

PROVIDING FOR CONSIDERATION OF 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; PROVIDING FOR CONSIDERATION OF THE JOINT RESOLUTION (H.J. RES. 27) PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS, DEPARTMENT OF DEFENSE AND THE ENVIRONMENTAL PROTECTION AGENCY RELATING TO “REVISED DEFINITION OF ‘WATERS OF THE UNITED STATES’”; AND PROVIDING FOR CONSIDERATION OF THE BILL (S. 619) TO REQUIRE THE DIRECTOR OF NATIONAL INTELLIGENCE TO DECLASSIFY INFORMATION RELATING TO THE ORIGIN OF COVID-19, AND FOR OTHER PURPOSES.

March 7, 2023.—Referred to the House Calendar and ordered to be printed.

MR. MASSIE, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. __]

The Committee on Rules, having had under consideration House Resolution ____, by a record vote of 9 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 140, the Protecting Speech from Government Interference Act, under a structured rule. The resolution waives all points of order against consideration of the bill. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Accountability or their respective designees. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules

Committee Print 118-1 and provides that it shall be considered as read. The resolution waives all points of order against the amendment in the nature of a substitute to H.R. 140. The resolution further makes in order only those amendments printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments are waived. The resolution provides one motion to recommit. The resolution further provides for consideration of H.J. Res. 27, providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of the Army, Corps of Engineers, Department of Defense and the Environmental Protection Agency relating to “Revised Definition of ‘Waters of the United States’”, under a closed rule. The resolution waives all points of order against consideration of the joint resolution. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure or their respective designees. The resolution provides that the joint resolution shall be considered as read. The resolution waives all points of order against provisions in the joint resolution. The resolution provides one motion to recommit. The resolution further provides for consideration of S. 619, the COVID-19 Origin Act of 2023, under a closed rule. The resolution waives all points of order against consideration of the bill. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Permanent Select Committee on Intelligence or their respective designees. The resolution provides that the bill shall be considered as read. The resolution waives all points of order against provisions in the bill. Section 4 of the resolution provides that section 7 of the War Powers Resolution (50 U.S.C. 1546) shall not apply to a concurrent resolution introduced during the first session of the One Hundred Eighteenth Congress pursuant to section 5 of the War Powers Resolution (50 U.S.C. 1544) with respect to Syria. Section 5 provides that if a veto message is laid before the House on House Joint Resolution 30, then after the message is read and the objections of the President are spread at large upon the Journal, further consideration of the veto message and the joint resolution shall be postponed until the legislative day of March 23, 2023; and on that legislative day, the House shall proceed to the constitutional question of reconsideration and dispose of such question without intervening motion.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 140 includes a waiver of clause 3(e) of rule XIII, which requires the inclusion of a comparative print for a bill or joint resolution proposing to repeal or amend a statute.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 140, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.J. Res. 27, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.J. Res. 27, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of S. 619, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in S. 619, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 17

Motion by Mr. McGovern to amend the rule to make in order amendment #33 to H.R. 140, offered by Representative Escobar, which would ensure that the bill will not prevent any federal employee from alerting or working with a private entity to remove manifestos and/or livestream videos of mass shooters as well as those of domestic and international terrorists from platforms. Defeated: 3–9

Majority Members	Vote	Minority Members	Vote
Mr. Burgess.....	Nay	Mr. McGovern.....	Yea
Mr. Resenthaler.....	Nay	Ms. Scanlon.....	Yea
Mrs. Fischbach.....	Nay	Mr. Neguse.....	
Mr. Massie.....	Nay	Ms. Leger Fernández.....	Yea
Mr. Norman.....	Nay		
Mr. Roy.....	Nay		
Mrs. Houchin.....	Nay		
Mr. Langworthy.....	Nay		
Mr. Cole, Chairman.....	Nay		

Rules Committee Record Vote No. 18

Motion by Mr. McGovern to amend the rule to make in order amendment #46 to H.R. 140, offered by Representative McGovern, which would ensure

that nothing in this act will prohibit a federal employee from advocating against the banning of books (specifically, books on topics such as communities of color, the history of slavery and/or racism in the United States, and books with LGBTQI+ characters). Defeated: 3–9

Majority Members	Vote	Minority Members	Vote
Mr. Burgess.....	Nay	Mr. McGovern.....	Yea
Mr. Reschenthaler.....	Nay	Ms. Scanlon.....	Yea
Mrs. Fischbach.....	Nay	Mr. Neguse.....	
Mr. Massie.....	Nay	Ms. Leger Fernández.....	Yea
Mr. Norman.....	Nay		
Mr. Roy.....	Nay		
Mrs. Houchin.....	Nay		
Mr. Langworthy.....	Nay		
Mr. Cole, Chairman.....	Nay		

Rules Committee Record Vote No. 19

Motion by Ms. Scanlon to amend the rule to make in order amendment #30 to H.R. 140, offered by Representative Schiff, which would create additional exceptions for employees engaging in lawful actions within their official capacity for the purpose of exercising legitimate law enforcement functions regarding activities to combat terrorism, incitement of violence, and acts of insurrection. Acts of terrorism include acts of domestic terrorism motivated by all forms of bigotry, including anti-AAPI hate, homophobia and transphobia, antisemitism, and white nationalism. Defeated: 3–9

Majority Members	Vote	Minority Members	Vote
Mr. Burgess.....	Nay	Mr. McGovern.....	Yea
Mr. Reschenthaler.....	Nay	Ms. Scanlon.....	Yea
Mrs. Fischbach.....	Nay	Mr. Neguse.....	
Mr. Massie.....	Nay	Ms. Leger Fernández.....	Yea
Mr. Norman.....	Nay		
Mr. Roy.....	Nay		
Mrs. Houchin.....	Nay		
Mr. Langworthy.....	Nay		
Mr. Cole, Chairman.....	Nay		

Rules Committee Record Vote No. 20

Motion by Ms. Leger Fernández to amend the rule to make in order amendment #35 to H.R. 140, offered by Representative Raskin, which would

add an exception for federal employee action to prevent insurrectionary attacks on the U.S. Capitol and associated threats to Members of Congress, congressional staff, U.S. Capitol Police Officers, and other employees.

Defeated: 3–9

Majority Members	Vote	Minority Members	Vote
Mr. Burgess.....	Nay	Mr. McGovern.....	Yea
Mr. Reschenthaler.....	Nay	Ms. Scanlon.....	Yea
Mrs. Fischbach.....	Nay	Mr. Neguse.....	
Mr. Massie.....	Nay	Ms. Leger Fernández.....	Yea
Mr. Norman.....	Nay		
Mr. Roy.....	Nay		
Mrs. Houchin.....	Nay		
Mr. Langworthy.....	Nay		
Mr. Cole, Chairman.....	Nay		

Rules Committee Record Vote No. 21

Motion by Mr. Massie to report the rule. Adopted: 9–3

Majority Members	Vote	Minority Members	Vote
Mr. Burgess.....	Yea	Mr. McGovern.....	Nay
Mr. Reschenthaler.....	Yea	Ms. Scanlon.....	Nay
Mrs. Fischbach.....	Yea	Mr. Neguse.....	
Mr. Massie.....	Yea	Ms. Leger Fernández.....	Nay
Mr. Norman.....	Yea		
Mr. Roy.....	Yea		
Mrs. Houchin.....	Yea		
Mr. Langworthy.....	Yea		
Mr. Cole, Chairman.....	Yea		

SUMMARY OF THE AMENDMENTS TO H.R. 140 MADE IN ORDER

1. Clyde (GA): Requires the Attorney General to submit an annual report to Congress evaluating the compliance of the Federal Government with the Protecting Free Speech from Government Interference Act. This amendment provides transparency and insight into any potential violations of the Act by government agencies or employees, and sunsets after 10 years. (10 minutes)
2. Comer (KY): Makes technical edits and adds a conforming clarification for the authorities of the Office of the Special Counsel to ensure that the Act's monetary civil penalties under new section 7382(c)(2) can be fully enforced. (10 minutes)
3. Bishop (NC): Ensures that law enforcement can only take action against unlawful speech. (10 minutes)
4. Foxx (NC): Ensures that federal employees entering into collective bargaining agreements using taxpayer funded time (Section 7131) are prohibited from engaging in censorship of private entities. (10 minutes)
5. Good (VA), Brecheen (OK): Clarifies enforcement of obscene matters not protected by the First Amendment. (10 minutes)
6. Jackson Lee (TX): Strikes section 2(e). (10 minutes)
7. Ogles (TN): Revises the disciplinary action consisting of removal, reduction in grade, debarment from federal employment for a period not to exceed 10 years, suspension, or reprimand. (10 minutes)
8. Ogles (TN): Revises the civil penalty for senior government officials to be \$50,000. (10 minutes)
9. Rose (TN): Requires mandatory annual training on the requirements of the underlying bill. (10 minutes)
10. Rose (TN): Adds a findings section that states that inspectors general should not less than annually for the next seven years publicly report the number of complaints and tips received, the number of investigations opened, and statistics on how investigations were managed and their disposition by that inspector general related to compliance with the underlying bill and the amendments made by the underlying bill. (10 minutes)

TEXT OF AMENDMENTS TO H.R. 140 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CLYDE OF GEORGIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, after line 16, insert the following and redesignate accordingly:

“(e) REPORT.—

“(1) IN GENERAL.—Not later than 240 days after the date of the enactment of this section, and annually thereafter, the Attorney General, in consultation with the Assistant Attorney General for Civil Rights and the Office of Special Counsel, shall submit to the committees of Congress described in subsection (b)(2)(B) a report evaluating the compliance by the Federal Government with this section, including a description of any action by the head of an agency or department in the executive branch to—

“(A) consult with any third parties about censorship by employees in the executive branch; or

“(B) engage in any activity prohibited under this section.

“(2) SUNSET.—This subsection shall terminate on the date that is 10 years after the date of the enactment of this subsection.”

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE COMER OF KENTUCKY OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 8, strike “and” and insert “or”.

Page 3, line 9, strike “safeguarding, or preventing,” and insert “safeguard, or prevent”.

Page 3, line 10, insert a comma after “of”.

Page 6, line 14, strike the semicolon and insert a period.

Page 6, strike lines 15 and 16 and insert the following:

“(d) ENFORCEMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (c)(2), this section shall be enforced in the same manner as subchapter III of this chapter.

“(2) APPLICATION.—Notwithstanding any other provision of law, including section 1215(b), the Special Counsel may, in lieu of sending a report to the President under section 1215(b), seek civil monetary penalties under subsection (c)(2) pursuant to section 1215(a). This paragraph shall not be construed to limit or otherwise affect the President's authority to enforce any disciplinary action against an employee described under subsection (c)(2).”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BISHOP OF NORTH CAROLINA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 2, beginning on line 25, strike paragraph (1) and insert the following:

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

Page 3, line 15, after “function”, insert “under paragraph (1)”.

Page 3, line 16, strike “lawful” and insert “unlawful”.

Page 3, line 17, strike “but” and all that follows through line 24 and insert the following: “and consistent with subparagraph (D), 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—”.

Page 5, after line 19, insert the following:

“(D) REPORTING REQUIREMENTS FOR CERTAIN ACTIONS.—

“(i) Any censorship action relating to combating child pornography and exploitation, human trafficking, or the illegal transporting of or transacting in controlled substances shall be exempt from the reporting requirement under this paragraph.

“(ii) With respect to any censorship action related to safeguarding, or preventing the unlawful dissemination of, properly classified national security information, subparagraph (A) shall be applied by substituting ‘Not later than 72 hours after’ for ‘Not later than 72 hours before’.”.

Page 5, line 6, before “and the”, insert “the Permanent Select Committee on Intelligence,”.

Page 5, line 11, before “and”, insert “Select Committee on Intelligence,”.

Page 7, line 14, strike “and”.

Page 7, beginning on line 16, strike “Constitution.” and insert “Constitution; and”.

Page 7, after line 17, insert the following:

“(5) the term ‘unlawful speech’ means speech not protected by the First Amendment of the Constitution.”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FOXX OF NORTH CAROLINA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 2, line 19, strike “; or” and insert “;”.

Page 2, line 22, strike the period and insert “; or”.

Page 2, after line 22, insert the following:

“(F) while the employee is engaged in activities for which official time is authorized under section 7131 of this title.”

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOOD
OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, line 10, insert “(including any action to enforce a Federal law or regulation addressing obscene matters)” after “regulation”.

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 2(e).

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OGLES OF TENNESSEE OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, line 2, strike "5" and insert "10".

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OGLES OF TENNESSEE OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, line 9, strike "\$10,000" and insert "\$50,000".

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROSE
OF TENNESSEE OR HIS DESIGNEE, DEBATABLE FOR 10
MINUTES

Page 6, after line 16, insert the following (and redesignate subsequent subsections):

“(e) ANNUAL TRAINING.—Not less than annually, the head of each employing agency shall provide mandatory training on this section and the requirements of this section to each agency employee.”.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROSE
OF TENNESSEE OR HIS DESIGNEE, DEBATABLE FOR 10
MINUTES

Add at the end the following new section:

SEC. 3. CONGRESSIONAL FINDINGS.

The Congress finds that inspectors general should not less than annually for the next seven years publicly report the number of complaints and tips received, the number of investigations opened, and statistics on how investigations were managed and their disposition by that inspector general related to compliance with this Act and the amendments made by this Act.