

HBCU in the Caribbean, and, most important, our people. Yes, the people still waiting to be recognized and made whole in that transfer nearly a century ago.

As the Virgin Islands enters this next century under United States jurisdiction, it will have continued relevance in the region as foreign investments, commerce, information technology, and maritime traffic grow in the Caribbean. It is my hope and it is my dream that its people will have greater relevance in this great Nation and that this commission will show all the importance of that.

I would like to thank all of the members of the committee for supporting this bill, voting it unanimously out of committee, and thank Ranking Member CUMMINGS and especially the chairman, Mr. CHAFFETZ, for working with my staff and me on this bill.

□ 1745

This bipartisan commission, which will be comprised of House and Senate Members along with the administration and other officials, seems only fitting, as the 100th anniversary comes only once.

I urge my colleagues to join me in supporting H.R. 2615.

I yield back the balance of my time.

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

How can you reject that? She said it as eloquently and as passionately from her heart as you possibly could. I am pleased that we could move this forward.

In short, this bill creates a bipartisan congressional commission to plan and carry out commemorative activities for the 100th anniversary of the Virgin Islands becoming an unincorporated territory of the United States. The transfer of the Virgin Islands from Denmark to the United States in 1917 was a significant historic and cultural event.

Under the bill, the bipartisan commission will develop, plan, and execute formal commemorative activities to honor the rich heritage of the Virgin Islands. The commission's goal is to highlight the cultural, economic, and historical importance of the Virgin Islands. By celebrating this anniversary, the commission also has the opportunity to educate the citizens about the history of the United States Virgin Islands.

The commission may solicit and accept gifts and donations to fund its activities, but there is a prohibition, as the legislation bars any use of Federal funds.

Again, I thank our colleague, STACEY PLASKETT, the Delegate from the Virgin Islands, for her passion and caring. It is one of the most beautiful places on the face of the planet—second, of course, to Utah's Third Congressional District. But, nevertheless, I think that is why they accepted this. I hope everybody gets a chance to visit there.

My daughter—on a personal note—was able to work there this past sum-

mer for 3 months. She thoroughly enjoyed the people, the culture, and the sheer beauty that is the Virgin Islands.

I look forward to supporting this piece of legislation.

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. 2615, 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.

## ADMINISTRATIVE LEAVE REFORM ACT

Mr. CHAFFETZ. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 4359) to amend title 5, United States Code, to provide that Federal employees may not be placed on administrative leave for more than 14 days during any year for misconduct or poor performance, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4359

*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 "Administrative Leave Reform Act".

### SEC. 2. LIMITATION ON ADMINISTRATIVE LEAVE.

(a) IN GENERAL.—Subchapter II of chapter 63 of title 5, United States Code, is amended by adding at the end the following:

#### "§ 6330. Limitation on administrative leave

"(a) IN GENERAL.—During any calendar year, an employee may not be placed on administrative leave, or any other paid non-duty status without charge to leave, for more than 14 total days for reasons relating to misconduct or performance. After an employee has been placed on administrative leave for 14 days, the employing agency shall return the employee to duty status, utilizing telework if available, and assign the employee to duties if such employee is not a threat to safety, the agency mission, or Government property.

"(b) EXTENDED ADMINISTRATIVE LEAVE.—

"(1) IN GENERAL.—If an agency finds that an employee is a threat to safety, the agency mission, or Government property and upon the expiration of the 14-day period described in subsection (a), an agency head may place the employee on extended administrative leave for additional periods of not more than 30 days each.

"(2) REPORT.—For any additional period of 30 days granted to the employee after the initial 30-day extension, the agency head shall submit to the Committee on Oversight and Government Reform in the House of Representatives, the agency's authorizing committees of jurisdiction of the House of Representatives and the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a report, not later than 5 business days after granting the additional period, containing—

"(A) title, position, office or agency subcomponent, job series, pay grade, and salary of the employee on administrative leave;

"(B) a description of the work duties of the employee;

"(C) the reason the employee is on administrative leave;

"(D) an explanation as to why the employee is a threat to safety, the agency mission, or Government property;

"(E) an explanation as to why the employee is not able to telework or be reassigned to another position within the agency;

"(F) in the case of a pending related investigation of the employee—

"(i) the status of such investigation; and

"(ii) the certification described in subsection (c)(1); and

"(G) in the case of a completed related investigation of the employee—

"(i) the results of such investigation; and

"(ii) the reason that the employee remains on administrative leave.

"(c) EXTENSION PENDING RELATED INVESTIGATION.—

"(1) IN GENERAL.—If an employee is under a related investigation by an investigative entity at the time an additional period described under subsection (b)(2) is granted and, in the opinion of the investigative entity, additional time is needed to complete the investigation, such entity shall certify to the applicable agency that such additional time is needed and include in the certification an estimate of the length of such additional time.

"(2) LIMITATION.—The head of an agency may not grant an additional period of administrative leave described under subsection (b)(2) to an employee on or after the date that is 30 days after the completion of a related investigation by an investigative entity.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) INVESTIGATIVE ENTITY.—The term 'investigative entity' means an internal investigative unit of the agency granting administrative leave, the Office of Inspector General, the Office of the Attorney General, or the Office of Special Counsel.

"(2) RELATED INVESTIGATION.—The term 'related investigation' means an investigation that pertains to the underlying reasons an employee was placed on administrative leave."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall begin to apply 90 days after the date of enactment of this Act.

(c) RULES OF CONSTRUCTION.—Nothing in the amendment made by subsection (a) shall be construed to—

(1) supersede the provisions of chapter 75 of title 5, United States Code; or

(2) limit the number of days that an employee may be placed on administrative leave, or any other paid non-duty status without charge to leave, for reasons unrelated to misconduct or performance.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 63 of title 5, United States Code, is amended by adding after the item relating to section 6329 the following new item:

"6330. Limitation on administrative leave."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. CHAFFETZ) and the gentleman from the Virgin Islands (Ms. PLASKETT) 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 myself such time as I may consume.

H.R. 4359 is a commonsense solution to address the misuse of administrative leave for misconduct or performance issues.

Unfortunately, it has been commonplace for the Oversight and Government Reform Committee to hear stories of Federal employees who remain on administrative leave for months, or years, at a time.

Let me be clear, Mr. Speaker. The overwhelming majority of people who work for the Federal Government are good, honest, decent, patriotic people who care. They work hard, they are trying to serve their country, and they put in an honest day's work. But we do have some bad apples. Every once in a while, they show up, and they start working for the Federal Government. They create problems and they create mayhem.

Unfortunately, we have to tighten the rules surrounding their situation because we have had a number of Federal employees that have remained on administrative leave sometimes not just for days, sometimes not just for weeks. Sometimes this drags on for months and for years—years—to be on administrative leave. While on administrative leave, these employees receive full pay and benefits despite the fact that they are not working. There are going to be extraordinary circumstances, but this is happening far too often.

It is particularly difficult to understand how the IRS could, for example, justify allowing Lois Lerner to sit on administrative leave for 4 months before her retirement. She was an individual who abused her power as a Federal employee by engaging in the political targeting of American citizens.

But she is not alone. This is certainly not a bill just about her situation. Every year, hundreds, if not thousands, of Federal employees are under investigation for significant misconduct and remain on administrative leave for far longer than is necessary to complete an investigation.

One reason administrative leave has become such a significant problem is because agencies simply find it easier to keep an employee on administrative leave. It is the path of least resistance. This means that some individuals face little to no penalty for significant misconduct and are all too often permitted to remain on administrative leave until they are able to retire.

Mr. Speaker, abuse of administrative leave is a real problem. H.R. 4359 will protect American taxpayer dollars from being further wasted.

Consider one example highlighted by the inspector general for the Environ-

mental Protection Agency, who found an employee earning \$120,000 a year annually while watching pornography on the job. This employee was placed on administrative leave for a year—a year. I believe, in this particular case, this person actually admitted to doing it. It wasn't just a casual oops. This person was watching for literally hours upon hours each day and admitted it. They put him on administrative leave, and this went on for a year.

Why should the American taxpayers have to pay for that? It is a clear waste of our dollars. The American people deserve better, and so do the employees who work around this person.

According to the Government Accountability Office report, the GAO, which reviewed the use of administrative leave between the years 2011 and 2013, 263 Federal employees were on administrative leave for more than a year at the 24 agencies reviewed. GAO found that those individuals on administrative leave cost the people, the American taxpayers, more than \$31 million.

Why should we have to pay for that? It is an astonishing amount of money to pay for Federal employees, and they are doing absolutely nothing. They can, essentially, go wherever they want to go, and it is, essentially, a paid vacation.

It also sends the wrong message to the hardworking Americans from whom we levee taxes. We cannot use tax dollars to pay misbehaving or poor-performing Federal employees. There are often situations that come up where the employees need a fair chance to defend themselves. But again, under this bill, it gives them plenty of time to do that. If there needs to be an extension, there can be an extension; but if there is not timely disciplinary action, if any disciplinary action at all, for their performance issues, the American taxpayers are left holding the bag and the expense.

Mr. Speaker, agencies are abusing the system of administrative leave and failing to explain why.

In a report conducted by Senator CHUCK GRASSLEY of Iowa, agencies were found to be opaque about why they were using administrative leave, or completely nonresponsive, when Senator GRASSLEY inquired about 58 employees at the Department of Defense that they had on administrative leave for more than a year. Think about that. At the DOD, the Department of Defense, they had 58 employees who had been on administrative leave for more than a year, and the Department of Defense just decided not to respond, just literally did not respond.

Mr. Speaker, I understand the need and utility of administrative leave. When used properly, administrative leave provides agencies with the flexibility needed to better manage human resources and to get to the bottom of certain situations, but it has become a tool that agencies hide behind with far too little oversight and accountability.

The shortcomings of the current system need to end, and this bill that I am

the chief sponsor of will curb these abuses. Specifically, this legislation will limit the use of administrative leave for misconduct or performance issues to 14 days per year in order to push agencies to complete their investigations quickly or to find acceptable alternate work for the individual to perform during such an investigation. This is fair to the employee, as well as the management, as well as the American taxpayers. Rather than allowing indefinite leave, agencies will have to take disciplinary action against bad actors, which will serve to bring greater accountability to the Federal workforce.

The bill is also critical to protecting whistleblowers. The Office of Special Counsel, or the OSC, has a responsibility in the Federal Government to investigate potential reprisal and petition the Merit Systems Protection Board to stop retaliatory actions. However, being put on administrative leave does not constitute a personnel action that is reviewable by the OSC.

Thus, as long as a whistleblower is placed on administrative leave, he or she is left in limbo at the discretion of the agency with no right to appeal their status. Because of this, I believe that the bill before us, H.R. 4359, will go a long way to help reducing retaliation and protect whistleblowers by barring agencies from leaving employees on indefinite administrative leave.

Mr. Speaker, getting this legislation to the floor today, I am proud to say we have been able to work collaboratively in a bipartisan way. I particularly want to thank Mr. LYNCH of Massachusetts for his passion on this issue and working with us. We incorporated some of those suggestions into the bill today.

We have altered the bill to give the agencies the option to extend the use of administrative leave beyond 14 days in discrete 30-day periods. Under these provisions, the agencies will be required to report to Congress after the use of the first 30-day extension, detailing why the extension is necessary, the stage of any investigation against the employee, the reasons the employee cannot return to the workplace, as well as other pertinent information.

Again, I want to thank Mr. LYNCH for his work on this legislation. I believe that this is a stronger bill and more fair to the employees. I think it was an important step forward.

I thank Mr. CUMMINGS, the committee as a whole, and the many members who were involved in getting the bill to this point today.

I reserve the balance of my time.

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

I think we can all agree that agency overuse of administrative leave can be a problem and that we need to pursue ways that agencies can use administrative leave more efficiently, while preserving due process protections for Federal employees.

I want to thank the chairman for working with the minority, and particularly with Representative LYNCH, to address our concerns that the original bill could have encouraged agencies to suspend employees without pay and without due process.

The bill, as reported, would preserve the ability of an agency to place employees on administrative leave in those exceptional circumstances when they may pose a threat to safety, agency mission, or government property. It would also allow the agency to consider the results of a thorough and complete investigation prior to taking disciplinary action. The bill, however, would not punish employees by stripping them of pay before allegations are properly adjudicated, preserving the principle that one is innocent until proven guilty.

The bill before us strikes the appropriate balance, we believe, between the need for stricter oversight of agency use of administrative leave and the due process rights of Federal employees. I urge my colleagues to join me in supporting H.R. 4359.

I yield back the balance of my time. Mr. CHAFFETZ. Mr. Speaker, I urge the passage of H.R. 4359. We have worked in a good, bipartisan way. It is a good bill for the country and is good for the employees of the Federal Government.

I yield back the balance of my time. The SPEAKER pro tempore (Mr. WOMACK). 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. 4359, 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.

#### OFFICIAL PERSONNEL FILE ENHANCEMENT ACT

Mr. CHAFFETZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4360) to amend title 5, United States Code, to provide that a Federal employee who leaves Government service while under personnel investigation shall have a notation of any adverse findings under such investigation placed in such employee's official personnel file, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4360

*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 "Official Personnel File Enhancement Act".

#### SEC. 2. RECORD OF INVESTIGATION OF PERSONNEL ACTION IN SEPARATED EMPLOYEE'S OFFICIAL PERSONNEL FILE.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by inserting after section 3321 the following:

#### "§ 3322. Voluntary separation before resolution of personnel investigation

"(a) With respect to any employee occupying a position in the competitive service or the excepted service who is the subject of a personnel investigation and resigns from Government employment prior to the resolution of such investigation, the head of the agency from which such employee so resigns shall, if an adverse finding was made with respect to such employee pursuant to such investigation, make a permanent notation in the employee's official personnel record file. The head shall make such notation not later than 40 days after the date of the resolution of such investigation.

"(b) Prior to making a permanent notation in an employee's official personnel record file under subsection (a), the head of the agency shall—

"(1) notify the employee in writing within 5 days of the resolution of the investigation and provide such employee a copy of the adverse finding and any supporting documentation;

"(2) provide the employee with a reasonable time, but not less than 30 days, to respond in writing and to furnish affidavits and other documentary evidence to show why the adverse finding was unfounded (a summary of which shall be included in any notation made to the employee's personnel file under subsection (d)); and

"(3) provide a written decision and the specific reasons therefore to the employee at the earliest practicable date.

"(c) An employee is entitled to appeal the decision of the head of the agency to make a permanent notation under subsection (a) to the Merit Systems Protection Board under section 7701.

"(d)(1) If an employee files an appeal with the Merit Systems Protection Board pursuant to subsection (c), the agency head shall make a notation in the employee's official personnel record file indicating that an appeal disputing the notation is pending not later than 2 weeks after the date on which such appeal was filed.

"(2) If the head of the agency is the prevailing party on appeal, not later than 2 weeks after the date that the Board issues the appeal decision, the head of the agency shall remove the notation made under paragraph (1) from the employee's official personnel record file.

"(3) If the employee is the prevailing party on appeal, not later than 2 weeks after the date that the Board issues the appeal decision, the head of the agency shall remove the notation made under paragraph (1) and the notation of an adverse finding made under subsection (a) from the employee's official personnel record file.

"(e) In this section, the term 'personnel investigation' includes—

"(1) an investigation by an Inspector General; and

"(2) an adverse personnel action as a result of performance, misconduct, or for such cause as will promote the efficiency of the service under chapter 43 or chapter 75.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to any employee described in section 3322 of title 5, United States Code, (as added by such subsection) who leaves the service after the date of enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections of subchapter I of chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3321 the following:

"3322. Voluntary separation before resolution of personnel investigation."

#### SEC. 3. REVIEW OF OFFICIAL PERSONNEL FILE OF FORMER FEDERAL EMPLOYEES BEFORE REHIRING.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

#### "§ 3330e. Review of official personnel file of former Federal employees before rehiring

"(a) If a former Government employee is a candidate for a position within the competitive service or the excepted service, prior to making any determination with respect to the appointment or reinstatement of such employee to such position, the appointing authority shall review and consider the information relating to such employee's former period or periods of service in such employee's official personnel record file.

"(b) In subsection (a), the term 'former Government employee' means an individual whose most recent position with the Government prior to becoming a candidate as described under subsection (a) was within the competitive service or the excepted service.

"(c) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this section."

(b) APPLICATION.—The amendment made by subsection (a) shall apply to any former Government employee (as described in section 3330e of title 5, United States Code, as added by such subsection) appointed or reinstated on or after the date that is 180 days after the date of enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections of subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"3330e. Review of official personnel file of former Federal employees before rehiring."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. CHAFFETZ) and the gentleman from the Virgin Islands (Ms. PLASKETT) 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 material 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.

The vast majority of Federal workers are patriotic, they are honest, they are decent, they work hard, they show up early, they do what they are supposed to do, and they are proud to serve their country and provide their role in when they do. For that, we are very grateful.

But like any large group of people, there are some bad apples. If you go through the barrel, you are going to find a few bad apples. We have a responsibility to make sure that we weed those out. These individuals must be treated fairly, but they must be held accountable. H.R. 4360 is a bill that accomplishes this balance and that strengthens the integrity of our civil service.

□ 1800

Under the current system, a loophole allows Federal employees who are