved transparency would help reduce the appearance of impropriety and help deter inappropriate behavior.”

The appearance is just as important as the behavior itself, I emphasize, Mr. Speaker.

This bill was approved without opposition by the Committee on Oversight and Government Reform in March and has passed the House several times before.

As I noted, companion legislation sponsored by Senators CORKER and JOHNSON was approved by the Homeland Security and Governmental Affairs Committee earlier this year.

It looks like this bill may become law after all, Mr. DUNCAN.

I urge every Member of this body to support transparency by voting for this important legislation.

I yield back the balance of my time. Mr. CHAFFETZ. Mr. Speaker, I yield myself such time as I may consume.

I urge its passage. It is high time that this passed. It is bipartisan, it is bicameral, and it is done with some good leadership from Mr. DUNCAN. I urge its adoption.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. CHAFFETZ) that the House suspend the rules and pass the bill, H.R. 1069, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FOIA OVERSIGHT AND IMPLEMENTATION ACT OF 2015

Mr. CHAFFETZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 653) to amend section 552 of title 5, United States Code (commonly known as the Freedom of Information Act), to provide for greater public access to information, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 653

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 “FOIA Oversight and Implementation Act of 2015” or the “FOIA Act”.

SEC. 2. FREEDOM OF INFORMATION ACT AMENDMENTS.

(a) ELECTRONIC ACCESSIBILITY.—Section 552 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by striking “for public inspection and copying” each place it appears and inserting “in an electronic, publicly accessible format”;

(ii) by striking “; and” and inserting a semicolon;

(iii) by striking subparagraph (E) and inserting the following new subparagraphs:

“(E) copies of all releasable records, regardless of form or format, that have been requested three or more times under paragraph (3); and

“(F) a general index of the records referred to under subparagraphs (D) and (E);”;

(iv) in the matter following subparagraph (F) (as added by clause (iii) of this subparagraph)—

(I) by striking “subparagraph (D)” and inserting “subparagraphs (D) and (E)”;

(II) by striking “subparagraph (E)” and inserting “subparagraph (F)”;

(B) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking “that will take longer than ten days to process”; and

(II) by striking “; and” and inserting a semicolon;

(ii) in subparagraph (B)—

(I) by inserting “automated” after “provides”; and

(II) by striking the period at the end of clause (ii) and inserting “; and”;

(iii) by adding at the end the following new subparagraph:

“(C) provide a name, phone number, and email address for an agency employee who can provide current information about the status of each request received.”;

(2) in subsection (g), by striking “make publicly available upon request” and inserting “make available in an electronic, publicly accessible format”; and

(3) by adding at the end the following new subsection:

“(m) ELECTRONIC SUBMISSION OF REQUESTS.—

“(1) CONSOLIDATED ONLINE REQUEST PORTAL.—The Director of the Office of Management and Budget, in consultation with the Attorney General, shall ensure the operation of a consolidated online request portal that allows a member of the public to submit a request for records under subsection (a) to any agency from a single website. The portal may include any additional tools the Director of the Office of Management and Budget finds will improve the implementation of this section.

“(2) RULE OF CONSTRUCTION.—This subsection shall not be construed to alter the power of any other agency to create or maintain an independent online portal for the submission of a request for records under this section. The Director of the Office of Management and Budget shall establish standards for interoperability between the portal required under paragraph (1) and other request processing software used by agencies subject to this section.

“(3) EMAIL REQUEST REQUIRED.—At a minimum, each agency shall accept requests for records under subsection (a) through an email address and shall publish such email address on the website of the agency.”.

(b) PRESUMPTION OF OPENNESS.—

(1) AMENDMENTS.—Section 552(b) of title 5, United States Code, is amended—

(A) in paragraph (5), by inserting after “with the agency” the following: “, excluding—

“(A) opinions that are controlling interpretations of law;

“(B) final reports or memoranda created by an entity other than the agency, including other Governmental entities, at the request of the agency and used to make a final policy decision;

“(C) guidance documents used by the agency to respond to the public; and

“(D) records or information created 25 years or more before the date on which a request is made under subsection (a)(3);”;

(B) in paragraph (6), by striking “similar files” and inserting “personal information such as contact information or financial information”; and

(C) in the matter following paragraph (9)—

(i) by inserting before “Any reasonably segregable portion” the following: “An agency may not withhold information under this subsection unless such agency reasonably foresees that disclosure would cause specific identifiable harm to an interest protected by an exemption, or if disclosure is prohibited by law.”; and

(ii) by inserting before “If technically feasible,” the following: “For each record withheld in whole or in part under paragraph (3), the agency shall identify the statute that exempts the record from disclosure.”

(2) RULES OF CONSTRUCTION.—

(A) INTELLIGENCE SOURCES AND METHODS.—Nothing in the amendments made by this Act to section 552(b) of title 5, United States Code, shall be construed to require the disclosure of information that—

(i) is exempt under paragraph (1) of such section; or

(ii) would adversely affect intelligence sources and methods that are protected by an exemption under such section.

(B) PERSONAL PRIVACY.—For purposes of section 552(b)(6) of title 5, United States Code, as amended by this Act, the term “personal privacy” may not be construed to include the name of a Federal employee engaged in an official duty of such employee.

(3) EXEMPTION DECISION TRANSPARENCY.—Section 552(a)(6)(C)(i) of title 5, United States Code, is amended by striking the

fourth sentence and inserting at the end the following: "Any notification of denial or partial denial of any request for records under this subsection shall set forth each name and title or position of each person responsible for the denial or partial denial or any decision to withhold a responsive record under subsection (b)."

(c) REQUESTS FROM CONGRESS.—Section 552(d) of title 5, United States Code, is amended by adding at the end the following: "In responding to requests from Congress for information, an agency may not assert that information may be withheld from Congress under this section."

(d) ASSESSMENT OF ATTORNEY FEES AND OTHER LITIGATION COSTS.—Section 552(a)(4)(E)(i) of title 5, United States Code, is amended by striking "The court may" and inserting "The court shall".

(e) OFFICE OF GOVERNMENT INFORMATION SERVICES.—Section 552 of title 5, United States Code, is amended—

(1) in subsection (a)(4)(A)(i), by striking "the Director of the Office of Management and Budget" and inserting "the Director of the Office of Management and Budget, in consultation with the Director of the Office of Government Information Services,"; and

(2) by amending subsection (h) to read as follows:

"(h) OFFICE OF GOVERNMENT INFORMATION SERVICES.—

"(1) ESTABLISHMENT.—There is established the Office of Government Information Services within the National Archives and Records Administration. The head of the Office is the Director of the Office of Government Information Services.

"(2) REVIEW OF FOIA POLICY, PROCEDURE, AND COMPLIANCE.—The Office of Government Information Services shall—

"(A) review policies and procedures of agencies under this section;

"(B) review compliance with this section by agencies;

"(C) identify methods that improve compliance under this section that may include—

"(i) the timely processing of requests submitted to agencies under this section;

"(ii) the system for assessing fees and fee waivers under this section; and

"(iii) the use of any exemption under subsection (b); and

"(D) review and provide guidance to agencies on the use of fees and fee waivers.

"(3) MEDIATION SERVICES.—The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section and agencies as a non-exclusive alternative to litigation and may issue advisory opinions at the discretion of the Office or upon request of any party to such mediation services.

"(4) SUBMISSION OF REPORT.—

"(A) IN GENERAL.—The Office of Government Information Services shall not less than annually submit to the committees described in subparagraph (C) and the President a report on the findings from the information reviewed and identified under paragraph (2), a summary of the Office's activities under paragraph (3) (including any advisory opinions issued), and legislative and regulatory recommendations to improve the administration of this section.

"(B) ELECTRONIC AVAILABILITY OF REPORTS.—The Office shall make available any report submitted under subparagraph (A) in an electronic, publicly accessible format.

"(C) CONGRESSIONAL SUBMISSION OF REPORT.—The committees described in this subparagraph are the following:

"(i) The Committee on Oversight and Government Reform of the House of Representatives.

"(ii) The Committees on Homeland Security and Governmental Affairs and the Judiciary of the Senate.

"(D) DIRECT SUBMISSION OF REPORTS AND TESTIMONY.—Any report submitted under subparagraph (A), any testimony, or any other communication to Congress shall be submitted directly to the committees and the President, without any requirement that any officer or employee outside of the Office of Government Information Services, including the Archivist of the United States and the Director of the Office of Management and Budget, review such report, testimony, or other communication.

"(5) SUBMISSION OF ADDITIONAL INFORMATION.—The Director of the Office of Government Information Services may submit additional information to Congress and the President that the Director determines to be appropriate.

"(6) ANNUAL MEETING REQUIRED.—Not less than once a year, the Office of Government Information Services shall hold a meeting that is open to the public on the review and reports by the Office and permit interested persons to appear and present oral or written statements at such meeting."

(f) PUBLIC RESOURCES.—Section 552(a)(6) of title 5, United States Code, is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and" and inserting the following: "of—

"(I) such determination and the reasons therefor;

"(II) the right of such person to seek assistance from the agency FOIA Public Liaison; and

"(III) the right of such person to appeal to the head of the agency any adverse determination, within a period determined by the agency that is not less than 90 days after the receipt of such adverse determination; and"; and

(B) in clause (ii), by striking the period at the end and inserting the following: "and the right of such person to seek dispute resolution services from the agency FOIA Public Liaison or the Office of Government Information Services,";

(2) in subparagraph (B)—

(A) by redesignating clause (iv) as clause (v); and

(B) by inserting after clause (iii) the following new clause (iv):

"(iv) When an agency consults with an entity with substantial interests in the determination of a request (in this clause referred to as the "consulted entity"):

"(I) The agency shall notify the requestor of the consultation in writing, including each of the following:

"(aa) A brief description of the consultation process.

"(bb) The name of each consulted entity, unless otherwise prohibited by law.

"(cc) An approximate number of pages, or other description of the volume of records, that each consulted entity is reviewing.

"(II) The agency shall notify the consulted entity of the need to consult in writing, including each of the following:

"(aa) An approximate number of pages, or other description of the volume of records, that the entity is requested to review.

"(bb) A request to provide a complete response within 15 days after the date on which the notification is sent and a notice that after the expiration of that time period the agency will proceed with the compliance of the request if a completed response is not received.

"(cc) If the number of records in the consultation under this clause exceeds 3,000 pages, a notification that the consulted enti-

ty shall have 15 days after the date on which the notice is sent to submit a substantial response and that a response on at least 3,000 pages not less than every five days thereafter is required to continue the consultation period.

"(dd) If the consulted entity is unable or anticipates that the entity will be unable to complete the consultation within the time period described, a notification that the consulted entity may request mediation services at the Office of Government Information Services to set an alternative consultation schedule.

"(III) If the requesting agency has not received a completed request within the time period described in the consultation notice, the agency shall request that the consulted entity engage in mediation services with the Office of Government Information Services. If the consulted entity is an agency, the consulted agency shall agree to participate in mediation services.

"(IV) If the consulted entity requests or agrees to engage in mediation services, the requesting agency shall notify the requester of the mediation and the opportunity to participate in the mediation, if participation is not otherwise prohibited by law. The parties in the mediation shall determine a reasonable schedule of completion and a date by which the requesting agency shall complete the response to the request.

"(V) If the consulted entity does not respond or rejects the offer to mediate an alternative schedule, the requesting agency shall complete the response to the requester.

"(VI) The previous provisions of this clause shall not apply when the consulted entity is an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)))."; and

(3) in subparagraph (F), by striking "any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made." and inserting the following: "to the person making the request the following:

"(i) Any such estimate, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.

"(ii) A list of all records requested the provision of which was denied, unless the disclosure of such record is prohibited by law."

(g) ADDITIONAL DISCLOSURE OF INFORMATION REQUIREMENTS.—Section 552(a) of title 5, United States Code, is amended by adding at the end the following new paragraphs:

"(8) DISCLOSURE OF INFORMATION FOR INCREASED PUBLIC UNDERSTANDING OF THE GOVERNMENT.—Each agency shall—

"(A) review the records of such agency to determine whether the release of the records would be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government;

"(B) for records determined to be in the public interest under subparagraph (A), reasonably segregate and redact any information exempted from disclosure under subsection (b); and

"(C) make available in an electronic, publicly accessible format, any records identified in subparagraph (A), as modified pursuant to subparagraph (B).

"(9) INCREASED DISCLOSURE OF INFORMATION.—Each agency shall—

"(A) make information public to the greatest extent possible through modern technology to—

"(i) inform the public of the operations and activities of the Government; and

"(ii) ensure timely disclosure of information; and

“(B) establish procedures for identifying categories of records that may be disclosed regularly and additional records of interest to the public that are appropriate for public disclosure, and for posting such records in an electronic, publicly accessible format.”.

(h) REPORT ON CATEGORIES OF INFORMATION FOR DISCLOSURE.—Not later than one year after the date of the enactment of this Act, and every two years thereafter, the Director of the Office of Information Policy of the Department of Justice, after consultation with agencies selected by the Director, shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and the Judiciary of the Senate a report that identifies categories of records that would be appropriate for proactive disclosure, and shall make such report available in an electronic, publicly accessible format.

(i) AGENCY FOIA REPORT.—Section 552(e) of title 5, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting “and to the Director of the Office of Government Information Services” after “the Attorney General of the United States”;

(B) in subparagraph (N), by striking “; and” and inserting a semicolon;

(C) in subparagraph (O), by striking the period and inserting a semicolon; and

(D) by adding at the end the following new subparagraphs:

“(P) the number of times the agency invoked a law enforcement exclusion under subsection (c);

“(Q) the number of times the agency engaged in dispute resolution with the assistance of the Office of Government Information Services or the FOIA Public Liaison;

“(R) the number of records that were made available in an electronic, publicly accessible format under subsection (a)(2); and

“(S) the number of times the agency assessed a search or duplication fee under subsection (a)(4)(A) and did not comply with a time limit under subsection (a)(6).”;

(2) by amending paragraph (3) to read as follows:

“(3) ELECTRONIC ACCESSIBILITY OF REPORTS.—Each agency shall make each such report available in an electronic, publicly accessible format. In addition, each agency shall make the raw statistical data used in its reports available in a timely manner in an electronic, publicly accessible format. Such data shall be—

“(A) made available without charge, license, or registration requirement;

“(B) capable of being searched and aggregated; and

“(C) permitted to be downloaded and downloaded in bulk.”;

(3) in paragraph (4)—

(A) by striking “Committee on Government Reform and Oversight” and inserting “Committee on Oversight and Government Reform”;

(B) by striking “Governmental Affairs” and inserting “Homeland Security and Governmental Affairs”; and

(C) by striking “April 1” and inserting “March 1”;

(4) in paragraph (5)—

(A) by inserting “and the Director of the Office of Government Information Services” after “the Director of the Office of Management and Budget”; and

(B) by striking “by October 1, 1997”; and

(5) by amending paragraph (6) to read as follows:

“(6) ATTORNEY GENERAL FOIA REPORT.—

“(A) IN GENERAL.—The Attorney General of the United States shall submit to Congress and the President an annual report on or be-

fore March 1 of each calendar year which shall include for the prior calendar year—

“(i) a listing of the number of cases arising under this section, including for each case, as applicable—

“(I) each subsection under this section;

“(II) each paragraph of each such subsection;

“(III) any exemption;

“(IV) the disposition of such case; and

“(V) the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4); and

“(ii) a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

“(B) ELECTRONIC AVAILABILITY.—The Attorney General of the United States—

“(i) shall make each report described under subparagraph (A) available in an electronic, publicly accessible format; and

“(ii) shall make the raw statistical data used in each report available in an electronic, publicly accessible format, which shall be—

“(I) made available without charge, license, or registration requirement;

“(II) capable of being searched and aggregated; and

“(III) permitted to be downloaded, including downloaded in bulk.”.

(j) SEARCH OR DUPLICATION FEES.—Section 552(a)(4)(A) of title 5, United States Code, is amended by striking clause (viii) and inserting the following new clause:

“(viii)(I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) under this subparagraph if the agency fails to comply with any time limit described in paragraph (6).

“(II)(aa) If an agency has determined that unusual circumstances apply (as the term is defined in paragraph (6)(B)) and the agency provided a timely written notice to the requester in accordance with paragraph (6)(B), a failure described in subclause (I) is excused for an additional 10 days. If the agency fails to comply with the extended time limit, the agency may not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees).

“(bb) If an agency has determined that unusual circumstances apply and more than 3,000 pages are necessary to respond to the request, an agency may charge search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) if the agency has provided a timely written notice to the requester in accordance with paragraph (6)(B) and the agency has discussed with the requester via written mail, electronic mail, or telephone (or made not less than 3 good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with paragraph (6)(B)(ii).

“(cc) If a court has determined that exceptional circumstances exist (as that term is defined in paragraph (6)(C)), a failure described in subclause (I) shall be excused for the length of time provided by the court order.

“(ix) When assessing or estimating fees, agencies shall provide a detailed explanation of the fee calculation, including—

“(I) the actual or estimated number, as appropriate, of—

“(aa) records duplicated;

“(bb) hours of searching;

“(cc) files searched;

“(dd) records searched;

“(ee) custodians searched;

“(ff) records reviewed; and

“(gg) hours of review;

“(II) citations to the fee schedule for each category of fee assessed; and

“(III) in the case of an estimate, the basis for such estimate.”.

(k) GOVERNMENT ACCOUNTABILITY OFFICE.—Subsection (i) of section 552 of title 5, United States Code, is amended to read as follows:

“(i) GOVERNMENT ACCOUNTABILITY OFFICE.—The Government Accountability Office shall—

“(1) conduct audits of administrative agencies on compliance with and implementation of the requirements of this section and issue reports detailing the results of such audits;

“(2) catalog the number of exemptions under subsection (b)(3) and agency use of such exemptions; and

“(3) review and prepare a report on the processing of requests by agencies for information pertaining to an entity that has received assistance under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) during any period in which the Government owns or owned more than 50 percent of the stock of such entity.”.

(l) CHIEF FOIA OFFICER RESPONSIBILITIES; COUNCIL; REVIEW.—Section 552 of title 5, United States Code, is amended—

(1) by striking subsections (j) and (k); and

(2) by inserting after subsection (i), the following new subsections:

“(j) CHIEF FOIA OFFICER.—

“(1) DESIGNATION.—Each agency shall designate a Chief FOIA Officer who shall be a senior official of such agency (at the Assistant Secretary or equivalent level).

“(2) DUTIES.—The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency—

“(A) have agency-wide responsibility for efficient and appropriate compliance with this section;

“(B) monitor implementation of this section throughout the agency and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency’s performance in implementing this section;

“(C) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve the implementation of this section;

“(D) review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency’s performance in implementing this section;

“(E) facilitate public understanding of the purposes of the statutory exemptions of this section by including concise descriptions of the exemptions in both the agency’s handbook issued under subsection (g), and the agency’s annual report on this section, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply;

“(F) serve as the primary agency liaison with the Office of Government Information Services and the Office of Information Policy; and

“(G) designate one or more FOIA Public Liaisons.

“(3) COMPLIANCE REVIEW REQUIRED.—The Chief FOIA Officer of each agency shall—

“(A) review, not less than annually, all aspects of the agency’s administration of this section to ensure compliance with the requirements of this section, including—

“(i) agency regulations;

“(ii) disclosure of records required under paragraphs (2), (8), and (9) of subsection (a);

“(iii) assessment of fees and determination of eligibility for fee waivers;

“(iv) the timely processing of requests for information under this section;

“(v) the use of exemptions under subsection (b); and

“(vi) dispute resolution services with the assistance of the Office of Government Information Services or the FOIA Public Liaison; and

“(B) make recommendations as necessary to improve agency practices and compliance with this section.

“(k) CHIEF FOIA OFFICERS COUNCIL.—

“(1) ESTABLISHMENT.—There is established in the executive branch the Chief FOIA Officers Council (in this subsection, referred to as the ‘Council’).

“(2) MEMBERS.—The Council shall consist of the following members:

“(A) The Deputy Director for Management of the Office of Management and Budget.

“(B) The Director of the Office of Information Policy at the Department of Justice.

“(C) The Director of the Office of Government Information Services at the National Archives and Records Administration.

“(D) The Chief FOIA Officer of each agency.

“(E) Any other officer or employee of the United States as designated by the Co-Chairs.

“(3) CO-CHAIRS.—The Director of the Office of Information Policy at the Department of Justice and the Director of the Office of Government Information Services at the National Archives and Records Administration shall be the Co-Chairs of the Council.

“(4) SUPPORT SERVICES.—The Administrator of General Services shall provide administrative and other support for the Council.

“(5) CONSULTATION.—In performing its duties, the Council shall consult regularly with members of the public who make requests under this section.

“(6) DUTIES.—The duties of the Council include the following:

“(A) Develop recommendations for increasing compliance and efficiency under this section.

“(B) Disseminate information about agency experiences, ideas, best practices, and innovative approaches related to this section.

“(C) Identify, develop, and coordinate initiatives to increase transparency and compliance with this section.

“(D) Promote the development and use of common performance measures for agency compliance with this section.

“(7) MEETINGS.—

“(A) REGULAR MEETINGS.—The Council shall meet regularly and such meetings shall be open to the public unless the Council determines to close the meeting for reasons of national security or to discuss information exempt under subsection (b).

“(B) ANNUAL MEETINGS.—Not less than once a year, the Council shall hold a meeting that shall be open to the public and permit interested persons to appear and present oral and written statements to the Council.

“(C) NOTICE.—Not later than 10 business days before a meeting of the Council, notice of such meeting shall be published in the Federal Register.

“(D) PUBLIC AVAILABILITY OF COUNCIL RECORDS.—Except as provided in subsection (b), the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were made available to or prepared for or by the Council shall be made publicly available.

“(E) MINUTES.—Detailed minutes of each meeting of the Council shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Council.”

(m) EXCLUDED RECORDS.—Section 552(c) of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(4) An agency shall notify the Department of Justice in each instance records responsive to a request have been identified that the agency determines are not subject to the requirements of this section under paragraphs (1), (2), or (3) and shall provide the Department of Justice with a detailed justification for such determination for each such instance. The Department of Justice shall maintain records of each notification and justification received. An agency may treat records created under this paragraph as not subject to the requirements under this section.”

(n) AGENCY PERFORMANCE; ADVERSE ACTIONS.—

(1) IN GENERAL.—Section 552 of title 5, United States Code, is further amended by adding at the end the following new subsection:

“(n) AGENCY PERFORMANCE.—

“(1) PERFORMANCE REVIEWS.—Performance appraisals under chapter 43 of this title shall include consideration of the employee’s responsibility for, and compliance with, this section as appropriate.

“(2) AGENCY-WIDE TRAINING.—Each agency shall ensure agency employees receive annual training on the responsibilities of the agency under this section, including the specific responsibilities of each employee, such as responding promptly to requests for records and providing all records that may be responsive to the request.

“(3) FOIA OFFICER TRAINING.—Each agency shall ensure agency employees directly responsible for fulfilling the requirements under this section receive annual training on such requirements. The annual training shall include statutory requirements (such as time limits to respond to requests for records, limitations on exemptions, and opportunities for discretionary disclosure) and any changes to this section or any interpretation of this section (such as a regulation issued under this section).

“(4) VIOLATION OF FOIA.—

“(A) INTENTIONAL.—An intentional violation of any provision of this section, including any rule, regulation, or other implementing guideline, by an officer or employee of an agency, as determined by the appropriate supervisor, shall be forwarded to the Inspector General of the agency for a verification of the violation, and upon verification, such officer or employee shall be subject to the suspension and removal provisions under subchapter II or V of chapter 75.

“(B) UNAUTHORIZED WITHHOLDING.—The withholding of information in contravention of the requirements of this section, including any rule, regulation, or other implementing guideline, as determined by the appropriate supervisor, shall be a basis for disciplinary action in accordance with subchapter I, II, or V of chapter 75, as the case may be.”

(2) REGULATIONS.—The Office of Personnel Management shall ensure that any performance appraisal system established pursuant to chapter 43 of title 5, United States Code, shall include the requirements of section 552(n)(1) of such title (as added by paragraph (1)).

(o) REGULATIONS; GAO STUDY; SYSTEM OF RECORD NOTICE.—

(1) REVISION OF REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the head of each agency shall review the regulations of such agency and shall issue regulations on procedures for the disclosure of records under section 552 of title 5, United States Code, in accordance with the amendments made by this section. The regulations of each agency shall include—

(A) procedures for engaging in dispute resolution; and

(B) procedures for engaging with the Office of Government Information Services.

(2) GAO NON-CUSTODIAN STUDY.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall—

(A) conduct a study of not less than five agencies to assess the feasibility of implementing a policy requiring non-custodians to search for records to meet the requirements of section 552 of title 5, United States Code, and requests for documents from Congress; and

(B) submit a report on such assessment to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on the Judiciary of the Senate detailing the results of such study.

(3) OFFICE OF GOVERNMENT INFORMATION SERVICES REPORT.—Not later than 270 days after the date of the enactment of this Act, the Office of Government Information Services shall submit to Congress a report on agency compliance with the requirements of this subsection.

(4) AGENCY SYSTEM OF RECORDS NOTICE REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the head of each agency shall publish in the Federal Register a system of records notice as defined in section 552a of title 5, United States Code, which allows the Office of Government Information Services access to records to the extent necessary to meet the requirements of this Act, and the amendments made by this Act.

(5) REPORT ON NONCOMPLIANCE.—Not later than 270 days after the date of the enactment of this Act, the head of an agency that does not meet the requirements of paragraph (1) shall submit to Congress a report on the reason for noncompliance.

(6) INSPECTOR GENERAL REVIEW FOR NON-COMPLIANCE.—Any agency that fails to comply with the requirements of this subsection shall be reviewed by the Office of Inspector General of such agency for compliance with section 552 of title 5, United States Code.

(7) AGENCY DEFINED.—In this section, the term “agency” has the meaning given such term in section 552(f) of title 5, United States Code.

SEC. 3. INSPECTOR GENERAL REVIEW.

(a) PERIODIC REVIEW.—The Inspector General of each agency (as such term is defined in section 552(f) of this title 5, United States Code) shall—

(1) periodically review compliance with the requirements of section 552 of title 5, United States Code, including the timely processing of requests, assessment of fees and fee waivers, and the use of exemptions under subsection (b) of such section; and

(2) make recommendations the Inspector General determines to be necessary to the head of the agency, including recommendations for disciplinary action.

(b) REQUIRED FREQUENCY FOR CERTAIN AGENCIES.—The Inspector General of each agency (as such term is defined in section 901 of title 31, United States Code) shall complete the review and make the recommendations required under subsection (a) not less than once every two years.

SEC. 4. NO ADDITIONAL FUNDS AUTHORIZED.

No additional funds are authorized to carry out the requirements of this Act and the amendments made by this Act. Such requirements shall be carried out using amounts otherwise authorized.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. CHAFFETZ) and the gentleman from Maryland (Mr. CUMMINGS) each will control 20 minutes.

The Chair recognizes the gentleman from Utah.

GENERAL LEAVE

Mr. CHAFFETZ. 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 materials on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. CHAFFETZ. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ISSA), the former chairman of the Oversight and Government Reform Committee and one of the lead sponsors of this bill.

Mr. ISSA. Mr. Speaker, I thank the chairman.

It is no accident that this is one of the first bills of the new year. Like some of the other legislation, it is not a new idea. In many ways, what it really is is this body, once again, if you will, reiterating when we talk about freedom of information for the American people, whether it is a private citizen who doesn't know what the government knows about him or her and would like to or it is an interest group, a think tank, or very, very often the press—The New York Times, The Washington Post, the LA Times, and a host more—wanting to know what the government is doing, what their government is doing with their money, their freedoms.

This bill emphasizes in no uncertain terms something that is long overdue: that the balance between the American people's right to know about their information and the government's right to keep a secret shall always be balanced in favor and presumed to be the American people's right. In other words, no longer, after this bill is signed into law, will an administration, Republican or Democratic, be able to presume that they are going to say no if they possibly can. Instead, this bill shifts the burden to the presumption of yes.

Not only does it shift the burden, but it puts an outright mandate that, after 25 years, information not covered by national security requirements or classifications of secret or above, shall, in fact, simply be available.

These are fundamentally important distinctions between the current law. But more to the point of a modernization, this legislation mandates a single point of asking for FOIA, an assumption that it is long overdue for us to streamline and improve the ability to get this information and get it to everyone.

One of the aspects of the legislation is that H.R. 653 will require that information asked for again and again and again be posted and available for everyone rather than each time being a burden of somebody wanting similar or even identical information to have to put in a FOIA request.

Mr. Speaker, what I want to close with is this isn't just bipartisan; this is

universal. Members of the House and the Senate, whether there is a Republican or Democratic President, whether it is on behalf of a constituent wanting some simple information, we regularly use the Freedom of Information Act, and we regularly find ourselves frustrated.

This is good for the administration. It builds on legislation like the DATA Act and other reforms that the Oversight and Government Reform Committee have done over a number of years.

Lastly, I want to thank my good friend from Maryland (Mr. CUMMINGS). From the very day we began heading the committee, more than 5 years ago now, together, he has always been for FOIA reform, always been for more transparency, and always been supportive of the legislation you see here today. I want to thank Mr. CUMMINGS, something that I don't get enough chances to do.

And I want to thank Chairman CHAFFETZ for bringing this bill, not only as it was originally written, but with some important modifications to make it, hopefully, go through quickly when it is considered by the Senate.

I urge its support.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 653, the FOIA Oversight and Implementation Act.

I want to start by thanking Representative DARRELL ISSA for working with me on this legislation. We first introduced the FOIA Act in March 2013. The bill before us today is the product of 3 years of work—hard work—feedback, negotiation, and perseverance.

I also want to thank the chairman of the Oversight and Government Reform Committee, JASON CHAFFETZ, for his work on this bill and his strong support for bringing it to the House floor today.

I would say that this is a bipartisan effort, but it is more than that. We actually worked very, very hard together, all of us, to make this happen. If there was any case where we had to use this term of not moving to common ground but moving to higher ground, it would be this legislation.

Open government advocates—journalists, editorial boards, and everyday citizens—who support this bill also deserve a tremendous amount of gratitude.

The FOIA Act would strengthen the cornerstone of our open government laws and the Freedom of Information Act. This legislation builds on the historic work of the Obama administration, which I believe will go down in history as the most transparent administration to date. The bill would codify the presumption of openness standard that President Obama put in place in a memo issued on his first day in office.

The bill would require agencies to identify specific identifiable harm to an interest protected by exemption unless disclosure is prohibited by law.

This provision would not require agencies to disclose classified information, it would not require agencies to disclose anything they are prohibited from disclosing by law, and it would not remove any of FOIA's existing time exemptions. It would, however, put the burden on agencies where it should be: to justify keeping government information secret.

The bill would also put a 25-year sunset exemption 5 of FOIA—the deliberative process exemption—and limit the scope of records that agencies could withhold under that exemption. It would modernize FOIA by requiring the Office of Management and Budget to create a central portal to allow FOIA requests to any agency through one Web site.

The Office of Government Information Services, the FOIA ombudsman created by Congress in 2007, would become more independent, which is very important under this bill, because that office would be allowed to submit testimony and reports directly to Congress without going through political review.

This bill is coming to the floor with an amendment that makes a number of changes, and many of them proposed by Chairman CHAFFETZ. Some of these additions include requiring agencies to provide each FOIA requester with a contact name and information for an agency employee who can provide information on the status of the request. This is so very, very important.

Our bill has widespread support. A coalition of 47 open government groups sent a letter in support of this bill on February 5, 2015, that said:

“Congress must act this year to ensure that FOIA stays current with people's need to access government information and resilient in the face of attempts to subvert that access.”

□ 1730

Numerous editorial boards have written, urging Congress to pass FOIA reform legislation.

A New York Times editorial from February 2015 reads: “This is a rare chance to log a significant bipartisan accomplishment in the public interest.”

A USA Today editorial in March 2015 called for the enactment of this bill's reforms.

A Los Angeles Times editorial read that this legislation and a similar bill in the Senate “deserves to be passed.”

This is a movement called Fix FOIA by 50. That movement is aimed at getting H.R. 653 enacted before the 50th anniversary of FOIA in July of this year.

An online clearinghouse for the movement includes stories from journalists about why FOIA is critical to their work and why this legislation must be enacted.

It is important to note that, even with the enactment of this legislation, the work of Congress must continue.

Agency FOIA staff are being asked to do more than ever before. From 2009 to

2014, the overall number of FOIA requests submitted to Federal agencies increased by 28 percent with new records set in each of the past 4 years in a row. The total number of FOIA personnel, however, decreased by about 4 percent. Congress must give these agencies more resources.

Again, I thank Congressman ISSA for all of his hard work. I know that he has been on this bill for a long time and has tried to make sure it gets passed. Again, I want to thank both staffs for working so hard.

Since Chairman CHAFFETZ became chairman, we have had two meetings, and I know our staffs have had numerous meetings and have hammered out the details to make a very good bill a better bill. I want to thank them.

I urge my colleagues to vote for transparency and for the American people by voting "yes" on this legislation.

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

Mr. CHAFFETZ. Mr. Speaker, I yield myself such time as I may consume.

This is a good, much-needed piece of legislation. It is hard to believe that FOIA, the Freedom of Information Act, was passed nearly 50 years ago.

We are a little different in the United States. We are self-critical. We do look at things. We do examine things. We do it in the spirit of making this country better.

We also have to remember who we work for. We work for the American people. The American people are paying the tab. It is their government, and they have the right to know.

Updating this piece of legislation is something that, in particular, Congressman ISSA sought to do some time ago. He put the wheels in motion and started to draft a good and much-needed bill.

Coming together with the ranking member, Mr. CUMMINGS, has made this all possible. We have had some good, vibrant discussions. We had 2 days of hearings in our committee. We heard from citizens. We heard from the media. We heard from a host of people.

I think it is fair to say that, in large part, the FOIA, the way it operates now, is broken. I do agree and concur with the ranking member that, if we are going to have such a bombardment of requests, they need to be properly funded and there needs to be the personnel in order to make sure they can fulfill these requests.

When appropriation season comes, I want to stand with Mr. CUMMINGS and with others and make sure that it is properly funded so that those good people can do their good work.

There were a number of reforms and improvements that needed to happen. I do appreciate the flexibility of working and of offering suggestions and then another set of suggestions.

This would not have been possible, Mr. Speaker, without some good work in the Office of Legal Counsel. Sally Walker dealt with us time and time again.

On our side of the aisle, we had it spearheaded with Katy Rother, and I know that Krista Boyd particularly, on Mr. CUMMINGS' staff, was vital to making this happen.

There are vital pieces of information that are needed and that are rightfully requested by the American people, but this piece of legislation will make that FOIA process smoother. It will make it more effective, more efficient, and I think it is much needed as we go into the 50th year of FOIA. I look forward to its passage. I urge a "yes" vote.

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

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

I close by highlighting a few additional provisions of FOIA.

This bill would require agencies to review existing records to identify categories of records to proactively disclose rather than waiting for FOIA requests.

The bill would also require the Department of Justice to report to Congress on categories of records that would be appropriate for proactive disclosure.

Finally, the bill would tackle the proliferation of statutory FOIA exemptions by requiring the Government Accountability Office to catalog all of the statutory exemptions on the books.

Again, I urge the support of this legislation.

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

Mr. CHAFFETZ. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the good, bipartisan work. It was through a lot of labor and a lot of listening to what the public needs and to what the media needs. I do think this will make the Freedom of Information Act better as it is the spirit by which we operate in this country.

I urge the bill's passage.

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

HOUSE OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE ON INTELLIGENCE,

Washington, DC, January 8, 2016.

Hon. JASON CHAFFETZ,
Chairman, Committee on Oversight and Government Reform, Washington, DC.

DEAR CHAIRMAN CHAFFETZ: On January 7, 2016, your committee ordered H.R. 653, the "FOIA Oversight and Implementation Act of 2015," reported. As you know, H.R. 653 contains several provisions that implicate the work of agencies within the jurisdiction of the Permanent Select Committee on Intelligence. The bill addresses how elements of the Intelligence Community (IC), as defined in section 3(4) of the National Security Act of 1947, may protect sensitive information from disclosure under the Freedom of Information Act (FOIA).

On the basis of your consultations with the Committee, I understand that H.R. 653 has been crafted to avoid compelling the disclosure of any properly classified information, or other information where disclosure would adversely affect intelligence sources and methods protected by an existing FOIA exemption. In particular, I understand that H.R. 653 does not allow or require FOIA requesters to obtain IC records or information,

without regard to the age of the records or information, if such disclosure would adversely affect intelligence sources and methods.

I further understand that H.R. 653 does not alter an Intelligence Community element's discretion over the language it chooses to use in denying records or information sought pursuant to FOIA. Specifically, I understand that the requirement in Section 2(f)(3) for federal agencies to include "a list" of all denied records preserves an Intelligence Community element's discretion regarding the contents of the required "list." To the extent that elaboration of any list would adversely affect intelligence sources and methods, an IC element may cite to the applicable FOIA exemption to meet the list requirement.

I would appreciate your response to this letter confirming these understandings and would request that you include a copy of this letter in the Congressional Record during its floor consideration. Thank you in advance for your cooperation.

Sincerely,

DEVIN NUNES,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,

Washington, DC, January 11, 2016.

Hon. DEVIN NUNES,
Chairman, Permanent Select Committee on Intelligence, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your January 8, 2016, letter regarding H.R. 653, the FOIA Oversight and Implementation Act of 2015, as reported. H.R. 653 bill addresses how elements of the Intelligence Community (IC), as defined in section 3(4) of the National Security Act of 1947, may protect sensitive information from disclosure under the Freedom of Information Act (FOIA). I am writing to confirm our mutual understanding with respect to the consideration of the bill.

H.R. 653 has been crafted to strengthen FOIA by establishing a strong presumption in favor of disclosure, while also recognizing the need to avoid compelling the disclosure of any properly classified information, or other information where disclosure would adversely affect intelligence sources and methods protected by an existing FOIA exemption. The bill, as reported, does not require agency FOIA staff to disclose IC records or information, without regard to the age of the records or information, if such disclosure would adversely affect intelligence sources and methods. Further, the bill does not alter an IC element's discretion over the language it chooses to use in denying records or information sought pursuant to FOIA. Specifically, the requirement in Section 2(f)(3) for federal agencies to include "a list" of all denied records preserves an Intelligence Community element's discretion regarding the contents of the required "list." A copy of our exchange of letters on this matter in the will be inserted into the Congressional Record during consideration of this bill on the House floor. Thank you for your attention to this matter.

Sincerely,

JASON CHAFFETZ,
Chairman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. CHAFFETZ) that the House suspend the rules and pass the bill, H.R. 653, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL INTERN PROTECTION
ACT OF 2015

Mr. CHAFFETZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3231) to amend title 5, United States Code, to protect unpaid interns in the Federal government from workplace harassment and discrimination, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3231

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 "Federal Intern Protection Act of 2015".

SEC. 2. PROHIBITED PERSONNEL PRACTICES.

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

“(g)(1) All protections afforded to an employee under subparagraphs (A), (B), and (D) of subsection (b)(1) shall be afforded, in the same manner and to the same extent, to an intern and an applicant for internship.

“(2) For purposes of the application of this subsection, a reference to an employee shall be considered a reference to an intern in—

“(A) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);

“(B) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a); and

“(C) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

“(3) In this subsection, the term ‘intern’ means an individual who performs uncompensated voluntary service in an agency to earn credit awarded by an educational institution or to learn a trade or occupation.”.

(b) *CONFORMING AMENDMENT.*—Section 3111(c)(1) of title 5, United States Code, is amended by inserting “section 2302(g) (relating to prohibited personnel practices),” before “chapter 81”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. CHAFFETZ) and the gentleman from Maryland (Mr. CUMMINGS) each will control 20 minutes.

The Chair recognizes the gentleman from Utah.

GENERAL LEAVE

Mr. CHAFFETZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous materials on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. CHAFFETZ. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 3231, the Federal Intern Protection Act of 2015, as introduced by the ranking member, Mr. CUMMINGS. This is a bill brought to my attention by him. We took it through the process in our committee and marked it up, and here we are on the floor.

The bill establishes some important protections against the workplace dis-

crimination and harassment of both unpaid Federal interns and applicants for Federal internships. Currently, there are no specific provisions in law to protect these unpaid interns.

H.R. 3231 makes it illegal to discriminate, to sexually harass, or to retaliate against unpaid Federal interns and applicants for Federal internships.

Specifically, the bill protects against discrimination and harassment on the basis of race, color, religion, sex, or national origin under the Civil Rights Act of 1967, under the Age Discrimination in Employment Act of 1967, and under the handicapping condition under the Rehabilitation Act of 1973.

Unpaid interns, similar to paid employees, are to be considered protected against discrimination and harassment.

I thank Mr. CUMMINGS for his passion on this issue to guard against this discrimination and harassment. I look forward to supporting this bill. I am glad we could bring it to the floor today.

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

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

The bill before us, the Federal Intern Protection Act, would close a loophole in Federal employment law that currently leaves unpaid interns open to discrimination and sexual harassment.

Earlier this year our committee held a hearing at which we heard testimony about sexual harassment and retaliation in an EPA regional office. During that hearing, both Chairman CHAFFETZ and I expressed our disgust at the exploitation of these young women and demanded that action be taken to prevent this in the future.

Unfortunately, the act of harassing unpaid interns on the basis of race, religion, age, or, in this case, sex is not prohibited by Federal law. Under current law, victims rely on the discretion of managers to prevent the recurrence of this behavior, something that does not always occur.

As one witness testified: “Even after finding out about the numerous harassment victims, the direct reporting manager continued to feed the harasser a steady diet of young women.”

As we saw at our hearing, allowing this kind of behavior to go unchecked can have serious consequences on the lives and careers of those who are interested in government service and on those who are simply trying to be all that God meant for them to be. There are many unpaid interns who are willing to commit to working for the Federal Government. We should protect them from this kind of despicable behavior.

I want to take a moment to thank Chairman CHAFFETZ for helping us to move this bill through the committee expeditiously and to bring it to the floor. As a matter of fact, in our committee, we received a unanimous vote on it, and I am hoping that there will be a unanimous vote on the floor today.

I thank him and I thank his staff and our staff for pulling all of this together to get us to this moment.

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

Mr. CHAFFETZ. Mr. Speaker, I have no additional speakers.

I reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 3231, the Federal Intern Protection Act.

This bill would amend title 5 of the U.S. Code to extend protections against discrimination and harassment to unpaid interns who work at Federal agencies. The bill would define an intern as someone who performs uncompensated voluntary service in an agency to earn credit awarded by an educational institution or to learn a trade or occupation.

Internships are often the first real entry into a profession; yet, unpaid interns are not expressly protected from the discriminatory practices prohibited by the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Rehabilitation Act, and other laws and regulations. This bill would remedy this problem and extend those workplace protections to unpaid interns who may be vulnerable to egregious treatment.

Madam Speaker, all too often, when unpaid interns have taken cases of workplace discrimination to the courts, the courts have ruled against them. In the Second Circuit, a unanimous panel of judges concluded that unpaid interns are not employees covered by existing laws.

In the 1997 case of O'Connor v. Davis, an employee at a State hospital harassed an unpaid intern, calling her Miss Sexual Harassment and subjecting her to sexually explicit comments.

The court stated that it was not unsympathetic to O'Connor's situation and acknowledged that she was not in quite the same position to simply walk away from the alleged harassment, as her success at school was dependent on her successfully completing her internship.

The Second Circuit noted that Ms. O'Connor's dependency on her employer made her vulnerable to continued harassment much as an employee dependent on a regular wage can be vulnerable to ongoing misconduct.

Despite that, the Second Circuit concluded: “It is for Congress, if it should choose to do so, and not this court to provide a remedy under either title VII or title IX for plaintiffs in O'Connor's position.”

As ranking member of the House Committee on Education and the Workforce, I urge Congress to do more to protect unpaid interns, be it in the Federal sector, in the Halls of Congress, or in the private sector.

The House Committee on Education and the Workforce has jurisdiction