

PROTECTING SPEECH FROM GOVERNMENT INTERFERENCE
ACT

MARCH --, 2023.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. COMER, from the Committee on Oversight and Accountability,
submitted the following

R E P O R T

together with

VIEWS

[To accompany H.R. 140]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Accountability, to whom was referred the bill (H.R. 140) to amend title 5, United States Code, to prohibit Federal employees from advocating for censorship of viewpoints in their official capacity, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Speech from Government Interference Act”.

SEC. 2. PROHIBITION ON FEDERAL EMPLOYEE CENSORSHIP.

(a) IN GENERAL.—Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

“SUBCHAPTER VIII—PROHIBITION ON FEDERAL EMPLOYEE CENSORSHIP

“§ 7381. Policy regarding Federal employee censorship

“It is the policy of the Congress that employees acting in their official capacity should neither take action within their authority or influence to promote the censorship of any lawful speech, nor advocate that a third party, including a private entity, censor such speech.

“§ 7382. Prohibition on Federal employee censorship

“(a) IN GENERAL.—An employee may not—

“(1) use the employee’s official authority to censor any private entity, including outside of normal duty hours and while such employee is away from the employee’s normal duty post; or

“(2) engage in censorship of a private entity—

“(A) while the employee is on duty;

“(B) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof;

“(C) while wearing a uniform or official insignia identifying the office or position of the employee;

“(D) while using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof; or

“(E) while using any information system or information technology (as defined under section 11101 of title 40).

“(b) EXCEPTIONS FOR LAW ENFORCEMENT FUNCTIONS AND REPORTING REQUIREMENTS.—

“(1) IN GENERAL.—Nothing in this section shall be construed to prohibit an employee from engaging in lawful actions within the official authority of such employee for the purpose of exercising legitimate law enforcement functions, including activities to—

“(A) combat child pornography and exploitation, human trafficking, or the illegal transporting of or transacting in controlled substances; and

“(B) safeguarding, or preventing, the unlawful dissemination of properly classified national security information.

“(2) REPORTING.—

“(A) IN GENERAL.—Not later than 72 hours before an employee exercises a legitimate law enforcement function to take any action to censor any lawful speech (in this paragraph referred to as a ‘censorship action’), but not including any such action relating to activities described under subparagraph (A) or (B) of paragraph (1), the head of the agency that employs the employee shall submit, to the Office of Special Counsel and the chair and ranking member of the committees of Congress described under subparagraph (B), a report that includes—

“(i) an overview of the action, or actions, to be taken, including a summary of the action being taken and the rationale for why a censorship action is necessary;

“(ii) the name of the entity which the action is being requested of;

“(iii) the person and entity targeted by the censorship action, including the associated name or number of any account used or maintained by the entity and a description of the specific speech content targeted;

“(iv) the agency’s legal authority for exercising the law enforcement function;

“(v) the agency employee or employees involved in the censorship action, including their position and any direct supervisor;

“(vi) a list of other agencies that have been involved, consulted, or communicated with in coordination with the censorship action; and

“(vii) a classified annex, if the agency head deems it appropriate.

“(B) COMMITTEES.—The committees of Congress described under this subparagraph are the following:

“(i) The Committee on Oversight and Accountability, the Committee on the Judiciary, and the Committee on Energy and Commerce of the House of Representatives; and

“(ii) The Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Committee on Commerce, Science, and Transportation of the Senate.

“(C) CLARIFICATION OF OFFICE OF SPECIAL COUNSEL REPORTING REQUIREMENTS.—The reporting requirements in this paragraph do not apply to the Office of Special Counsel’s advisory and enforcement functions under subchapter II of chapter 12.

“(c) PENALTIES.—

“(1) IN GENERAL.—An employee who violates this section shall be subject to—

“(A) disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

- “(B) an assessment of a civil penalty not to exceed \$1,000; or
- “(C) any combination of the penalties described in subparagraph (A) or (B).
- “(2) APPLICATION TO SENIOR GOVERNMENT OFFICIALS.—Paragraph (1)(B) shall be applied by substituting ‘\$10,000’ for ‘\$1,000’ for any employee who is—
 - “(A) paid from an appropriation for the White House Office; or
 - “(B) appointed by the President, by and with the advice and consent of the Senate;
- “(d) ENFORCEMENT.—This section shall be enforced in the same manner as subchapter III of this chapter.
- “(e) DEFINITIONS.—In this subchapter—
 - “(1) the term ‘censor’ or ‘censorship’ means influencing or coercing, or directing another to influence or coerce, for—
 - “(A) the removal or suppression of lawful speech, in whole or in part, from or on any interactive computer service;
 - “(B) the addition of any disclaimer, information, or other alert to lawful speech being expressed on an interactive computer service; or
 - “(C) the removal or restriction of access of any person or entity on an interactive computer service generally available to the public, unless such person or entity is engaged in unlawful speech or criminal activities on such service;
 - “(2) the term ‘employee’ has the meaning given that term in section 7322;
 - “(3) the term ‘interactive computer service’ has the meaning given that term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)); and
 - “(4) the term ‘lawful speech’ means speech protected by the First Amendment of the Constitution.”
- (b) CLERICAL AMENDMENT.—The table of sections for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

“SUBCHAPTER VIII—PROHIBITION ON FEDERAL EMPLOYEE CENSORSHIP

“7381. Policy regarding Federal employee censorship.
“7382. Prohibition on Federal employee censorship.”.

(c) INCLUDING CENSORSHIP ACTIVITIES UNDER JURISDICTION OF OFFICE OF SPECIAL COUNSEL.—Strike paragraph (1) of section 1216(a) of title 5, United States Code, and insert the following:

“(1) political activity and censorship prohibited under subchapter III and subchapter VIII of chapter 73, relating to political and censorship activities, respectively, by Federal employees;”.

(d) RULE OF CONSTRUCTION.—Nothing in this Act or any amendment made by this Act should be interpreted as prohibiting a lawful action by a Federal agency to enforce a Federal law or regulation, to establish or enforce the terms and conditions of Federal financial assistance, or to prohibit a Federal employee from using an official Federal account on an interactive computer service to communicate an official policy position, and relevant information, to the public, or provide information through normal press and public affairs relations.

(e) SEVERABILITY.—If any provision of this Act or any amendment made by this Act, or the application of a provision of this Act or an amendment made by this Act to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provisions to any person or circumstance, shall not be affected by the holding.

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SUMMARY AND PURPOSE OF LEGISLATION

H.R. 140 expands the Hatch Act—the law prohibiting federal employees from engaging in political activities in their official capacity—to expressly prohibit those same federal employees from censoring lawful speech. Additionally, H.R. 140 prohibits agency employees from using their authority to influence or coerce a private sector entity to censor—including to remove, suppress, restrict, or add disclaimers or alerts to—any lawful speech posted on its service by a person or entity. H.R. 140 provides an exception for legitimate law enforcement activities reported to Congress for review.

BACKGROUND AND NEED FOR LEGISLATION

On July 15, 2021, Jen Psaki, then the White House Press Secretary, used a press briefing to call for Facebook to ban specific accounts from its platform. During this press briefing, Psaki stated “We’re flagging problematic posts for Facebook that spread disinformation.”¹ The next day, July 16, 2021, Jen Psaki clarified the administration’s involvement further by stating that the Biden White House was in regular contact with social media companies to flag or raise concerns about certain types of information on their platforms.²

In August 2022, Mark Zuckerberg confirmed that Facebook’s censorship of the *New York Post* story about Hunter Biden’s laptop followed warnings from the Federal Bureau of Investigation (FBI) that Facebook should be cautious of misinformation and foreign interference ahead of the 2020 election.³ Twitter’s decision to censor the *New York Post* story about Hunter Biden’s laptop followed the company’s close relationship with state and federal officials—including the FBI.⁴

It is the view of the Committee that federal government employees should not have a role in enforcing, designing, or altering a private-sector social media platform’s content moderation and community guideline policies. Government censorship requests—that private companies remove or restrict lawful speech—represent a serious threat to rights guaranteed by the First Amendment.

¹ Jen Psaki, Press Secretary, White House, and Dr. Vivek H. Murthy, Surgeon General, Press Briefing (July 15, 2021).

² Jen Psaki, Press Secretary, White House, Press Briefing (July 16, 2021).

³ Jared Gans, *Zuckerberg Tells Rogan Facebook Suppressed Hunter Biden Laptop Story after FBI Warning*, THE HILL (Aug. 26, 2022).

⁴ *GOP Oversight, Full Committee Hearing – Part 1: Twitter’s Role in Suppressing the Biden Laptop Story*, YouTube (Feb. 8, 2023), https://www.youtube.com/watch?v=-Fo_yD8r3w4.

A Cato Institute article titled “Jawboning Against Speech,” outlines how the Biden administration’s demands of social media companies can be classified as *jawboning* because these requests call for the removal of specific accounts from a private speech platform and because these requests frequently have been accompanied by threatening action (such as the repeal of Section 230).⁵ The same article further articulates that government interference generally, even without specific regulatory threats, “influence a platforms’ behavior” regarding the implementation of community guidelines and content moderation policies.⁶

In August 2022, the Electronic Frontier Foundation (a nonprofit that defends digital privacy and free speech) filed a comment with the Meta Oversight Board asking the group to consider the human rights concerns that arise from government involvement in content moderation.⁷ As part of this comment, the Electronic Frontier Foundation wrote that government entities receive “outsized influence to manipulate content moderation systems for their own political goals—to control public dialogue, suppress dissent, silence political opponents, or blunt social movements.”⁸ Further still, the group asked Meta to consider standards addressing misinformation: “it is far too easy for a government to flag all criticism of it as ‘fake news.’”⁹

On February 8, 2023, the House Committee on Oversight and Accountability held a hearing titled “Protecting Speech from Government Interference and Social Media Bias, Part 1: Twitter’s Role in Suppressing the Biden Laptop Story.”¹⁰ This hearing was held to investigate how and why Twitter suppressed the *New York Post* story about Hunter Biden’s laptop even though the story was lawful speech and did not violate any Twitter policy that had been regularly enforced.¹¹

During this hearing Vijaya Gadde confirmed government interference in Twitter’s enforcement of its content moderation policies, stating “we receive legal demands to remove content from the platform from the U.S. government and governments all around the world.”¹²

⁵ Will Duffield, *Jawboning Against Speech: How Government Bullying Shapes the Rules of Social Media*, CATO INSTITUTE (SEPT. 12, 2022)..

⁶ *Id.*

⁷ ELEC. FRONTIER FOUND., COMMENT OF ELECTRONIC FRONTIER FOUNDATION TO OVERSIGHT BOARD CASE 2022-007-IG-MR (2022).

⁸ *Id.*

⁹ *Id.*

¹⁰ GOP Oversight, *Full Committee Hearing – Part 1: Twitter’s Role in Suppressing the Biden Laptop Story*, YOUTUBE (Feb. 8, 2023), https://www.youtube.com/watch?v=-Fo_yD8r3w4.

¹¹ *Id.*

¹² Press Release, H. Comm. on Oversight & Accountability, *The Cover Up: Big Tech, The Swamp, and Mainstream Media Coordinated to Censor Americans’ Free Speech* (Feb. 8, 2023) (on file with author).

In his written testimony, former Twitter Deputy General Counsel, James Baker, called for federal legislation that would “focus first on reasonable and effective limitations on governmental actors.”¹³ Baker further specified that this legislation should limit that nature and scope of government interactions with private sector platforms and require transparency and reporting when these interactions occur.¹⁴

The witness testimony and hearing findings have helped inform H.R. 140 which, as reported by the Committee, creates these reasonable limitations for federal government employees. This legislation prohibits federal executive branch employees from using their official authority—whether during normal working hours and at their official duty stations, or not—to influence or coerce a private-sector entity (e.g., a social media internet platform which is defined as an ‘interactive computer service’ in the Act) to take an action to censor any lawful speech (defined under the bill as First Amendment protected speech).

Under the Act, ‘censorship’ would constitute the following: removing or suppressing speech on an internet platform; adding any disclaimers, information, or alerts to speech expressed on the internet platform; or removing or restricting personal or organizational accounts on a publicly available internet platform. It also prohibits federal employees from engaging in censorship while on duty or while using federal resources such as information systems (e.g., federal email accounts), information technology (e.g., federal mobile devices), insignia, vehicles, or government facilities.

Functionally, H.R. 140 adds a new subchapter to Chapter 73 of title 5 (“Suitability, Security, and Conduct” of federal employees) and utilizes the same existing advisory and enforcement functions currently carried out by the U.S. Office of Special Counsel (OSC) for Hatch Act oversight and compliance. Employees with concerns about being directed or ordered to take a censorship action prohibited by this Act have two avenues to pursue. First, the established advisory opinion function of the OSC would allow employees to reach out directly and request guidance on their specific situation. For instance, in Fiscal Year 2021, OSC responded to 1,043 advisory requests.¹⁵ Furthermore, OSC is the same agency handling whistleblower disclosures and filings of prohibited personnel practices—such as whistleblower retaliation—which means they have established practices for handling sensitive inquiries. Second, coercion and context matter and likely would be included in any investigation conducted by the OSC. Additionally, the Act’s definition of ‘censorship’—which makes clear that “directing another” carry out a prohibited censorship action is also prohibited (see new

¹³ *Protecting Speech from Government Interference and Social Media Bias, Part 1: Hearing Before H. Comm. On Oversight & Accountability*, 118th Cong. _ (Feb. 8, 2023) (statement of James A. Baker, former Deputy Gen. Counsel, Twitter).

¹⁴ *Id.*

¹⁵ U.S. OFFICE OF SPECIAL COUNSEL, ANNUAL REPORT TO CONGRESS FOR FISCAL YEAR 2021 (2022).

§7382(e)(1))—should clarify the Congressional intent that a covered employee have access to all existing means of recourse, including OSC, if directed to take a prohibited censorship action. With these safeguards in place, covered employees should know that there is an outlet if presented with a difficult decision.

The Act also recognizes that many of the most senior federal officials—such as the White House Press Secretary—hold a position with far greater influence than a standard career civil servant. Therefore, the Act incorporates an increased civil penalty of \$10,000 for the most senior officials—defined as White House Office employees or Senate-confirmed Presidential appointees—in order further deter censorship actions.

Furthermore, H.R. 140 includes necessary and reasonable exceptions including an explicit exception for lawful actions to carry out legitimate law enforcement functions—with specific enumerated functions listed in the Act. For law enforcement actions that are not explicitly named under the exception, a notification report to relevant congressional committees and the Office of the Special Counsel (OSC) is required at least 72 hours before taking the censorship action. These reports will provide timely transparency over the use of this necessary exemption and include specifics about the action being taken, including a summary justification, the specific entity and speech targeted, and the agency's legal authority for taking the action.

Finally, H.R. 140 incorporates a Rule of Construction to clarify that this Act does not: prohibit a federal agency from enforcing a federal law or regulation, which would put the federal employee in conflict between their official duties and the prohibition established by this Act; prohibit a federal agency from establishing or enforcing the terms and conditions of Federal financial assistance, which clarifies that federal funding recipients still have to abide by the contractual obligations stipulated in a federal award; prohibit a federal employee from using a federal account to communicate relevant information (i.e., engage in the public square through official, federal communications channels); or prohibit standard press and public affairs relations with journalists, which may often involve direct communications with publishing entities and journalists for the purposes of clarifying information or correcting official quotations.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title.

The short title is the “Protecting Speech from Government Interference Act”.

Sec. 2. Prohibition on Federal Employee Censorship.

Subsection (a) amends Chapter 73 of title 5 of the United States Code to add a new prohibition on federal employee censorship.

§7381 specifies that it is the policy of Congress that federal employees should not use their official authority to censor lawful speech.

§7381(a) prohibits a federal employee from using their official authority to censor a private entity. This subsection also prohibits federal employees from engaging in censorship while on duty or while using government resources, including information systems, information technology, insignia, vehicles, rooms, or buildings.

§7381(b) establishes an exception for federal employees exercising legitimate law enforcement functions, including activities to combat child pornography and exploitation, human trafficking, the illegal transportation of and transaction in controlled substances, and the dissemination of properly classified national security information. This subsection establishes a preemptive reporting requirement to Congress for all federal employees that exercise this exception.

This reporting requirement stipulates that a federal employee must submit a report to Congress and the Office of Special Counsel (OSC) no later than 72 hours before they take a censorship action related to activities other than those listed above. The congressional committees that will be sent this report are the Committee on Oversight and Accountability, the Committee on the Judiciary, and the Committee on Energy and Commerce of the House of Representatives and the Committee on Homeland Security and Government Affairs and the Committee on the Judiciary and the Committee on Commerce, Science, and Transportation of the Senate.

This report must include an overview of the censorship action and the name of the service that was requested to take the action. The report must also include the name of the person or entity targeted and the name, position and supervisor of the

agency employee requesting the censorship action. Further, the report must include the agency's legal authority to take the action and a list of other agencies involved. The agency may choose to include a classified annex.

The Office of the Special Counsel is exempted from this reporting requirement in order to allow them to continue to issue advisory opinions and take corrective action—as they do in enforcing the Hatch Act—without having to report each of those instances to Congress.

§7381(c) establishes penalties for violation of this section. The established penalties are in-line with the existing penalties ascribed to violations of the Hatch Act. However, this subsection segments penalties for federal employees and senior officials. For federal employees, this subsection imposes a civil penalty not to exceed \$1,000 for an employee found to be in violation—as currently stipulated for Hatch Act violations under Title 5. For senior officials—an employee paid from an appropriation for the White House Office or an employee appointed by the President and confirmed by the Senate—this subsection imposes a civil penalty not to exceed \$10,000 for those found in violation.

§7381(d) provides that this section shall be enforced in the same manner as subchapter III of Chapter 73 of title 5 of the United States Code which is meant to utilize existing advisory and enforcement functions carried out by the Office of Special Counsel for the Hatch Act.

§7381(e) this subsection provides definitions for the term 'censor' or 'censorship,' 'employee,' and 'interactive computer service.'

Subsection (b) offers a clerical amendment to the table of sections for chapter 73 title 5 of the United States Code.

Subsection (c) expands the jurisdiction of the Office of Special Counsel to authorize it to conduct an investigation of any allegation concerning censorship prohibited by this Act.

Subsection (d) clarifies that this Act does not prevent the federal government from enforcing federal laws or regulations or establishing the terms and conditions of Federal financial assistance. This subsection also clarifies that the Act does not prohibit federal employees from using an official federal account to communicate an official policy position, and does not impede upon normal press and public affairs relations.

Subsection (e) provides a severability clause that keeps the remaining portions of the Act in place should a portion of the Act, or an amendment made by the Act, be held to be unconstitutional.

LEGISLATIVE HISTORY

H.R. 140, the Protecting Speech from Government Interference (PSGIA) Act, was introduced on January 9, 2023, by Chairman James Comer, Jim Jordan, and Cathy McMorris Rodgers. The bill was referred to the Committee on Oversight and Accountability. The Committee held a legislative hearing on February 8, 2023. The Committee considered H.R. 140 at a business meeting on February 28, 2023, and ordered the bill as amended favorably reported by a recorded vote.

COMMITTEE CONSIDERATION

On February 28, 2023, the Committee met in open session and, with a quorum being present, began consideration of H.R. 140 the Protecting Speech from Government Interference (PSGIA) Act. The bill was ordered reported, as amended, on February 28, 2023.

ROLL CALL VOTES

There were eight roll call votes during consideration of H.R. 140.

The first roll call vote was on Amendment #1 to the Amendment in the Nature of a Substitute to H.R. 140 offered by Mr. Raskin. The amendment was not agreed to in a recorded vote of 19-22.

The second roll call vote was on an Amendment to the Amendment in the Nature of a Substitute to H.R. 140 offered by Mr. Lynch. The amendment was not agreed to in a recorded vote of 19-22.

The third roll call vote was on an Amendment to the Amendment in the Nature of a Substitute to H.R. 140 offered by Ms. Balint. The amendment was not agreed to in a recorded vote of 19-22.

The fourth roll call vote was on an Amendment to the Amendment in the Nature of a Substitute to H.R. 140 offered by Ms. Porter. The amendment was not agreed to in a recorded vote of 20-21.

The fifth roll call vote was on an Amendment to the Amendment in the Nature of a Substitute to H.R. 140 offered by Mr. Moskowitz. The amendment was not agreed to in a recorded vote of 20-21.

The sixth roll call vote was on Amendment #2 to the Amendment in the Nature of a Substitute to H.R. 140 offered by Mr. Goldman. The amendment was not agreed to in a recorded vote of 20-22.

The seventh roll call vote was on Amendment #2 to the Amendment in the Nature of a Substitute to H.R. 140 offered by Mr. Raskin. The amendment was not agreed to in a recorded vote of 20-22.

The eighth roll call vote was on final passage of H.R. 140. The bill was agreed to in a recorded vote of 24-20.

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
 118TH CONGRESS
 RATIO 26-21
 ROLL CALL

Vote on: Amendment #1 to the Amendment in the Nature of a Substitute to H.R. 140 offered by Mr. Raskin.

Date: 02-28-2023

VOTE #: 1

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. COMER (KY) <i>(Chairman)</i>		X		MR. RASKIN (MD) <i>(Ranking Member)</i>	X		
MR. JORDAN (OH)				MS. NORTON (DC)	X		
MR. TURNER (OH)				MR. LYNCH (MA)	X		
MR. GOSAR (AZ)				MR. CONNOLLY (VA)	X		
MS. FOXX (NC)		X		MR. KRISHNAMOORTHY (IL)	X		
MR. GROTHMAN (WI)		X		MR. KHANNA (CA)	X		
MR. PALMER (AL)				MR. MFUME (MD)	X		
MR. HIGGINS (LA)		X		MS. OCASIO-CORTEZ (NY)	X		
MR. SESSIONS (TX)		X		MS. PORTER (CA)	X		
MR. BIGGS (AZ)		X		MS. BUSH (MO)			
MS. MACE (SC)		X		MS. BROWN (OH)	X		
MR. LATURNER (KS)		X		MR. GOMEZ (CA)	X		
MR. FALLON (TX)		X		MS. STANSBURY (NM)	X		
MR. DONALDS (FL)		X		MR. GARCIA (CA)			
MR. ARMSTRONG (ND)		X		MR. FROST (FL)	X		
MR. PERRY (PA)		X		MS. BALINT (VT)	X		
MR. TIMMONS (SC)		X		MS. LEE of PENNSYLVANIA (PA)	X		
MR. BURCHETT (TN)		X		MR. CASAR (TX)	X		
MS. GREENE OF GEORGIA (GA)		X		MS. CROCKETT (TX)	X		
MRS. MCCLAIN (MI)		X		MR. GOLDMAN (NY)	X		
MRS. BOEBERT (CO)		X		MR. MOSKOWITZ (FL)	X		
MR. FRY (SC)		X					
MRS. LUNA (FL)		X					
MR. EDWARDS (NC)		X					
MR. LANGWORTHY (NY)		X					
MR. BURLISON (MO)		X					

Roll Call Totals: Ayes: 19 Nays: 22 Present: _____
 Passed: _____ Failed: X

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

118TH CONGRESS

RATIO 26-21

ROLL CALL

Vote on: Amendment to the Amendment in the Nature of a Substitute to H.R. 140 offered by Mr. Lynch.

Date: 02-28-2023

VOTE #: 2

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. COMER (KY) <i>(Chairman)</i>		X		MR. RASKIN (MD) <i>(Ranking Member)</i>	X		
MR. JORDAN (OH)				MS. NORTON (DC)	X		
MR. TURNER (OH)				MR. LYNCH (MA)	X		
MR. GOSAR (AZ)				MR. CONNOLLY (VA)	X		
MS. FOXX (NC)		X		MR. KRISHNAMOORTHY (IL)	X		
MR. GROTHMAN (WI)		X		MR. KHANNA (CA)	X		
MR. PALMER (AL)				MR. MFUME (MD)	X		
MR. HIGGINS (LA)		X		MS. OCASIO-CORTEZ (NY)	X		
MR. SESSIONS (TX)		X		MS. PORTER (CA)	X		
MR. BIGGS (AZ)		X		MS. BUSH (MO)			
MS. MACE (SC)		X		MS. BROWN (OH)	X		
MR. LATURNER (KS)		X		MR. GOMEZ (CA)	X		
MR. FALLON (TX)		X		MS. STANSBURY (NM)	X		
MR. DONALDS (FL)		X		MR. GARCIA (CA)			
MR. ARMSTRONG (ND)		X		MR. FROST (FL)	X		
MR. PERRY (PA)		X		MS. BALINT (VT)	X		
MR. TIMMONS (SC)		X		MS. LEE of PENNSYLVANIA (PA)	X		
MR. BURCHETT (TN)		X		MR. CASAR (TX)	X		
MS. GREENE OF GEORGIA (GA)		X		MS. CROCKETT (TX)	X		
MRS. MCCLAIN (MI)		X		MR. GOLDMAN (NY)	X		
MRS. BOEBERT (CO)		X		MR. MOSKOWITZ (FL)	X		
MR. FRY (SC)		X					
MRS. LUNA (FL)		X					
MR. EDWARDS (NC)		X					
MR. LANGWORTHY (NY)		X					
MR. BURLISON (MO)		X					

Roll Call Totals:

Ayes: 19

Nays: 22

Present:

Passed: _____

Failed: X

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

118TH CONGRESS

RATIO 26-21

ROLL CALL

Vote on: Amendment to the Amendment in the Nature of a Substitute to H.R. 140 offered by Ms. Balint.

Date: 02-28-2023

VOTE #: 3

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. COMER (KY) <i>(Chairman)</i>		X		MR. RASKIN (MD) <i>(Ranking Member)</i>	X		
MR. JORDAN (OH)				MS. NORTON (DC)	X		
MR. TURNER (OH)				MR. LYNCH (MA)	X		
MR. GOSAR (AZ)		X		MR. CONNOLLY (VA)	X		
MS. FOXX (NC)		X		MR. KRISHNAMOORTHY (IL)	X		
MR. GROTHMAN (WI)		X		MR. KHANNA (CA)	X		
MR. PALMER (AL)				MR. MFUME (MD)	X		
MR. HIGGINS (LA)				MS. OCASIO-CORTEZ (NY)	X		
MR. SESSIONS (TX)		X		MS. PORTER (CA)	X		
MR. BIGGS (AZ)		X		MS. BUSH (MO)			
MS. MACE (SC)		X		MS. BROWN (OH)	X		
MR. LATURNER (KS)		X		MR. GOMEZ (CA)	X		
MR. FALLON (TX)		X		MS. STANSBURY (NM)	X		
MR. DONALDS (FL)		X		MR. GARCIA (CA)			
MR. ARMSTRONG (ND)		X		MR. FROST (FL)	X		
MR. PERRY (PA)		X		MS. BALINT (VT)	X		
MR. TIMMONS (SC)		X		MS. LEE of PENNSYLVANIA (PA)	X		
MR. BURCHETT (TN)		X		MR. CASAR (TX)	X		
MS. GREENE OF GEORGIA (GA)		X		MS. CROCKETT (TX)	X		
MRS. MCCLAIN (MI)		X		MR. GOLDMAN (NY)	X		
MRS. BOEBERT (CO)		X		MR. MOSKOWITZ (FL)	X		
MR. FRY (SC)		X					
MRS. LUNA (FL)		X					
MR. EDWARDS (NC)		X					
MR. LANGWORTHY (NY)		X					
MR. BURLISON (MO)		X					

Roll Call Totals:

Ayes: 19

Nays: 22

Present:

Passed: _____

Failed: X

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
 118TH CONGRESS
 RATIO 26-21
 ROLL CALL

Vote on: Amendment to the Amendment in the Nature of a Substitute to H.R. 140 offered by Ms. Porter.

Date: 02-28-2023

VOTE #: 4

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. COMER (KY) <i>(Chairman)</i>		X		MR. RASKIN (MD) <i>(Ranking Member)</i>	X		
MR. JORDAN (OH)				MS. NORTON (DC)	X		
MR. TURNER (OH)				MR. LYNCH (MA)	X		
MR. GOSAR (AZ)		X		MR. CONNOLLY (VA)	X		
MS. FOXX (NC)		X		MR. KRISHNAMOORTHY (IL)	X		
MR. GROTHMAN (WI)		X		MR. KHANNA (CA)	X		
MR. PALMER (AL)				MR. MFUME (MD)	X		
MR. HIGGINS (LA)				MS. OCASIO-CORTEZ (NY)	X		
MR. SESSIONS (TX)		X		MS. PORTER (CA)	X		
MR. BIGGS (AZ)		X		MS. BUSH (MO)			
MS. MACE (SC)		X		MS. BROWN (OH)	X		
MR. LATURNER (KS)		X		MR. GOMEZ (CA)	X		
MR. FALLON (TX)		X		MS. STANSBURY (NM)	X		
MR. DONALDS (FL)		X		MR. GARCIA (CA)	X		
MR. ARMSTRONG (ND)		X		MR. FROST (FL)	X		
MR. PERRY (PA)		X		MS. BALINT (VT)	X		
MR. TIMMONS (SC)		X		MS. LEE of PENNSYLVANIA (PA)	X		
MR. BURCHETT (TN)		X		MR. CASAR (TX)	X		
MS. GREENE OF GEORGIA (GA)				MS. CROCKETT (TX)	X		
MRS. MCCLAIN (MI)		X		MR. GOLDMAN (NY)	X		
MRS. BOEBERT (CO)		X		MR. MOSKOWITZ (FL)	X		
MR. FRY (SC)		X					
MRS. LUNA (FL)		X					
MR. EDWARDS (NC)		X					
MR. LANGWORTHY (NY)		X					
MR. BURLISON (MO)		X					

Roll Call Totals: Ayes: 20 Nays: 21 Present:
 Passed: _____ Failed: X

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

118TH CONGRESS

RATIO 26-21

ROLL CALL

Vote on: Amendment to the Amendment in the Nature of a Substitute to H.R. 140 offered by Mr. Moskowitz.

Date: 02-28-2023

VOTE #: 5

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. COMER (KY) <i>(Chairman)</i>		X		MR. RASKIN (MD) <i>(Ranking Member)</i>	X		
MR. JORDAN (OH)				MS. NORTON (DC)	X		
MR. TURNER (OH)				MR. LYNCH (MA)	X		
MR. GOSAR (AZ)		X		MR. CONNOLLY (VA)	X		
MS. FOXX (NC)		X		MR. KRISHNAMOORTHY (IL)	X		
MR. GROTHMAN (WI)		X		MR. KHANNA (CA)	X		
MR. PALMER (AL)				MR. MFUME (MD)	X		
MR. HIGGINS (LA)				MS. OCASIO-CORTEZ (NY)	X		
MR. SESSIONS (TX)		X		MS. PORTER (CA)	X		
MR. BIGGS (AZ)		X		MS. BUSH (MO)			
MS. MACE (SC)		X		MS. BROWN (OH)	X		
MR. LATURNER (KS)		X		MR. GOMEZ (CA)	X		
MR. FALLON (TX)		X		MS. STANSBURY (NM)	X		
MR. DONALDS (FL)		X		MR. GARCIA (CA)	X		
MR. ARMSTRONG (ND)		X		MR. FROST (FL)	X		
MR. PERRY (PA)		X		MS. BALINT (VT)	X		
MR. TIMMONS (SC)		X		MS. LEE of PENNSYLVANIA (PA)	X		
MR. BURCHETT (TN)		X		MR. CASAR (TX)	X		
MS. GREENE OF GEORGIA (GA)				MS. CROCKETT (TX)	X		
MRS. MCCLAIN (MI)		X		MR. GOLDMAN (NY)	X		
MRS. BOEBERT (CO)		X		MR. MOSKOWITZ (FL)	X		
MR. FRY (SC)		X					
MRS. LUNA (FL)		X					
MR. EDWARDS (NC)		X					
MR. LANGWORTHY (NY)		X					
MR. BURLISON (MO)		X					

Roll Call Totals:

Ayes: 20

Nays: 21

Present:

Passed: _____

Failed: X

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
 118TH CONGRESS
 RATIO 26-21
 ROLL CALL

Vote on: Amendment #2 to the Amendment in the Nature of a Substitute to H.R. 140 offered by Mr. Goldman.

Date: 02-28-2023

VOTE #: 6

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. COMER (KY) <i>(Chairman)</i>		X		MR. RASKIN (MD) <i>(Ranking Member)</i>	X		
MR. JORDAN (OH)		X		MS. NORTON (DC)	X		
MR. TURNER (OH)				MR. LYNCH (MA)	X		
MR. GOSAR (AZ)		X		MR. CONNOLLY (VA)	X		
MS. FOXX (NC)		X		MR. KRISHNAMOORTHY (IL)	X		
MR. GROTHMAN (WI)		X		MR. KHANNA (CA)	X		
MR. PALMER (AL)				MR. MFUME (MD)	X		
MR. HIGGINS (LA)				MS. OCASIO-CORTEZ (NY)	X		
MR. SESSIONS (TX)		X		MS. PORTER (CA)	X		
MR. BIGGS (AZ)		X		MS. BUSH (MO)			
MS. MACE (SC)		X		MS. BROWN (OH)	X		
MR. LATURNER (KS)		X		MR. GOMEZ (CA)	X		
MR. FALLON (TX)		X		MS. STANSBURY (NM)	X		
MR. DONALDS (FL)		X		MR. GARCIA (CA)	X		
MR. ARMSTRONG (ND)		X		MR. FROST (FL)	X		
MR. PERRY (PA)		X		MS. BALINT (VT)	X		
MR. TIMMONS (SC)		X		MS. LEE of PENNSYLVANIA (PA)	X		
MR. BURCHETT (TN)		X		MR. CASAR (TX)	X		
MS. GREENE OF GEORGIA (GA)				MS. CROCKETT (TX)	X		
MRS. MCCLAIN (MI)		X		MR. GOLDMAN (NY)	X		
MRS. BOEBERT (CO)		X		MR. MOSKOWITZ (FL)	X		
MR. FRY (SC)		X					
MRS. LUNA (FL)		X					
MR. EDWARDS (NC)		X					
MR. LANGWORTHY (NY)		X					
MR. BURLISON (MO)		X					

Roll Call Totals: Ayes: 20 Nays: 22 Present:

Passed: _____ Failed: X

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY
 118TH CONGRESS
 RATIO 26-21
 ROLL CALL

Vote on: Amendment #2 to the Amendment in the Nature of a Substitute to H.R. 140 offered by Mr. Raskin.

Date: 02-28-2023

VOTE #: 7

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. COMER (KY) <i>(Chairman)</i>		X		MR. RASKIN (MD) <i>(Ranking Member)</i>	X		
MR. JORDAN (OH)		X		MS. NORTON (DC)	X		
MR. TURNER (OH)				MR. LYNCH (MA)	X		
MR. GOSAR (AZ)		X		MR. CONNOLLY (VA)	X		
MS. FOXX (NC)		X		MR. KRISHNAMOORTHY (IL)	X		
MR. GROTHMAN (WI)		X		MR. KHANNA (CA)	X		
MR. PALMER (AL)				MR. MFUME (MD)	X		
MR. HIGGINS (LA)				MS. OCASIO-CORTEZ (NY)	X		
MR. SESSIONS (TX)		X		MS. PORTER (CA)	X		
MR. BIGGS (AZ)		X		MS. BUSH (MO)			
MS. MACE (SC)		X		MS. BROWN (OH)	X		
MR. LATURNER (KS)		X		MR. GOMEZ (CA)	X		
MR. FALLON (TX)		X		MS. STANSBURY (NM)	X		
MR. DONALDS (FL)		X		MR. GARCIA (CA)	X		
MR. ARMSTRONG (ND)		X		MR. FROST (FL)	X		
MR. PERRY (PA)		X		MS. BALINT (VT)	X		
MR. TIMMONS (SC)		X		MS. LEE of PENNSYLVANIA (PA)	X		
MR. BURCHETT (TN)		X		MR. CASAR (TX)	X		
MS. GREENE OF GEORGIA (GA)				MS. CROCKETT (TX)	X		
MRS. MCCLAIN (MI)		X		MR. GOLDMAN (NY)	X		
MRS. BOEBERT (CO)		X		MR. MOSKOWITZ (FL)	X		
MR. FRY (SC)		X					
MRS. LUNA (FL)		X					
MR. EDWARDS (NC)		X					
MR. LANGWORTHY (NY)		X					
MR. BURLISON (MO)		X					

Roll Call Totals:

Ayes: 20

Nays: 22

Present:

Passed: _____

Failed: X

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

118TH CONGRESS

RATIO 26-21

ROLL CALL

Vote on: Final Passage of H.R. 140

Date: 02-28-2023

VOTE #: 8

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. COMER (KY) <i>(Chairman)</i>	X			MR. RASKIN (MD) <i>(Ranking Member)</i>		X	
MR. JORDAN (OH)	X			MS. NORTON (DC)		X	
MR. TURNER (OH)				MR. LYNCH (MA)		X	
MR. GOSAR (AZ)	X			MR. CONNOLLY (VA)		X	
MS. FOXX (NC)	X			MR. KRISHNAMOORTHY (IL)		X	
MR. GROTHMAN (WI)	X			MR. KHANNA (CA)		X	
MR. PALMER (AL)	X			MR. MFUME (MD)		X	
MR. HIGGINS (LA)				MS. OCASIO-CORTEZ (NY)		X	
MR. SESSIONS (TX)	X			MS. PORTER (CA)		X	
MR. BIGGS (AZ)	X			MS. BUSH (MO)			
MS. MACE (SC)	X			MS. BROWN (OH)		X	
MR. LATURNER (KS)	X			MR. GOMEZ (CA)		X	
MR. FALLON (TX)	X			MS. STANSBURY (NM)		X	
MR. DONALDS (FL)	X			MR. GARCIA (CA)		X	
MR. ARMSTRONG (ND)	X			MR. FROST (FL)		X	
MR. PERRY (PA)	X			MS. BALINT (VT)		X	
MR. TIMMONS (SC)	X			MS. LEE of PENNSYLVANIA (PA)		X	
MR. BURCHETT (TN)	X			MR. CASAR (TX)		X	
MS. GREENE OF GEORGIA (GA)	X			MS. CROCKETT (TX)		X	
MRS. MCCLAIN (MI)	X			MR. GOLDMAN (NY)		X	
MRS. BOEBERT (CO)	X			MR. MOSKOWITZ (FL)		X	
MR. FRY (SC)	X						
MRS. LUNA (FL)	X						
MR. EDWARDS (NC)	X						
MR. LANGWORTHY (NY)	X						
MR. BURLISON (MO)	X						

Roll Call Totals:

Ayes: 24

Nays: 20

Present:

Passed: X

Failed: _____

EXPLANATION OF AMENDMENTS

During Committee consideration of the bill, Representative James Comer (R-KY), Chairman of the Committee, offered an amendment in the nature of a substitute that would make certain technical changes to the bill, would establish a reporting requirement for federal employees that utilize the exception for legitimate law enforcement functions, would expand the jurisdiction of the Office of Special Counsel, and would establish a rule of construction. The amendment in the nature of a substitute passed by voice vote.

Ranking Member Jamie Raskin (D-MD) offered an amendment to H.R. 140 that would expand the definition of 'entity' within the definition of 'censorship' to include 'media organizations' (including newspapers, magazines, radio, television). The amendment failed by recorded vote.

Representative Stephen Lynch (D-MA) offered an amendment to H.R. 140 that would add the phrase 'national security' to the exception for legitimate law enforcement functions. The amendment failed by recorded vote.

Representative Becca Balint (D-VT) offered an amendment to H.R. 140 that would add an additional rule of construction that would state that the Act would not prohibit federal employees from addressing harassment, enforcing nondiscrimination laws, and censoring speech that they classify as misinformation intended to incite violence. The amendment failed by recorded vote.

Representative Katie Porter (D-CA) offered an amendment to H.R. 140 that would add the facilitation and distribution of scientific information to the exception for legitimate law enforcement functions. The amendment failed by recorded vote.

Representative Dan Goldman (D-NY) offered an amendment to H.R. 140 that would expand the U.S. Office of Special Counsel's enforcement capabilities of the Hatch Act to include criminal penalties. The amendment failed by voice vote.

Representative Jared Moskowitz (D-FL) offered an amendment to H.R. 140 that would add actions to prevent the incitement of violence related to neo nazi groups to the exception for legitimate law enforcement functions. The amendment failed by recorded vote.

Representative Dan Goldman (D-NY) offered an amendment to H.R. 140 that would add defending elections from interference from malign actors to the exception for legitimate law enforcement functions. The amendment failed by recorded vote.

Ranking Member Jamie Raskin (D-MD) offered an amendment to H.R. 140 that would add an additional rule of construction that would state that the Act would not restrict or amend the right of a private entity to create policies that dictate an individual's use of its service. The amendment failed by recorded vote.

LIST OF RELATED COMMITTEE HEARINGS

In accordance with House Rule XIII, clause 3(c)(6), (1) The following hearing was used to develop or consider H.R. 140:

On February 8, 2023, the Committee held a hearing titled "Protecting Speech from Government Interference and Social Media Bias, Part 1: Twitter's Role in Suppressing the Biden Laptop Story" with Vijaya Gadde, former Chief Legal Officer, Twitter and James Baker, former Deputy General Counsel, Twitter, and Yoel Roth, former Global Head of Trust and Safety, Twitter, and Annika Collier Navaroli, former senior expert on Twitter's U.S. safety policy team.

(2) The following related hearing was held:

On February 8, 2023, the Committee held a hearing titled "Protecting Speech from Government Interference and Social Media Bias, Part 1: Twitter's Role in Suppressing the Biden Laptop Story" with Vijaya Gadde, former Chief Legal Officer, Twitter and James Baker, former Deputy General Counsel, Twitter, and Yoel Roth, former Global Head of Trust and Safety, Twitter, and Annika Collier Navaroli, former senior expert on Twitter's U.S. safety policy team.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of Rule XIII and clause (2)(b)(1) of Rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the Background and Need for Legislation section above.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee's performance goals or objectives of this bill are to amend title 5, U.S.C., to prohibit Federal employees from advocating for censorship of viewpoints in their official capacity, and for other purposes.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill does not relate to employment or access to public services and accommodations in the legislative branch.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 3(c)(5) of Rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

This bill does not direct the completion of any specific rule makings within the meaning of section 551 of title 5, U.S.C.

FEDERAL ADVISORY COMMITTEE ACT STATEMENT

The Committee finds that this legislation does not direct the establishment of advisory committees within the definition of Section 5(b) of the appendix to title 5, U.S.C.

UNFUNDED MANDATES REFORM ACT STATEMENT

Pursuant to section 423 of the *Congressional Budget Act of 1974* the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of Rule XXI of the House of Representatives.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of Rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974*.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the *Congressional Budget Act of 1974* is as follows:

H.R. 140, Protecting Speech from Government Interference Act

As ordered reported by the House Committee on Oversight and Accountability on February 28, 2023

By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	*	*	*
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
Mandate Effects			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

H.R. 140 would bar federal employees from using their official authority or influence to promote censorship or to advocate for that action by a third party. Employees found to violate the prohibition would be subject to civil penalties.

Censorship, as defined in H.R. 140, means using influence or coercion to:

- Remove or suppress lawful speech from an interactive computer service,
- Add a disclaimer or other alert to lawful speech expressed on an interactive computer service, or
- Remove or restrict a person’s access to a publicly available interactive computer service under certain conditions.

Activities related to law enforcement would be excluded from the bill’s prohibition but agencies undertaking activities under that exclusion would be required to report to the Congress before taking any action.

Enacting H.R. 140 could result in additional civil penalty collections, which are treated as revenues in the budget. However, CBO estimates that any such collections would be



insignificant over the 2023-2033 period because the penalty amounts are relatively small and we expect few violations of the bill's new prohibitions.

CBO does not have enough information to determine the number of instances of censorship exercised by federal employees in the past or to project such behavior in the future. As a result, CBO cannot estimate the costs related to implementing the bill or the savings related to employees not engaging in that behavior. However, we expect that those amounts would be insignificant over the 2023-2028 period; any changes in spending would be subject to the availability of appropriated funds.

In addition, the bill could affect direct spending by some agencies that are allowed to use fees, receipts from the sale of goods, and other collections to cover operating costs. CBO estimates that any net changes in direct spending by those agencies would be negligible because most of them can adjust amounts collected to reflect changes in operating costs.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

A handwritten signature in black ink that reads "Phillip L. Swagel". The signature is fluid and cursive, with a long, sweeping tail.

Phillip L. Swagel
Director, Congressional Budget Office

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

With respect to the requirement of clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, this section was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall have this printed upon its receipt by the Committee.

MINORITY VIEWS

H.R. 140, the Protecting Speech from Government Interference Act, is rooted in the far-right conspiracy theories that drove the Republicans' February 8, 2023, hearing, "Protecting Speech from Government Interference and Social Media Bias, Part 1: Twitter's Role in Suppressing the Biden Laptop Story." As was made very clear in that hearing, there is no evidence of any Biden Administration official violating the First Amendment and censoring Americans or social media platforms, so now Republicans are simply trying to rewrite the law to restrict the flow of factual information from the U.S. government while protecting the flow of disinformation from the Russian government and other foreign malign actors.

The bill amends title 5, U.S.C., to prohibit federal employees from taking any action in their official capacities that may influence a social media platform's content moderation decisions. In doing so, it would bar federal employees from alerting social media platforms to nefarious foreign influence strategies, inviting autocratic regimes and actors to increase their long-running attacks on American democracy. This bill would protect the interests of Vladimir Putin and the Chinese government—not the American people.

H.R. 140 would deliberately create a chilling effect on public-private cooperation on law enforcement and national security matters, hindering our ability to protect democratic freedoms against both domestic and foreign criminals determined to subvert our elections and political institutions.

All employees would be prohibited from using their official authority to influence a private entity for the removal or suppression of speech, as well as from influencing a private entity for the removal or suppression of speech while on duty. Civil penalties for violating the prohibition could include fines of up to \$1,000, or up to \$10,000 for the highest-ranking federal employees. There are no prohibitions or punishments for seeking to force a private entity to include particular speakers on their platforms even if those speakers were removed for inciting race hate, civil war or violent insurrection.

The bill would except law enforcement functions within an employee's authority, but would add a lengthy report required at least 72 hours before any action is conducted, unless such action is related to child pornography and exploitation, human trafficking, controlled substances, or safeguarding classified national security information.

Having failed to identify any government censorship, the Committee Majority conveniently moves to redefine "censorship" from meaning *government* suppression of private speech to meaning *private entities* regulating their own speech content and speech platforms.

That is a radical change. When newspapers and TV networks choose to run one program or opinion piece instead of another, it is not censorship. It is wrong not to apply that basic First Amendment standard to social media platforms, and it is a fallacy to treat a private entity's decision not to publish something as "censorship" under our system of government.

Social media companies have a First Amendment right to establish their own rules governing speech, including false speech and speech inciting violence and race hate. Social media companies also have a right to use threat information shared by the government to enforce those rules and make private business decisions. Unfortunately, Republicans voted down an amendment in Committee to ensure that this bill would protect this fundamental First Amendment principle, calling into question their true intent in pursuing this legislation.

H.R. 140 threatens the ability of law enforcement and other government agencies to provide timely, critical information these companies need, such as to warn them of speech on their platforms that might include violence-inciting and violence-planning speech that not only violates their terms of service but poses a serious threat to public safety and the integrity of democratic institutions.

Similarly, H.R. 140 as written would interfere with the ability of national security and law enforcement agencies to alert online platform providers of interference campaigns by Russia, China, or other malign foreign state or non-state actors working to undermine the integrity of our election process—including voting rights and fair balloting on Election Day—with propaganda techniques, disinformation, or direct tampering.

This bill purports to protect the First Amendment but actually undermines it, creating far more serious problems for American democracy than the debunked conspiracy theory it claims to address. In the days leading up to the January 6 attack on the U.S. Capitol, Twitter chose to allow Donald Trump and ultra-MAGA extremists to use its platform to spread the Big Lie and election disinformation, fueling a wildfire of incitement to civil war, race war, insurrection, revolution, and violence that raged out of control and shook the very foundations of American democracy.

At the Twitter Files hearing, it was made evident that, unless social media companies and policymakers work to address the factors that led to this eruption of deadly violence, more violence will come. My Democratic colleagues and I urge our Republican colleagues to dedicate the Committee's time to proposing constructive solutions to real problems, and oppose H.R. 140, the Putin Protection Act—not only for its blatant failure to address any actual problem but for proposing serious new threats to our democracy and freedoms.



Jamie Raskin
Ranking Member