

Petri Scalise
Pingree (ME) Schakowsky
Pitts Schauer
Platts Schiff
Poe (TX) Schmidt
Polis (CO) Schock
Pomeroy Schrader
Posey Schwartz
Price (NC) Scott (GA)
Putnam Scott (VA)
Quigley Sensenbrenner
Rahall Serrano
Rangel Sessions
Rehberg Sestak
Reichert Shea-Porter
Reyes Sherman
Richardson Shimkus
Rodriguez Shuler
Roe (TN) Shuster
Rogers (AL) Simpson
Rogers (KY) Sires
Rohrabacher Skelton
Rooney Slaughter
Ros-Lehtinen Smith (NE)
Roskam Smith (NJ)
Ross Smith (TX)
Rothman (NJ) Smith (WA)
Roybal-Allard Snyder
Royce Space
Ruppersberger Speier
Rush Spratt
Ryan (OH) Stark
Ryan (WI) Stearns
Salazar Stupak
Sanchez, Linda Sullivan
T. Sutton
Sanchez, Loretta Tanner
Sarbanes Taylor

Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman
Schultz
Waters
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)

[Roll No. 504]
YEAS—408
Aderholt
Adler (NJ)
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggart
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccheri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Critz
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)

Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeGette
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Fox
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves (GA)
Graves (MO)
Grayson
Green, Al
Green, Gene
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee
(TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones

Ortiz
Owens
Pallone
Pascarell
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sanchez, Linda
T.
Sanchez, Loretta
Sarbanes

Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman
Schultz
Waters
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)

NOT VOTING—22

Akin Inglis
Buyer Kilpatrick (MI)
Carney Linder
Delahunt McCarthy (CA)
Gohmert McMorris
Griffith Rodgers
Himes Moran (KS)
Hoekstra Price (GA)

Radanovich
Rogers (MI)
Shadegg
Tiahrt
Wamp
Watson
Young (FL)
Lungren, Daniel
E.
Lynch
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris
Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver

NOT VOTING—24

Himes
Hoekstra
Kilpatrick (MI)
LaTourette
Linder
Mack
McCarthy (CA)
Miller (NC)
Moran (KS)
Radanovich
Rogers (MI)
Shadegg
Tiahrt
Wamp
Watson
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1223

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. AKIN. Mr. Speaker, on July 30, 2010, I was absent from the House and missed rollcall votes 500, 501, 502, 503 and 504.

Had I been present, I would have voted “no” on rollcall 500, “yes” on rollcall 501, “yes” on rollcall 502, “yes” on rollcall 503 and “yes” on rollcall 504.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5081

Mr. CARTER. Mr. Speaker, I request that my name be removed as a cosponsor on H.R. 5081.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. JACKSON of Illinois) (during the vote). Two minutes remain in this vote.

□ 1216

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FRANCIS MARION NATIONAL FOREST LAND CONVEYANCE

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 5414) to provide for the conveyance of a small parcel of National Forest System land in the Francis Marion National Forest in South Carolina, and for other purposes, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. SCOTT) that the House suspend the rules and pass the bill, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 24, as follows:

OFFSHORE OIL AND GAS WORKER WHISTLEBLOWER PROTECTION ACT OF 2010

Mr. GEORGE MILLER of California. Mr. Speaker, pursuant to House Resolution 1574, I call up the bill (H.R. 5851) to provide whistleblower protections to certain workers in the offshore oil and gas industry, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5851

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 “Offshore Oil and Gas Worker Whistleblower Protection Act of 2010”.

SEC. 2. WHISTLEBLOWER PROTECTIONS; EMPLOYEE PROTECTION FROM OTHER RETALIATION.

(a) PROHIBITION AGAINST RETALIATION.—

(1) IN GENERAL.—No employer may discharge or otherwise discriminate against a covered employee because the covered employee, whether at the covered employee's initiative or in the ordinary course of the covered employee's duties—

(A) provided, caused to be provided, or is about to provide or cause to be provided to the employer or to a Federal or State Government official, information relating to any violation of, or any act or omission the covered employee reasonably believes to be a violation of, any provision of the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.), or any order, rule, regulation, standard, or prohibition under that Act, or exercised any rights provided to employees under that Act;

(B) testified or is about to testify in a proceeding concerning such violation;

(C) assisted or participated or is about to assist or participate in such a proceeding;

(D) testified or is about to testify before Congress on any matter covered by such Act;

(E) objected to, or refused to participate in any activity, policy, practice, or assigned task that the covered employee reasonably believed to be in violation of any provision of such Act, or any order, rule, regulation, standard, or ban under such Act;

(F) reported to the employer or a State or Federal Government official any of the following related to the employer's activities described in section 3(1): an illness, injury, unsafe condition, or information regarding the adequacy of any oil spill response plan required by law; or

(G) refused to perform the covered employee's duties, or exercised top work authority, related to the employer's activities described in section 3(1) if the covered employee had a good faith belief that performing such duties could result in injury to or impairment of the health of the covered employee or other employees, or cause an oil spill to the environment.

(2) GOOD FAITH BELIEF.—For purposes of paragraph (1)(E), the circumstances causing the covered employee's good faith belief that performing such duties would pose a health and safety hazard shall be of such a nature that a reasonable person under circumstances confronting the covered employee would conclude there is such a hazard.

(b) PROCESS.—

(1) IN GENERAL.—A covered employee who believes that he or she has been discharged or otherwise discriminated against (hereafter referred to as the “complainant”) by any employer in violation of subsection

(a)(1) may, not later than 180 days after the date on which such alleged violation occurs or the date on which the covered employee knows or should reasonably have known that such alleged violation occurred, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (referred to in this section as the “Secretary”) alleging such discharge or discrimination and identifying employer or employers responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the employer or employers named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION.—

(A) IN GENERAL.—Not later than 90 days after the date of receipt of a complaint filed under paragraph (1) the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the employer or employers alleged to have committed a violation of subsection (a)(1) of the Secretary's findings. The Secretary shall, during such investigation afford the complainant and the employer or employers named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses. The complainant shall be provided with an opportunity to review the information and evidence provided by employer or employers to the Secretary, and to review any response or rebuttal by such the complaint, as part of such investigation.

(B) REASONABLE CAUSE FOUND; PRELIMINARY ORDER.—If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a)(1) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, the employer or employers alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record before an administrative law judge of the Department of Labor. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review. The Secretary of Labor is authorized to enforce preliminary reinstatement orders in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia.

(C) DISMISSAL OF COMPLAINT.—

(i) STANDARD FOR COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in subparagraphs (A) through (F) of subsection (a)(1) was a contributing factor in the adverse action alleged in the complaint.

(ii) STANDARD FOR EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the em-

ployer would have taken the same adverse action in the absence of that behavior.

(iii) VIOLATION STANDARD.—The Secretary may determine that a violation of subsection (a)(1) has occurred only if the complainant demonstrates that any behavior described in subparagraphs (A) through (F) of such subsection was a contributing factor in the adverse action alleged in the complaint.

(iv) RELIEF STANDARD.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same adverse action in the absence of that behavior.

(3) ORDERS.—

(A) IN GENERAL.—Not later than 90 days after the receipt of a request for a hearing under subsection (b)(2)(B), the administrative law judge shall issue findings of fact and order the relief provided under this paragraph or deny the complaint. At any time before issuance of an order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation. Such a settlement may not be agreed by such parties if it contains conditions which conflict with rights protected under this Act, are contrary to public policy, or include a restriction on a complainant's right to future employment with employers other than the specific employers named in the complaint.

(B) CONTENT OF ORDER.—If, in response to a complaint filed under paragraph (1), the administrative law judge determines that a violation of subsection (a)(1) has occurred, the administrative law judge shall order the employer or employers who committed such violation—

(i) to take affirmative action to abate the violation;

(ii) to reinstate the complainant to his or her former position together with compensation (including back pay and prejudgment interest) and restore the terms, conditions, and privileges associated with his or her employment; and

(iii) to provide compensatory and consequential damages, and, as appropriate, exemplary damages to the complainant.

(C) ATTORNEY FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the employer or employers a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued at the conclusion of any stage of the proceeding.

(D) BAD FAITH CLAIM.—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer reasonable attorneys' fees, not exceeding \$1,000, to be paid by the complainant.

(E) ADMINISTRATIVE APPEAL.—Not later than 30 days after the receipt of findings of fact or an order under subparagraph (B), the employer or employers alleged to have committed the violation or the complainant may file, with objections, an administrative appeal with the Secretary, who may designate such appeal to a review board. In reviewing a decision and order of the administrative law judge, the Secretary shall affirm the decision and order if it is determined that the factual findings set forth therein are supported by substantial evidence and the decision and order are made in accordance with applicable law. The Secretary shall issue a final decision and order affirming, or reversing, in whole or in part, the decision under