

Miss GONZÁLEZ-COLÓN of Puerto Rico. Mr. Speaker, today I rise in support of the U.S. Territories Investor Protection Act. I am a cosponsor of this bill, and I thank Representative VELÁZQUEZ for introducing H.R. 1366 and the Members who have joined in supporting this important legislation.

The U.S. Territories Investor Protection Act will close a loophole in the current law. By passing this bill, Congress will bring to Puerto Rico's investors the same protections enjoyed by investors residing in the 50 States.

Under current law, investment funds that are located and organized in the U.S. territories and sell to only residents of the territories are exempted from the Investment Company Act of 1940, which governs entities, such as mutual and exchange-traded funds.

Because of this exemption, investment companies located in the U.S. territories can sell their products to territory residents while not being subjected to the oversight, disclosure, and conflict-of-interest requirements that govern investment companies located in the States. As a result, investors residing in Puerto Rico and the other territories have experienced investment losses, some of which likely would have been prohibited had the 1940 act applied to the territories.

For example, UBS operating in Puerto Rico served as an adviser to Puerto Rico's Employees Retirement System and, in 2008, led the underwriting of a \$2.9 billion bond issue for the government pension agency. UBS then placed \$1.7 billion of those funds into UBS-managed mutual funds that UBS then sold exclusively to customers on the island. This investment would have been forbidden by the Investment Company Act if these funds were sold in the States.

The Puerto Rican investors holding these bonds have suffered massive losses and are claiming that UBS did not properly disclose the risks of these funds. On the island, hundreds of these customers have filed arbitration claims with the Financial Industry Regulatory Authority and seek more than \$1.1 billion in damages. UBS continues to lose these cases for failing its fiduciary responsibilities.

Today's vote on H.R. 1366 will help end such outrageous investment abuse and gives Congress another opportunity to align the laws governing Puerto Rico and the other territories with the laws governing the 50 States.

H.R. 1366 will remove the territories' exemption and make the Investment Company Act of 1940 apply to companies that are located, organized in, and sell to residents of the territories.

Mr. Speaker, I urge my colleagues to vote in support of H.R. 1366, the U.S. Territories Investor Protection Act.

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

Closing the U.S. territories loophole in the Investment Company Act of 1940 will give millions of investors and re-

tirees—mostly in Puerto Rico—the peace of mind that their hard-earned money will receive the same level of protection afforded to those on the mainland.

I want to thank the chairman, the ranking member, and all the cosponsors for their hard work in bringing this bipartisan legislation to the floor.

Mr. Speaker, I urge Members to support this bill, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. MCCLINTOCK). The question is on the motion offered by the gentleman from Arkansas (Mr. HILL) that the House suspend the rules and pass the bill, H.R. 1366.

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

A motion to reconsider was laid on the table.

FOLLOW THE RULES ACT

Mr. COMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 657) to amend title 5, United States Code, to extend certain protections against prohibited personnel practices, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 657

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 "Follow the Rules Act".

SEC. 2. PROHIBITED PERSONNEL ACTION BASED ON ORDERING INDIVIDUAL TO VIOLATE RULE OR REGULATION.

(a) IN GENERAL.—Subparagraph (D) of section 2302(b)(9) of title 5, United States Code, is amended by inserting “, rule, or regulation” after “law”.

(b) TECHNICAL CORRECTION.—Such subparagraph is further amended by striking “for”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky (Mr. COMER) and the gentleman from Virginia (Mr. CONNOLLY) each will control 20 minutes.

The Chair recognizes the gentleman from Kentucky.

GENERAL LEAVE

Mr. COMER. 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 material on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, I rise today in support of H.R. 657, the Follow the Rules Act, introduced by Congressman SEAN DUFFY of Wisconsin.

Less than 1 month ago marked the 28th anniversary of the Whistleblower Protection Act of 1989. That bill was a landmark accomplishment establishing enforcement mechanisms to protect those who help identify waste, fraud, and abuse in the Federal Government. It also protects those who, in good conscience, refuse orders that could violate the law.

Last year, the U.S. Court of Appeals for the Federal Circuit considered the case of Dr. Timothy Rainey. Dr. Rainey, an employee of the State Department, refused an order to violate the Federal Acquisition Regulation.

Dr. Rainey's supervisors subsequently took away his responsibilities as a contracting officer representative. He argued it was because of his refusal to obey the order. Thus, the Federal Circuit considered whether Federal managers can retaliate against employees who refuse to obey an order that would violate a government rule or regulation rather than a statute.

Unfortunately, the Federal Circuit has a record of misinterpreting the law on whistleblowers. That is precisely what happened here. The court held such employees were not protected. Ironically, the court relied on a significant 2015 Supreme Court decision, *DHS v. MacLean*, which reaffirmed the protections of the Whistleblower Protection Act.

The Federal Circuit's decision puts Federal employees in an impossible situation. It forces them to choose between following their superior's orders or following the agency's rules or regulations. In many ways, an agency's rules and regulations are the standing orders of the head of the agency.

My colleague, Representative DUFFY, introduced the Follow the Rules Act to fix this problem. H.R. 657 makes clear that employees are protected from retaliation for disobeying orders that would violate an agency rule or regulation. Refusing to obey such orders is exactly the type of action for which Federal employees should be protected from retaliation.

This legislation has bipartisan, bicameral support. It passed the House by voice vote near the end of the last Congress.

□ 1715

I hope that this legislation will be signed into law this Congress and Federal employees will be protected in trying to do the right thing. I thank Representative DUFFY for his leadership on this issue.

I urge my colleagues to support this bill, and I reserve the balance of my time.

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

When we are going to pass a bill on a bipartisan basis, it might be useful to acknowledge the bill has a Democratic cosponsor. I am proud to be the lead cosponsor with Congressman DUFFY on the Follow the Rules Act—in fact, he asked me to play that role—and I rise

clearly in strong support of the legislation which will protect, critically, whistleblowers who disclose waste, fraud, and abuse.

I want to thank my colleague, Representative DUFFY, for working with me in a bipartisan way on this important bill. We initially introduced the bill together in the 114th Congress, and it passed the House without opposition. Unfortunately, the Senate did not act. Hopefully, this Congress we will be able to persuade the Senate to enact this important protection.

This bill would clarify that, under the Whistleblower Protection Act, an employee who refuses to obey an order that would require the employee to violate a law, rule, or regulation is protected.

Congressman DUFFY and I introduced the bill to address a misinterpretation of the Whistleblower Protection Act by the U.S. Court of Appeals for the Federal Circuit in the case of *Rainey v. MSPB* in 2016, as my colleague from Kentucky suggested. In that case, a contracting officer, Dr. Timothy Rainey, was ordered by his supervisor to tell a contractor to rehire a terminated subcontractor. Dr. Rainey, in principle, refused because carrying out that order would have required him to violate the Federal Acquisition Regulation by improperly interfering with the contractor's personnel decisions and requiring the contractor to act contrary to the terms of the contract.

What reward did Dr. Rainey get for doing the right thing? He was stripped of his duties and given a negative performance rating.

The Federal circuit, God knoweth how, held that an employee who refuses to obey an order is protected only if the order would violate a law, a statute, but not if the order would violate a rule or a regulation. Talk about looking at angels on the head of a pin. The court's ruling was contrary, clearly, to the Whistleblower Protection Act and the intent of this Congress.

In enacting the Whistleblower Protection Act, Congress clearly intended that protections granted to government employees who blow the whistle on waste, fraud, and abuse be construed broadly. We clearly had in mind not only laws, but rules and regulations as well.

Congress and the American people rely on whistleblowers to make government efficient, honest, and effective, and we in Congress want to support those people. As a member of the Committee on Oversight and Government Reform, I rely on whistleblowers to help us with our oversight and reform work. Without them, rooting out mismanagement, abuse, and corruption would be very difficult.

The underlying principle of the Whistleblower Protection Act is that employees should be protected from retaliation if they do the right thing, even if it means disobeying orders from their superiors. Given the Trump administration's attacks on the Federal

workforce, it is especially important now, more than ever, for this Congress to uphold whistleblower protections for all of our public servants.

We cannot tolerate the issuance of gag orders to silence dissent, and we cannot permit the firing of agency employees who have differing political views from our own or who might object to administration actions. If the administration and my colleagues are serious about draining the swamp, we need to do all we can to ensure that Federal employees are allowed to perform their jobs free from political pressure to violate laws, rules, and regulations.

Protecting whistleblowers has been and should continue to be a bipartisan—indeed, nonpartisan—issue and something on which we can find common ground. I urge my colleagues to support the passage of this important bipartisan legislation. I am proud to cosponsor it with my friend, the gentleman from Wisconsin (Mr. DUFFY).

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

Mr. COMER. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. GROTHMAN).

Mr. GROTHMAN. Mr. Speaker, those of us in this institution talk about we are a country of laws. However, over time, more and more of the statements that we have to live by are not laws. They are rules and regulations. Therefore, when the Whistleblower Protection Act was passed in 1989, I am not sure at the time whether it was intended to cover rules and regulations, but, as a practical matter, I think Federal employees will run into problems in which they are asked to disobey rules and regulations even more than statutory laws themselves.

On June 7 of last year, the U.S. Court of Appeals for the Federal Circuit ruled in *Rainey v. Merit Systems Protection Board* that, while laws were covered by the Whistleblower Protection Act, rules and regulations were not, at least if you weren't a Federal employee.

Why is it relevant that we have to make up for the problems caused by this decision? Dr. Timothy Rainey was a State Department employee who, while serving as a contracting officer in 2013, was ordered by his superior to violate the Federal Acquisition Regulation. Dr. Rainey refused and was subsequently removed from his duties.

When Dr. Rainey invoked the right-to-disobey provision of the Whistleblower Protection Act, the Merit Systems Protection Board ruled the law only protected him from violating Federal laws, but such protections don't apply to rules or regulations. Dr. Rainey appealed the case, and the U.S. Court of Appeals upheld the Protection Board ruling and, in doing so, exposed a glaring inconsistency in the application of the act.

What does this mean? Federal whistleblowers play an important role in exposing mismanagement, the rampant mismanagement at Federal agencies,

and supporting the oversight work of Congress. Critical to them is the Whistleblower Protection Act which provides Federal workers with certain legal safeguards to disclose information that an employee reasonably believes evidences gross mismanagement, waste of funds, abuse of authority, or a violation of the law.

This ruling will take away the protections when they stand up to bad actors in the Federal workforce. In effect, this ruling will give permission to supervisors in positions of authority to force Federal workers to violate the rules and regulations that Congress, through law, directs the agencies implement.

Regardless of your opinion about certain rules, we should not leave, exposed, Federal workers who are just trying to follow the rules instead of obeying supervisors who want them to disobey the rules and regulations. The bipartisan Follow the Rules Act, which I am an original cosponsor of, will close this loophole created by the court's ruling and ensure that Federal employees have protections for refusing to violate the rules and regulations in addition to the law.

I ask support for this bill.

Mr. CONNOLLY. Mr. Speaker, I agree with my friend from Wisconsin. I think he laid out the case very well.

I think the ruling of the circuit court in many ways tells us about the perils of a very juridical view of what a statute is all about. To refuse to take into account context, history, legislative history, and congressional intent that is reflected often in the kind of debate we are having here on the floor I think is not in the spirit of trying to interpret the laws as Congress intends them. Sooner or later I think Congress is going to have to address this kind of fundamentalist, originalist approach to laws that I think is nonsensical and leads to this kind of cherry-picking about what it was Congress intended to protect.

I agree with my friend from Wisconsin. I think this bill is necessary because we have to clarify the law, apparently, for the courts and protect people like Dr. Rainey.

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

Mr. COMER. Mr. Speaker, I urge adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. COMER) that the House suspend the rules and pass the bill, H.R. 657, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. COMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

400 YEARS OF AFRICAN-AMERICAN HISTORY COMMISSION ACT

Mr. COMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1242) to establish the 400 Years of African-American History Commission, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1242

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 “400 Years of African-American History Commission Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **COMMEMORATION.**—The term “commemoration” means the commemoration of the 400th anniversary of the arrival of Africans in the English colonies, at Point Comfort, Virginia, in 1619.

(2) **COMMISSION.**—The term “Commission” means the 400 Years of African-American History Commission established by section 3(a).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 3. ESTABLISHMENT.

(a) **IN GENERAL.**—There is established a commission, to be known as the “400 Years of African-American History Commission”.

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Commission shall be composed of 15 members, of whom—

(A) three members shall be appointed by the Secretary after considering recommendations of Governors, including the Governor of Virginia;

(B) six members shall be appointed by the Secretary after considering recommendations of civil rights organizations and historical organizations;

(C) one member shall be an employee of the National Park Service having experience relative to the historical and cultural resources related to the commemoration, to be appointed by the Secretary;

(D) two members shall be appointed by the Secretary after considering the recommendations of the Secretary of the Smithsonian Institution; and

(E) three members shall be individuals who have an interest in, support for, and expertise appropriate to the commemoration, appointed by the Secretary after considering the recommendations of Members of Congress.

(2) **TIME OF APPOINTMENT.**—Each appointment of an initial member of the Commission shall be made before the expiration of the 120-day period beginning on the date of enactment of this Act.

(3) **TERM; VACANCIES.**—

(A) **TERM.**—A member of the Commission shall be appointed for the life of the Commission.

(B) **VACANCIES.**—

(i) **IN GENERAL.**—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(ii) **PARTIAL TERM.**—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(C) **CONTINUATION OF MEMBERSHIP.**—If a member of the Commission was appointed to the Commission as an employee of the National Park Service, and ceases to be an employee of the National Park Service, that member may continue to serve on the Commission for not longer than the 30-day period beginning on the date on which that member

ceases to be an employee of the National Park Service.

(c) **DUTIES.**—The Commission shall—

(1) plan, develop, and carry out programs and activities throughout the United States—

(A) appropriate for the commemoration;

(B) to recognize and highlight the resilience and contributions of African-Americans since 1619;

(C) to acknowledge the impact that slavery and laws that enforced racial discrimination had on the United States; and

(D) to educate the public about—

(i) the arrival of Africans in the United States; and

(ii) the contributions of African-Americans to the United States;

(2) encourage civic, patriotic, historical, educational, artistic, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand understanding and appreciation of—

(A) the significance of the arrival of Africans in the United States; and

(B) the contributions of African-Americans to the United States;

(3) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration;

(4) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of—

(A) the arrival of Africans in the United States; and

(B) the contributions of African-Americans to the United States;

(5) ensure that the commemoration provides a lasting legacy and long-term public benefit by assisting in the development of appropriate programs; and

(6) help ensure that the observances of the commemoration are inclusive and appropriately recognize the experiences and heritage of all individuals present at the arrival of Africans in the United States.

SEC. 4. COMMISSION MEETINGS.

(a) **INITIAL MEETING.**—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(b) **MEETINGS.**—The Commission shall meet—

(1) at least three times each year; or

(2) at the call of the Chairperson or the majority of the members of the Commission.

(c) **QUORUM.**—A majority of the voting members shall constitute a quorum, but a lesser number may hold meetings.

(d) **CHAIRPERSON AND VICE CHAIRPERSON.**—

(1) **ELECTION.**—The Commission shall elect the Chairperson and the Vice Chairperson of the Commission on an annual basis.

(2) **ABSENCE OF THE CHAIRPERSON.**—The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson.

(e) **VOTING.**—The Commission shall act only on an affirmative vote of a majority of the members of the Commission.

SEC. 5. COMMISSION POWERS.

(a) **GIFTS.**—The Commission may solicit, accept, use, and dispose of gifts, bequests, or devises of money or other property for aiding or facilitating the work of the Commission.

(b) **APPOINTMENT OF ADVISORY COMMITTEES.**—The Commission may appoint such advisory committees as the Commission determines to be necessary to carry out this Act.

(c) **AUTHORIZATION OF ACTION.**—The Commission may authorize any member or employee of the Commission to take any action that the Commission is authorized to take under this Act.

(d) **PROCUREMENT.**—

(1) **IN GENERAL.**—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, to carry out this Act (except that a contract, lease, or other legal agreement made or entered into by the Commission shall not extend beyond the date of termination of the Commission).

(2) **LIMITATION.**—The Commission may not purchase real property.

(e) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(f) **GRANTS AND TECHNICAL ASSISTANCE.**—The Commission may—

(1) provide grants in amounts not to exceed \$20,000 per grant to communities and nonprofit organizations for use in developing programs to assist in the commemoration;

(2) provide grants to research and scholarly organizations to research, publish, or distribute information relating to the arrival of Africans in the United States; and

(3) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) **COMPENSATION OF MEMBERS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), a member of the Commission shall serve without compensation.

(2) **FEDERAL EMPLOYEES.**—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation other than the compensation received for the services of the member as an officer or employee of the Federal Government.

(b) **TRAVEL EXPENSES.**—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(c) **DIRECTOR AND STAFF.**—

(1) **IN GENERAL.**—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), nominate an executive director to enable the Commission to perform the duties of the Commission.

(2) **CONFIRMATION OF EXECUTIVE DIRECTOR.**—The employment of an executive director shall be subject to confirmation by the Commission.

(d) **COMPENSATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(2) **MAXIMUM RATE OF PAY.**—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(e) **DETAIL OF GOVERNMENT EMPLOYEES.**—

(1) **FEDERAL EMPLOYEES.**—

(A) **DETAIL.**—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act.

(B) **CIVIL SERVICE STATUS.**—The detail of an employee under subparagraph (A) shall be without interruption or loss of civil service status or privilege.

(2) **STATE EMPLOYEES.**—The Commission may—