DR. CHRIS KIRKPATRICK WHISTLEBLOWER PROTECTION ACT OF 2017

Mr. BLUM. Mr. Speaker, pursuant to House Resolution 562, I call up the bill (S. 585) to provide greater whistleblower protections for Federal employees, increased awareness of Federal whistleblower protections, and increased accountability and required discipline for Federal supervisors who retaliate against whistleblowers, and for other purposes, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. Pursuant to House Resolution 562, the bill is considered read.

The text of the bill as is follows:

Sec. 1. Short title; table of contents.

This Act may be cited as the ‘‘Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017.’’

Sec. 2. Scope of contents. The table of contents for this Act is as follows:

Title I—Employees Generally

Sec. 101. Definitions.

Sec. 102. Stay and probationary employees.

Sec. 103. Prohibited personnel practices.

Sec. 104. Disciplinary actions of supervisors based on retaliation against whistleblowers.

Sec. 105. Suicide by employees.

Title II—Department of Veterans Affairs Employees

Sec. 201. Prevention of unauthorized access to medical records of employees of the Department of Veterans Affairs.

Sec. 202. Outreach on availability of mental health services available to employees of the Department of Veterans Affairs.

Sec. 203. Programs to address threats against employees of the Department of Veterans Affairs.

Sec. 204. Comptroller General of the United States study on accountability of chiefs of police of Department of Veterans Affairs medical centers.

Title III—Employees Generally

Sec. 101. Definitions.

In this title—

(1) the term ‘‘agency’’—

(A) except as provided in subparagraph (B), means an entity that is an agency, as defined under section 2302 of title 5, United States Code, without regard to whether one or more portions of title 5 of the United States Code are inapplicable to the entity; and

(B) does not include any entity that 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));

(2) the term ‘‘employee’’ means an employee (as defined in section 2105 of title 5, United States Code) of an agency; and

(b) the term ‘‘employee’’ has the meaning given that term under section 2302 of title 5, United States Code.

Sec. 102. Stays; probationary employees.

(a) Definitions.—In this section—

(1) the term ‘‘agency’’—

(A) except as provided in subparagraph (B), means an agency, as defined under section 2302, without regard to whether any other provision of this chapter is applicable to the entity; and

(B) does not include any agency that 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));

(2) the term ‘‘probationary employee’’ means an employee who would be a supervisor, as defined under section 7509(a), if the entity employing the employee was an agency.

(b) Proposed disciplinary actions.—

(1) In general.—If the head of the agency employing the employee determines that the supervisory action was committed by a supervisor in violation of paragraph (8), (9), or (14) of section 7503(b) against an employee of an agency or an employee who would be a supervisor, as defined under section 7509(a), if the entity employing the employee was an agency, the head of the agency shall carry out the action.

(2) Procedures.—An action carried out under this section—

(A) except as provided in clause (i), shall be subject to the same requirements and procedures (including regarding appeals) as an action under section 7503, 7513, or 7543; and

(B) shall not be subject to—

(i) paragraphs (1) and (2) of section 7503(b); and

(ii) paragraphs (1) and (2) of subsection (b) and subsection (c) of section 7513; or

(3) Delegation.—

(A) In general.—Except as provided in paragraph (B), the head of an agency may delegate any authority or responsibility under this subsection.

(B) Nondiscretionary of determination regarding prohibited personnel action.—If the head of an agency has committed a prohibited personnel action for purposes of paragraph (1), the head of the agency shall not delegate that responsibility.

(c) Study regarding retaliation against whistleblowers.

(1) In general.—The Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report discussing retaliation against employees in probationary status.

Sec. 103. Prohibited personnel practices.

Section 2302(b) of title 5, United States Code, is amended—

(1) in paragraph (12), by striking ‘‘or’’ at the end;

(2) in paragraph (13), by striking the period at the end and inserting ‘‘; and’’; and

(3) by inserting after paragraph (13) the following:

‘‘(14) access the medical record of another employee who is an employee of the Department of Veterans Affairs, if the employee is a supervisor, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4));’’.

Sec. 104. Disciplinary actions of supervisors based on retaliation against whistleblowers.

(a) General.—Subchapter II of chapter 75 of title 5, United States Code, is amended by adding at the end the following:

‘‘7515. Discipline of supervisors based on retaliation against whistleblowers.

(a) Definitions.—In this section—

(1) the term ‘‘agency’’—

(A) except as provided in subparagraph (B), means an entity that is an agency, as defined under section 2302, without regard to whether any other provision of this chapter is applicable to the entity; and

(B) does not include any agency that 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));

(2) the term ‘‘supervisor’’ means an employee who would be a supervisor, as defined under section 7509(a), if the entity employing the employee was an agency.

(b) Proposed disciplinary actions.—

(1) In general.—If the head of the agency employing the employee determines that the supervisory action was committed by a supervisor in violation of paragraph (8), (9), or (14) of section 7503(b) against an employee of an agency; and

(2) the term ‘‘supervisor’’ means an employee who would be a supervisor, as defined under section 7509(a), if the entity employing the employee was an agency.

(b) Proposed disciplinary actions.—

(1) In general.—If the head of the agency employing the employee is a superior law judge, is an administrative law judge, the Merit Systems Protection Board, the Special Counsel, a judge of the United States, or the Inspector General of the agency employing the supervisor determines that the supervisor has committed a prohibited personnel action, the head of the agency employing the supervisor, in accordance with procedures required under paragraph (2)—

(A) for the first prohibited personnel action committed by a supervisor—

(i) shall refer to the Special Counsel, along with the information known to the agency regarding the circumstances described in paragraphs (2) and (3), any instance in which the head of the agency has information indicating—

(I) an employee of the agency committed suicide; and

(ii) prior to the death of the employee, the employee made any disclosure of information which reasonably evidences—

(A) any violation of any law, rule, or regulation; or

(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

(ii) after a disclosure described in paragraph (2), a personnel action was taken against the employee.

(b) Office of Special Counsel Review.—For any referred to the Special Counsel under subsection (a), the Special Counsel shall—
(1) examine whether any personnel action was taken because of any disclosure of information described in subsection (a)(2); and

(2) take any action the Special Counsel determines to be appropriate under subsection (c) of chapter 12 of title 5, United States Code.

SEC. 106. TRAINING FOR SUPERVISORS.

In consultation with the Special Counsel and the head of the office of the Department of Veterans Affairs special counsel for senior ethics officials of the agency for an agency without an Inspector General, the head of each agency shall provide training regarding the responsibility to comply with the provisions regarding a violation of whistleblower protections (as defined in section 2307 of title 5, United States Code, as added by section 107) available to employees of the agency—

(1) to employees appointed to supervisory positions in the agency who have not previously served as a supervisor; and

(2) on an annual basis, to all employees of the agency serving in a supervisory position.

SEC. 107. INFORMATION ON WHISTLEBLOWER PROTECTIONS.

(1) EXISTING PROVISION.—

(1) IN GENERAL.—Section 2302 of title 5, United States Code, is amended—

(A) by striking subsection (c) and inserting the following:

"(c) TIMING.—The head of each agency shall ensure that the information required to be provided under subsection (b) is provided to each new employee of the agency not later than 6 months after the date the new employee begins performing service as an employee.

(2) INFORMATION ONLINE.—The head of each agency shall make available information regarding whistleblower protections applicable to employees of the agency on any online portal that is made available only to employees of the agency if one exists.

(2) TECHNICAL AND CONFORMING AMENDMENTS.

(A) Section 4505a(b)(2) of title 5, United States Code, is amended by striking "section 2302(d)" and inserting "section 2302(c)".

(B) Section 5758(b)(2) of title 5, United States Code, is amended by striking "section 2302(d)" and inserting "section 2302(c)".

(C) Section 115(b)(2) of the Whistleblower Protection Act of 2012 (5 U.S.C. 3675 note) is amended by striking "section 2302(f)(1) or (2)" and inserting "section 2302(e)(1) or (2)".

(D) Section 1321(b)(3) of the Panama Canal Act of 1979 (22 U.S.C. 3675d(b)(3)) is amended by striking "section 2302(d)" and inserting "section 2302(c)".

(E) Section 1233(b) of the Panama Canal Act of 1979 (22 U.S.C. 3673(b)) is amended by striking "section 2302(d)" and inserting "section 2302(c)".

(2) PROVISION OF INFORMATION.—Chapter 23 of title 5, United States Code, is amended by adding at the end the following:

"§ 2307. Information on whistleblower protections.

"(a) DEFINITIONS.—In this section—

"(1)(A) the term 'agency'—

"(a) except as provided in subparagraph (B), has the meaning given that term in section 2302;

"(B) does not include any entity that is an element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3002(4));

(2) the term 'new employee' means an individual—

(A) appointed to a position as an employee of an agency on or after the date of enactment of the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017; and

(B) who has not previously served as an employee; and

(3) the term 'whistleblower protections' means the protections against and remedies for a prohibited personnel practice described in paragraph (8), subparagraph (A)(i), (B), (C), or (D) of paragraph (9), or paragraph (14) of section 2302(b).

(b) RESPONSIBILITIES OF HEAD OF AGENCY.—The head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil rights laws, rules, and regulations, and other aspects of personnel management, and for ensuring (in consultation with the Special Counsel and the Inspector General of the agency) that employees of the agency are informed of the rights and remedies available to them under this chapter and chapter 12, including—

(1) information regarding whistleblower protections available to new employees during the first 6 months of employment; and

(2) the role of the Office of Special Counsel and the Merit Systems Protection Board with regard to whistleblower protections; and

(3) how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept confidential in the conduct of foreign affairs to the Special Counsel, the Inspector General of an agency, Congress, or other agency employee designated to receive such disclosures.

(c) TIMING.—The head of each agency shall ensure that the information required to be provided under subsection (b) is provided to each new employee of the agency not later than 6 months after the date the new employee begins performing service as an employee.

(d) INFORMATION ONLINE.—The head of each agency shall make available information regarding whistleblower protections applicable to employees of the agency on any online portal that is made available only to employees of the agency if one exists.

(TITLES II—DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES)

SEC. 201. PREVENTION OF UNAUTHORIZED ACCESS TO MEDICAL RECORDS OF EMPLOYEES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—

(A) develop a plan to prevent access to the medical records of employees of the Department of Veterans Affairs by employees of the Department who are not authorized to access such records;

(B) submit to the appropriate committees of Congress the plan developed under subparagraph (A) and

(C) upon request, provide a briefing to the appropriate committees of Congress with respect to the plan developed under subparagraph (A).

(2) ELEMENTS.—The plan required under paragraph (1) shall include the following:

(A) A detailed assessment of strategic goals of the Department for the prevention of unauthorized access to the medical records of employees of the Department.

(B) A list of circumstances in which an employee of the Department who is not a health care provider or an assistant to a health care provider would be authorized to access the medical records of another employee of the Department.

(C) Steps that the Secretary will take to acquire new or implement existing technologies to prevent an employee of the Department from accessing the medical records of another employee of the Department without a specific need to access such records.

(D) Steps the Secretary will take, including plans to issue new regulations, as necessary, to ensure that an employee of the Department may not access the medical records of another employee of the Department for the purpose of retrieving demographic information if that demographic information is available to the employee in another section or through another format.

(E) A proposed timetable for the implementation of such plan.

(F) An estimate of the costs associated with implementing such plan.

(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Oversight and Government Reform and the Committee on Veterans' Affairs of the Senate; and

(2) the Committee on Oversight and Government Reform and the Committee on Veterans' Affairs of the House of Representatives.

SEC. 202. OUTREACH ON AVAILABILITY OF MENTAL HEALTH SERVICES AVAILABLE TO EMPLOYEES OF THE DEPARTMENT OF VETERANS AFFAIRS.

The Secretary of Veterans Affairs shall conduct a program of outreach to employees of the Department of Veterans Affairs to inform those employees of any mental health services, to include telemedicine options, that are available to them.

SEC. 203. PROTOCOLS TO ADDRESS THREATS AGAINST EMPLOYEES OF THE DEPARTMENT OF VETERANS AFFAIRS.

The Secretary of Veterans Affairs shall ensure protocols are in effect to address threats from individuals receiving health care from the Department of Veterans Affairs directed towards employees of the Department who are providing such health care.

SEC. 204. COMPTROLLER GENERAL OF THE UNITED STATES STUDY ON ACCOUNTABILITY OF CHIEFS OF POLICE AT MEDICAL CENTERS OF THE DEPARTMENT OF VETERANS AFFAIRS.

The Comptroller General of the United States shall conduct a study to assess the reporting, staffing, accountability, and chain of command structure of the Department of Veterans Affairs police officers at medical centers of the Department.

Mr. BLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to review and extend the time, and I also ask unanimous consent that all Members may have 5 legislative days in which to review S. 585, currently under consideration.

Mr. BLUM. Mr. Speaker, I yield myself such time as I may consume. I rise today in support of S. 585, the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017. This bill addresses problems that were exposed in the tragic case of whistleblower retaliation against Dr. Chris Kirkpatrick.
Veterans Affairs, who committed suicide hours after he was fired for questioning overmedication of the veterans he cared for.

This bill would, for the first time, create minimum disciplinary standards to require that managers who retaliate against whistleblowers are punished. First offenders would receive at least 3 days of suspension, and repeat offenders would face mandatory termination.

The bill also requires apparent suicides by whistleblowers to be referred to the Office of Special Counsel for further investigation. Agencies would be required to initiate training programs for supervisors and information disclosures for employees regarding whistleblower protection.

The Senate passed this bill by voice vote this year, and passage through the House would send the bill to the President's desk for signature and enactment. I urge my colleagues to support this bill to honor the memory of Dr. Chris Kirkpatrick and to protect future whistleblowers.

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

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

Mr. Speaker, as the ranking member of the Oversight and Government Reform Committee, the committee with oversight jurisdiction over Federal workers and agencies, I am one of the staunchest supporters of whistleblower protections in the Congress. I strongly support enhancing protections for the brave men and women who put their careers on the line to speak out against waste, fraud, and abuse.

I fully support the intent of S. 585 to protect whistleblowers who face investigations in retaliation for their disclosures. But I am disappointed that the Republican leadership chose not to consider this measure under regular order.

House Republicans pushed this legislation directly to the floor, bypassing any consideration by the Oversight Committee or the Veterans' Affairs Committee, which have jurisdiction over the bill. It is especially disappointing that my committee was not given the opportunity to address constitutional and privacy concerns raised by the Trump administration's Office of Personnel Management about the bill. That is what I said: the Trump administration's concerns about it.

It is even more disheartening that the Rules Committee issued a closed rule for this bill. They blocked all three germane amendments that I submitted, including an amendment to fix the problems identified by the OPM.

The measure before us today would change the procedures for disciplining Federal supervisors who retaliate against employees who blow the whistle.

Lastly, the provision requiring agency heads to refer information to the Office of Special Counsel regarding employees who may have committed suicide raises important privacy questions. The bill does not include any provision requiring agencies to obtain authorization from family members before sharing information about an employee's death. It is unfortunate that the House has failed to take the opportunity to fix these flaws in this measure.

The second amendment that I presented would have protected the privacy interests of employees who commit suicide by requiring written permission from their next of kin before agency heads disclose the details about the death.

And another amendment that I submitted would have made corrections in the underlying bill to ensure that managers who violate whistleblower rights will be held accountable, while safeguarding due process rights.

Finally, the third amendment was the text of my bipartisan bill, H.R. 702, the Federal Employee Anti-Discrimination Act of 2017, which passed the House by a voice vote under suspension earlier in this Congress, and also passed the House by a vote of 403-0 in the last Congress.

This amendment would have expanded the protections for employees who suffer retaliation and discrimination. It also would have prohibited the use of nondisclosure agreements to prevent employees from disclosing waste, fraud, or abuse to Congress, to the Office of Special Counsel, and inspector general.
of the Constitution, we are blinded by what we see; and that is this battle between Republicans and Democrats. Mr. Speaker, and we don’t come up, sometimes with the very best product.

But even with all that, because I am so concerned about whistleblowers, I plan to vote for the bill.

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

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

Mr. CUMMINGS. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I rise in strong support of the Dr. Chris Kirkpatrick Whistleblower Protection Act, which will enhance whistleblower protections for employees at the VA and lead to better care for our Nation’s veterans.

This bill is named in honor of Dr. Chris Kirkpatrick, a Wisconsin, who tragically took his own life after being fired from the Tomah VA Medical Center in my congressional district in Tomah, Wisconsin.

Dr. Kirkpatrick was a clinical psychologist who specialized in treating some of the toughest and most pressing issues faced by veterans face today: PTSD, substance abuse, and chronic pain.

During his time at Tomah, Dr. Kirkpatrick noticed a disturbing trend of overprescribing of opioids to patients.

Dr. Kirkpatrick had the courage to blow the whistle to his superiors about what he rightly saw as dangerous pain management practices at the time. Sadly, the overprescribing issues that Dr. Kirkpatrick tried to warn about continued to occur at Tomah VA.

In 2015, a Wisconsin veteran named Jason Simcakoski tragically lost his life at the facility due to the dangerous pain management practices at the Tomah VA.

Last year, I worked with the Simcakoski family to pass the bipartisan Jason Simcakoski PROMISE Act to improve pain management practices at the VA so that no other veterans and their families have to go through what the Simcakoski family had to.

Although Dr. Kirkpatrick is no longer with us today, his dedication to serving veterans and his courage to stand up for what was right is why we are here today. This act will ensure that no one is retaliated against for coming forward with concerns about waste, fraud, abuse, and malpractice at the VA.

The bill offers a number of new protections for whistleblowers and will help ensure that supervisors found guilty of retaliation are held responsible for their actions.

Dr. Kirkpatrick was dedicated to improving lives and serving our Nation’s veterans. The bill before us today will prove lives and serving our Nation’s veterans. The bill before us today will prove lives and serving our Nation’s veterans. The bill before us today will prove lives and serving our Nation’s veterans.

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

Mr. DEFAZIO. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DeFazio), the ranking member of the Transportation and Infrastructure Committee and one who has been a staunch supporter of whistleblower protections.

Mr. DEFAZIO. Mr. Speaker, I would agree with many of the gentleman’s concerns and comments regarding the lack of a real legislative fix here. The bill could be better. But nonetheless, like the ranking member, I will be supporting the legislation despite those concerns because it is absolutely urgent.

I have a totally dysfunctional management at the VA hospital in Roseburg, Oregon. A number of years ago, a whistleblower came to me and said that standard care was being provided. We asked the Office of Inspector General to look into it. They whitewashed it, and then it came out in the Senate testimony that the Office of Special Counsel had found that this doctor had been penalized as a whistleblower because he was pointing to substandard care.

I asked for another investigation and ultimately found, yes, indeed, substandard care was being provided by the head surgeon. He was suspended from his duties but is still the head surgeon. Now he has run another very able and capable surgeon to come in and clean up the mess.

This is an example of what the Veterans Administration is capable of doing. It is disheartening to see these veterans treated with such callousness. However, I feel that someone has to stay and actually care for them. I also want to try to make the system a better place for them. For many, this is their only health care.

Mr. Speaker, I reserve my time.
amount but I am being paid $280,000. Because I expressed to the Eugene Hec Holman administration I felt I was misled about the salary, Dr. Ranjan has gone after my clinical privileges, had temporarily suspended my job, and placed me at risk of being reported to the National Practitioner Data Bank (Npdb). I have been suspended from patient contact for 30 days for a VA doctor who was overprescribing opioids that may have led to patient deaths, he was aware that doing so could be harmful to his own position at the Tomah VA Medical Center.

Dr. Kirkpatrick’s action was laudable. Veterans have been acutely impacted by the opioid epidemic, and his efforts to reduce prescription rates for veterans is not only a good example for VA physicians, but for all physicians in the U.S. today.

Title II of this bill puts in place a number of requirements for the VA to protect VA employees from several retaliatory measures. It requires the Secretary to put in place a plan to prevent unauthorized access to medical records of VA patients, with outreach to ensure that VA employees are aware of mental health services available to them.

These and other improvements in title II will not only help prevent the type of retaliation that Dr. Kirkpatrick suffered, they will improve care for veterans to also help make the VA a better place to work.

Mr. Speaker, I am pleased to support this bill, and I urge my colleagues to do the same.

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

Mr. CUMMINGS. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Hampshire (Ms. KUSTER).

Ms. KUSTER of New Hampshire. Mr. Speaker, I thank Ranking Member Cummings for yielding me time to speak about this important legislation to protect whistleblowers.

Mr. Speaker. I share the concerns that were brought up yesterday in the Rules Committee and today on the floor about the procedure for bringing this bill to the floor without full House committee process. However, I will support the bill because it is so important.

The Dr. Chris Kirkpatrick Whistleblower Protection Act will provide protection for employees at the Department of Veterans Affairs who blow the whistle on wrongdoing in the agency.

As the ranking member of the House Veterans’ Affairs Subcommittee on Oversight and Investigations, I know full well that whistleblowers are vital to the VA to protect the health and well-being of the men and women who have dedicated their lives to our country. Although we have numerous protections currently in place for whistleblowers, those who are committed to silencing them still manage to find ways to retaliate, which we saw with tragic consequences at the Phoenix VA Health Care System and in Dr. Kirkpatrick’s case.

In addition to serving on the House Veterans’ Affairs’ Committee role as the founder and co-chair of the Bipartisan Heroin Task Force makes VAs’ retaliation against another VA doctor, Dr. Kirkpatrick, an especially troublesome tragedy. When he tried to raise the alarm over concerns that another VA doctor was over-prescribing opioids that may have led to patient deaths, he was aware that doing so could be harmful to his own position at the Tomah VA Medical Center.

Dr. Kirkpatrick’s action was laudable. Veterans have been acutely impacted by the opioid epidemic, and his efforts to reduce prescription rates for veterans is not only a good example for VA physicians, but for all physicians in the U.S. today.

Title II of this bill puts in place a number of requirements for the VA to protect VA employees from several retaliatory measures. It requires the Secretary to put in place a plan to prevent unauthorized access to medical records of VA patients, with outreach to ensure that VA employees are aware of mental health services available to them.

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Mr. Speaker, I am pleased to support this bill, and I urge my colleagues to do the same.

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

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

As close, I take the opportunity to reiterate that I support the objectives of S. 585. If there is anything that we agree on in the Oversight and Government Reform Committee, it is that we must protect whistleblowers.

Many of the investigations that we have conducted have been as a result of somebody who saw something and said something. Like Dr. Kirkpatrick, I am sure, in most of those instances, it was very difficult for them because they, on the one hand, wanted to improve a situation, but at the same time, they knew that it was possible that they, themselves, might be harmed and their families might be harmed. So they make a very, very difficult choice, a very difficult choice.

I am horrified that Dr. Kirkpatrick was so agonized by the treatment he endured at the Veterans Administration that he saw no options for himself. In other words, Mr. Speaker, he saw no way out. I worry that there are civil servants today who are enduring that same pain.

But we say to them that we will protect you with all we have got, and that is why I appreciate Senator Johnson’s work on S. 585, and I share his commitment to protecting whistleblowers. For that reason, as I said earlier, I will vote in favor of this legislation.

That said, I wish that the Republican leadership had taken the opportunities that my amendments provided to improve this bill. These issues of equal protection are nothing to play with because we begin to chip away and chip away and chip away at employees’ rights, and the next you know, those rights begin to disappear. Those are the kind of rights that are a part and the fabric of this thing we call a democracy. I think we have to be very, very, very careful. It is going to be interesting to see what the courts have to say about this legislation.

My amendments would have addressed the constitutional concerns raised by OPF—and I emphasize OPF. This was not the Obama OPF. This was the Trump OPF.

My amendments would also have protected the privacy of employees who take their own lives.

If my amendments would have added to the underlying bill additional protections for employees who suffer retaliation or discrimination, protections that the House has already approved. I do believe this is a missed opportunity and it is sad. I truly hope that future litigation does not undo the advances that this bill seeks to make in the protections provided for the courageous men and women willing to blow the whistle on wrongdoing. In this day and age, we need the whistleblower more now than we have ever needed them.

Mr. Speaker, I urge the Members to support this bill to protect some of the boldest, most courageous people in our Nation, the whistleblowers.

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

Mr. ROE of Tennessee. Mr. Speaker, I rise today in support of S. 585 the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017. As Chairman of the Committee on Veterans’ Affairs, protecting whistleblowers is of paramount concern to ensure that we provide high quality healthcare and benefits to our nation’s veterans.

This bill authored by Senator Johnson of Wisconsin was named in honor of Dr. Christopher Kirkpatrick, a former VA doctor who served our veterans at the Tomah, WI medical center. Many of us know that the Tomah VA medical center has been a facility plagued with the over-prescribing of opioids to our veterans. Dr. Kirkpatrick was a brave patriot who blew the whistle on these over prescriptions and the harm that was being done to veterans, however, instead of commending him for coming forward, VA fired him on trumped whistled wrongdoing, which ultimately led to him taking his own life.

In my opinion, the corrosive culture within this facility and VA’s actions toward Dr. Kirkpatrick left a chilling effect not only in Tomah, but across the Department. I believe that protecting our whistleblowers feel questioned and worried that they would be punished instead of being lauded and encouraged to come forward.
It is because of brave whistleblowers like Dr. Kirkpatrick that my Committee has been able to expose issues and scandals across the VA. It is because of whistleblowers that we were able to uncover the manipulation of wait times at the Phoenix Medical Center; the falsification of records in the Philadelphia Regional Office; the fact that a VA employee participated in an armed robbery in Puerto Rico and stayed on the job following their arrest; and many more egregious behaviors at the Department that put veterans in harm’s way.

I have confidence that Secretary Shulkin is committed to protecting whistleblowers, so that we never again lose another talented doctor, like Dr. Kirkpatrick. The best way to help him in this mission is to send a clear message to all VA employees, at every level in the Department, and within every level of management, that there are stiff penalties for those who retaliate against the men and women who are brave enough to come forward and protect veterans.

S. 297 builds on of our work this Congress that started with the passage of the bill I championed, the VA Accountability and Whistleblower Protection Act of 2017, which provides the Secretary of Veterans Affairs the tools he needs to hold poor employees accountable. I am pleased that the bills before us today would make needed changes to our outdated civil service laws for all Federal Government employees, which have become so archaic and complex that they tend to put the rights of retaliators above the rights of whistleblowers.

The bill before us would also provide needed reforms to information regarding VA employees who die by suicide, additional penalties for accessing a veteran’s medical record, and other needed provisions to ensure that we put the needs of whistleblowers and veterans first.

I appreciate Senator JOHNSON and Representative DUFFY for their work on this important bill and I encourage all of my colleagues to support its passage.

Mr. DUFFY. Mr. Speaker, today, Congress will have an opportunity to vote on legislation that will bolster protections for whistleblowing patriots, while vastly improving care for veterans at the VA.

The VA’s Chris Kirkpatrick Whistleblower Protection Act is the product of hundreds of hours of Congressional hearings, meetings with stakeholders, and hard work by dozens of lawmakers here in Washington, to make sure that the tragic abuse that Dr. Kirkpatrick faced will never happen again.

As some of you may know, Dr. Chris Kirkpatrick was a clinical psychologist at the VA in Tomah, WI. He was a veteran, a graduate of Northwestern University, and a caring individual who dedicated his career to providing innovative treatments for veterans suffering from PTSD. Most notably, he created a yoga program to help vets at the VA in Chicago. He was known to be very well-liked by the patients he served.

In 2012, Dr. Kirkpatrick expressed concerns that his patients were being heavily overmedicated. It became so bad, he said, that he was unable to properly do his job. He wanted to do what was right for veterans, and as a veteran himself, he couldn’t stand to see how careless some of the VA staff were being with high levels of dangerous medications.

Unfortunately, instead of looking into Dr. Kirkpatrick’s claims, the facility’s chief of staff told him to mind his own business, and to instead focus on his own work. Shortly thereafter, Dr. Kirkpatrick was called to a disciplinary meeting and given a written reprimand.

This type of retaliation went on for months. Then, in July, Dr. Kirkpatrick complained again that a dangerous veteran had not been properly discharged, despite recommendations from a treatment team. A week after making the complaint, Dr. Kirkpatrick was fired from the VA.

He was devastated. He begged for an opportunity to stay, and expressed concerns that he had been given too many complex cases, and that the emotional toll was too high. Again, his concerns were ignored.

That night, Dr. Kirkpatrick wrote a note to his girlfriend in Chicago, another to the kennel he wanted to take care of his dog, and one final note for the malman. It read: “Please call 911—tell them to go to red barn building.” He had taken his own life. He was 38 years old.

Dr. Kirkpatrick’s death was the product of a broken system—a system that encourages retaliation against whistleblowers, while ignoring the underlying causes of their concerns. If Dr. Kirkpatrick’s death wasn’t tragic enough, a subsequent investigation at the VA found that a patient had died from “mixed drug toxicity”, and that Dr. Kirkpatrick’s concerns were completely warranted.

Not only did whistleblower retaliation cost Dr. Kirkpatrick his life, it cost the life of a patient as well.

That’s why I urge you all to vote yes on the Chris Kirkpatrick Whistleblower Protection Act.

A yes vote means that VA personnel will no longer be able to access a whistleblower’s medical records as means of discrediting them, which a separate investigation found happens far too often.

A yes vote means that federal agencies have to notify the Office of Special Counsel when a suicide takes place.

A yes vote means clear disciplinary actions for supervisors who retaliate against whistleblowers, training for supervisors on how to properly respond, and a requirement that employees are made aware of the mental health services at their disposal.

A yes vote also means keeping upholding normal burdens of proof to strengthen protections for whistleblowers by the Inspector General, Office of Special Counsel, or a Merit Systems Protection Board Administrative Judge to “determine” that a supervisor has committed a prohibited personnel action, meaning through the normal preponderance of the evidence for any other disciplinary action under Chapter 75 of title 5. This does not mean some arbitrary process for some bureaucrat to create later on.

I want to be clear: this legislation strengthens protections for patriots—for those who are trying to do the right thing. For those who care about veterans and their safety. And for folks like Dr. Kirkpatrick, so that no one ever has to go through what he went through.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 562, the previous question is ordered on the bill. The question is on the third reading of the bill. The bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk reads as follows:

Mr. O’HALLERAN, Mr. Speaker, this is the final amendment to the bill, which will not kill the bill or send it back to committee. If adopted, the bill will immediately proceed to final passage, as amended.

Mr. Speaker, increasing accountability and transparency across our government is a shared principle we can all agree on among this body. Whether at the VA or other Federal agencies, we owe it to our veterans, to our seniors, and to the hardworking American taxpayers to ensure that their tax dollars are utilized appropriately and efficiently, as intended. Waste, fraud, and abuse, have no place at our agencies, and those who help uncover it deserve our admiration and our protection.

I am proud that we are coming together to increase protections for whistleblowers of Federal agencies, a long overdue effort. But, Mr. Speaker, in light of recent reports and events that have revealed a disturbing pattern of improper use of tax dollars on air travel by senior Federal officials, I believe we must go further.

The reports of Cabinet officials abusing the rules for air travel that applied to them are not isolated. Not one, not two, not three, but at least four Cabinet officials are facing appointee, of any law, rule, or regulation concerning travel, including the improper use of air transportation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona is recognized for 5 minutes in support of his motion.

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In light of Secretary Price’s recent resignation, it is clear that Congress must conduct greater oversight.

That is why I am offering this final amendment on the underlying bill.
My amendment simply extends whistleblower protections that are created under the bill to Federal employees who disclose information about travel, including improper use of aircraft.

Not only would this make clear to agencies that any violation of laws, rules, or regulations concerning travel or government aircraft is unacceptable, it will also ensure those who come forward to expose any wrongdoing will have appropriate protection from retaliation.

Regardless of party, those who serve the American public must be held to the highest ethical standards. Our ability to hold government officials accountable to taxpayers is a hallmark of our democracy, and we must work to uphold that principle. The resources invested to agencies to fulfill their missions of serving Americans should not be abused or frivolously flaunted for personal gain or convenience.

This is not about Republicans or Democrats. We come together to stand up for accountability and transparency. The moment we begin treating disregard for the rules by our elected and appointed officials as partisan politics, we risk ceding the very values that make our democracy great and unique in the world.

Mr. Speaker, I urge my colleagues to join me in supporting my commonsense amendment on behalf of American taxpayers, and I yield back the balance of my time.

Mr. BLUM. Mr. Speaker, I claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Iowa is recognized for 5 minutes.

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

Mr. Speaker, I oppose the motion to recommit.

This bill addresses critical flaws in how the Federal Government addresses whistleblower retaliation.

The consequences for whistleblower retaliation are very real. There is a chilling effect of whistleblower reports or unjust termination. In some cases, like that of Dr. Kirkpatrick in the Department of Veterans Affairs, the consequences are literally life and death.

We have the opportunity to send this bill to the President for a signature today and fix this now. Why wait? And at what cost to Federal employees, veterans, and taxpayers?

I support the gentleman from Maryland’s effort to pass this provision which I previously cosponsored myself, but let’s not let one good bill get in the way of another.

Mr. Speaker, I urge my colleagues to oppose the motion to recommit and support the underlying bill, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered to the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. O’HALLERAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. Accordingly (at 1 o’clock and 48 minutes p.m.), the House stood in recess.

RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Rodgers of Kentucky) at 1 o’clock and 55 minutes p.m.

MOTION TO INSTRUCT CONFEREES ON H.R. 2810, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2018

Mr. THORNBERY. Mr. Speaker, I ask unanimous consent to take from the Speaker’s table the bill (H.R. 2810) to authorize appropriations for fiscal year 2018 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, with the Senate amendment thereto, to disagree to the Senate amendment, and request a conference with the Senate thereon.

The Clerk read the title of the bill.

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

There was no objection.

A motion to reconsider was laid on the table.

Mr. LANGEVIN. Mr. Speaker, I have a motion to instruct conferees at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Langevin moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2810 be instructed as follows:

(1) To disagree with subsection (c) of section 336 of the Senate amendment.

(2) To recede from section 1064 of the House bill.

(3) To disagree with section 1087 of the Senate amendment.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Rhode Island (Mr. Langevin) and the gentleman from Texas (Mr. Thornberry) each will control 30 minutes.

The Chair recognizes the gentleman from Rhode Island.

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

Mr. Speaker, the Army has a surplus of pistols. The M-1911 A-1, a .45-caliber pistol—the Armed Forces standard issue sidearm for more than 50 years—was replaced in the 1980s by a newer model.

Since then the Army has accumulated stores of surplus M-1911 pistols which are housed at taxpayer expense in Alabama.

There is no national security reason to keep these pistols. The Army stopped issuing them 30 years ago, yet the Army has been prevented from disposing of them due to parochial interests tied to the Civilian Marksmanship Program, or CMP.

The CMP’s proponents basically want to transfer the pistols to a private corporation so that it can sell them. Do we want this to happen? We have the opportunity in this year’s NDAA to stop this transfer of tens of thousands of M-1911 A-1 pistols which constitutes a multimillion-dollar government giveaway.

It is also important to note that this would make our streets more dangerous at a time when gun violence is all too common.

The CMP was established in 1903—just to put this in historical context—following the Spanish-American War when American militiamen demonstrated distressingly poor marksmanship. At that time, our Nation needed a better trained and organized militia, and the CMP helped the government build a broader base of able citizen-soldiers.

Now, the program was an important component of our national defense back then. But today, Mr. Speaker, over a century later, we have a professional military and many rifle clubs, and the CMP is, quite frankly, no longer needed. Congress clearly understood this when it privatized the CMP in 1996.

Now, as an initial capital investment at a time when our elected officials are now so busy with other priorities, Congress provided the newly chartered corporation with a stock of rifles, ammunition, and other spare parts. The CMP could sell the surplus equipment—mostly M1 Garand rifles—in order to fund its activities until it became self-sufficient.

However, it was never Congress’ intent to equip the CMP with handguns, or it would have provided the corporation with surplus M-1911-A1 .45-caliber pistols at that time.

Now, more than two decades later, the CMP is running out of rifles to sell. The reality is that it is in dire financial straits as, more than 20 years later, the program is still reliant on rifle sales to support its activities.

So, Mr. Speaker, it is clearly not the taxpayers’ responsibility to bail out the CMP. To do so would be an unprecedented government handout at a time when earmarks have been banned for years.