

Congress of the United States

House of Representatives

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Opening Statement Ranking Member Elijah E. Cummings

H.R. 3387, Open and Transparent Smithsonian Act

November 16, 2016

Mr. Chairman, I appreciate Congresswoman Norton's interest in ensuring that the Smithsonian Institution is transparent and accountable.

This bill would apply several transparency laws to the Smithsonian, including the Freedom of Information Act, the Sunshine Act, and the Privacy Act. I know that Congresswoman Norton has been pursuing this legislation for almost a decade, after concerns were raised in 2007 that the Smithsonian had violated principles of good management.

The Smithsonian has made a number of improvements to its processes since that time but continues to assert that it is not a federal agency for the purposes of some laws. It is important to note that this bill does not include an explicit application of the Whistleblower Protection Act. The fact that the Whistleblower Protection Act is not mentioned in this bill in no way should signal that we do not believe the Smithsonian must comply with that law.

The Merit Systems Protection Board just confirmed on November 7, 2016, that its previous determination that federal employees who work at the Smithsonian are protected is still the law. Nothing in this bill changes that.

There are several issues I think we must examine as we continue to work on this bill, including the practical impact of applying these laws to the Smithsonian – since it is designed differently than a federal agency – including the impact of naming some federal laws but not others.

I know that staff are scheduling meetings with transparency and other stakeholder groups so we can work through some of these questions.

Thank you, Mr. Chairman.

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