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### STATEMENT OF CHAIRMAN DANNY K. DAVIS AT THE SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA HEARING ON SAFEGUARDING THE MERIT SYSTEM PRINCIPLES: A REVIEW OF THE MERIT SYSTEM PROTECTION BOARD AND THE OFFICE OF SPECIAL COUNSEL

July 12, 2007

Good afternoon. Welcome to today's hearing on the Office of Special Counsel (OSC) and the Merit Systems Protection Board (MSPB). OSC and MSPB, which were established in 1978 by the Civil Service Reform Act, are responsible for safeguarding the federal government's merit-based system of employment.

On October 13, 1978, when President Jimmy Carter signed the Civil Service Act into law, he said that, "This legislation will bring fundamental improvements to the Federal personnel system. It puts merit principles into statute and defines prohibited personnel practices...It provides better protection for employees against arbitrary actions and abuses and contains safeguards against political intrusion. The act assures that whistleblowers will be heard, and that they will be protected from reprisal."

President Carter said, "Now this bill is law, but this is just the start of a continuing effort to improve the Federal Government's services to the people. **By itself, the law will not ensure improvement in the system. It provides the tools; the will and determination must come from those who manage the Government.**"

Those who manage the government must have the will and determination to ensure, in the case of OSC and MSPB, that federal employees who disclose information of government waste, fraud, and abuse are not retaliated against; that government employees comply with legal

restrictions on political activity; and that employee appeal cases are adjudicated in a fair and timely fashion.

Unfortunately, there is some indication that the will and determination is not there. Stakeholders, such as the Government Accountability Project, the Project on Government Oversight, and the Public Employees for Environmental Responsibility, claim that OSC is not giving badly needed attention to federal whistleblower cases.

For this reason, I am pleased to have joined Chairman Waxman and Ranking Member Davis in cosponsoring H.R. 986, the Whistleblower Protection Act of 2007. This legislation, which has passed the House and is waiting consideration in the Senate, would grant whistleblowers the right to challenge reprisals in federal district court and clarifies that “any” protected disclosure applies to all lawful communication of misconduct.

OSC and MSPB were last reauthorized in 2002 for five years. Both agencies are seeking reauthorization through FY 2012 and additional legislative changes. These additional legislative changes have to be reviewed carefully.

I am sure Ms. Norton will share her thoughts on OSC’s reauthorization request to be allowed to relocate out of the District of Columbia. The Congressional Research Service has indicated that provisions in MSPB’s reauthorization request, which MSPB has characterized as “technical corrections,” would substantively enhance the power and authority of the office of the chairman which is counter to current congressional intent.

I ask unanimous consent to submit, for the record, the statements of the National Treasury Employees Union and The American Federation of Government Employees. Both employee groups are opposed to MSPB’s reauthorization request to approve motions for summary judgment. They argue that this would lead to the loss of crucial employee rights, including employees’ ability to defend themselves from unjust adverse actions.

I am looking forward to hearing the witnesses address these and other issues pertaining to the statutory mission of OSC and MSPB.