

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROE of Tennessee. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

VA ACCOUNTABILITY FIRST ACT OF 2017

GENERAL LEAVE

Mr. ROE of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material in the RECORD on H.R. 1259.

The SPEAKER pro tempore (Mr. BANKS of Indiana). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 198 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1259.

The Chair appoints the gentleman from Kentucky (Mr. ROGERS) to preside over the Committee of the Whole.

□ 1518

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1259) to amend title 38, United States Code, to provide for the removal or demotion of employees of the Department of Veterans Affairs based on performance or misconduct, and for other purposes, with Mr. ROGERS of Kentucky in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Tennessee (Mr. ROE) and the gentleman from Minnesota (Mr. WALZ) each will control 30 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. ROE of Tennessee. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, I rise today in support of my bill, H.R. 1259, the VA Accountability First Act of 2017.

Mr. Chair, you and many other Members of this body are well aware that providing true accountability at the Department of Veterans Affairs has been a goal of mine and many of my colleagues for years. The House has remained committed to this goal and has already passed several iterations of the legislation before us today, yet the challenges remain, which is why we are here once again trying in this Congress to effect real change and reform.

To bring real reform, we need to provide Secretary Shulkin with the tools he needs to swiftly and effectively discipline employees who don't meet the standards our veterans deserve or who fail in their sacred mission to provide world-class health care and benefits to the men and women who have served.

My bill would provide a singular expedited procedure for all VA employees to respond and appeal to proposed removals, demotions, and suspensions for performance or misconduct or, in the case of title 38 employees, who are healthcare providers, for a question involving direct patient care or clinical competence.

The prenotification and response process would be required to be completed within 15 business days, and the employee would be entitled to an expedited appeal to the Merit Systems Protection Board, where the first step at the administrative judge would be limited to 45 days. Additionally, either party would be able to appeal the administrative judge's decision to the full MSPB and would be provided the opportunity for limited judicial review.

H.R. 1259 would also ensure that the disciplinary procedures and avenues to appeal set up by this bill are the only avenues in place for title 5 and hybrid title 38 employees to dispute proposed removals, demotions, and suspensions for longer than 14 days. Pure title 38 employees, mainly VA's physicians and registered nurses, would retain their current internal process, but the timelines for disciplinary action and the appeals process would also be aligned to the timelines for all other VA employees as set up by this bill.

This bill would also provide improved protections for whistleblowers; would allow the Secretary to reduce an employee's Federal pension if they are convicted of a felony that influenced their job at VA; would provide the Secretary with the authority to recoup a bonus provided to an employee who engaged in misconduct or poor performance prior to receiving the bonus; and would allow the Secretary to recoup any relocation expenses that were authorized for a VA employee only through the employee's ill-gotten means, such as waste, fraud, and malfeasance.

Lastly, it would also provide the Secretary with the direct hiring authority that he desperately needs and has been asking for so that we can hire medical center directors and VISN directors in a more expedited manner and fill leadership vacancies across VA.

Mr. Chair, as I have said, I agree with all of my colleagues that the vast majority of VA employees are hard-working public servants who are dedicated to providing quality health care and benefits for veterans. But it is beyond comprehension that, with as much outright malfeasance that Congress, the American public, the media, and our courageous whistleblowers have uncovered at the VA, which has led to the increased scrutiny of the De-

partment over the past few years, that we still see far too many instances of VA employees not living up to the standards America expects and not living up to the standards that our men and women who have served this country deserve.

Knowing many of the instances that have happened at the VA are a slap in the face to our veterans, it is unbelievable to me that anyone would oppose the bill before us here today.

The committee has discovered an instance of an employee showing up drunk to work to scrub in for a surgery on a veteran; a VA employee taking a recovering addict to a crack house and buying him drugs and a prostitute; a VA employee participating in an armed robbery; and senior managers retaliating against whistleblowers, at which point VA then has to pay hundreds of thousands of dollars to the whistleblower in restitution.

Not only are all of these acts egregious and not only are all of these instances factual, they are just the tip of the iceberg; but what causes me to stand before you today is that, in none of these instances, did the VA hold these employees accountable in any reasonable timeframe, if at all.

I blame many factors for this, but mainly I blame an antiquated civil service system and a grievance process set up by the union-negotiated collective bargaining agreements that have left VA unwilling to jump through the many hoops to do what is right.

Mr. Chair, it is well past time that we not allow the current system to continue, and it is certainly our duty to finally take action and enact meaningful changes at VA that put veterans and their families first and foremost. Everything else should come second. That includes the power of the public sector unions.

Everyone in government knows that the civil service laws that were once meant to promote the efficiency of government are now obsolete and make it almost impossible to remove a poor-performing employee. Last year, VA's then-Deputy Secretary Sloan Gibson, under President Obama, sat before the Veterans Affairs' Committee and admitted it was too difficult to fire a substandard VA employee.

The Government Accountability Office studies the government's ability to hold low-performing employees accountable and found that it took 6 months to a year, on average, and sometimes significantly longer, to fire poor-performing government employees.

I have heard the concerns that this bill will hurt the Department's ability to recruit and retain good employees. I don't buy this argument, as every VA employee I speak to tells me exactly the opposite. Good employees want to work in an environment where they know everyone can be held accountable for their actions.

I believe the current status quo of allowing bad employees to continue at

their jobs while receiving a paycheck actually hurts the moral of other employees who are doing the right thing 24 hours a day.

This is the same for employees of the Department who are veterans. I know that some have said that this would hurt veterans who are employed at a VA, since they make up a large percentage of VA employees, as it should be. As a veteran myself, and as my fellow veterans here today would agree—we don't sign up to serve, whether in uniform or civilian clothes, because we put our individual employee protections ahead of the mission—the mission always comes first, Mr. Chair; and at the VA, the mission is our veterans. Veterans want to work alongside colleagues they know are working hard for their fellow men and women they served alongside.

I also want to note that, from day one, I have worked with Secretary Shulkin and his team in the drafting of this bill that is before us today. He has endorsed this legislation not because he wants to punish employees or make it harder to recruit quality employees, but because he sees this type of change as desperately needed if he is going to truly reform the Department, as both sides of the aisle want.

Secretary Shulkin is someone who garnered the trust and respect of two Presidents of two different parties to serve our veterans, and he was confirmed by a vote in the Senate of 100-0. Mr. Chair, I hope that my colleagues would understand that his support and assistance in crafting this bill before us today is because real accountability at the Department of Veterans Affairs is a veteran issue, not a political issue.

It is time that we align ourselves with our Nation's veterans and the organizations that represent them. Fifteen veterans service organizations support the bill before us today: the American Legion, Veterans of Foreign Wars of the United States, Paralyzed Veterans of America, Iraq and Afghanistan Veterans of America, the Military Order of the Purple Heart, Concerned Veterans for America, Student Veterans for America, Reserve Officers Association, Fleet Reserve Association, Association of the United States Navy, the Enlisted Association of the National Guard of the United States, VetsFirst, AMVETS, the Military Officers Association of America, and the United States Army Warrant Officers Association. These are 15 groups that represent millions of veterans and their families.

While I am in no way trying to make this a political argument or say that my colleagues on the other side of the aisle do not care about veterans—they do—but when it comes to this particular issue, accountability at the VA, I do not believe we can avoid the facts:

The facts are, when we talk about accountability at VA during our VSO hearings with the Senate, Members get an ovation.

The facts are that veterans, not just from the headquarters in D.C., but

across this country, come up and thank Members for putting veterans' rights before all else.

The facts are the only groups that have staunchly come out and opposed the reform we are trying to make in this bill are the public sector unions.

As I said, this should not be a political discussion and this should not be one side of the aisle trying to out-veteran the other side of the aisle. We don't want to do that. But when you look at the facts, it is clear what our veterans and what the American public want us to do here in this Congress.

□ 1530

We have a package that makes meaningful changes to VA's civil service system while maintaining due process rights, as we should. Today we have the opportunity to make real and lasting changes to a broken system. Today we can decide to stand with our veterans or we can stand with the status quo and the unions that perpetuate the status quo, which I believe has failed them and the American public for far too long.

I hope you all will join me and the 15 veteran organizations that support this legislation and do what is right for veterans and pass H.R. 1259. Let's put accountability first so that transformative reforms can succeed.

Mr. Chair, I reserve the balance of my time.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,

Washington, DC, March 10, 2017.

Hon. DAVID P. ROE,
Chairman, Committee on Veterans' Affairs,
Washington, DC.

DEAR MR. CHAIRMAN: I write concerning H.R. 1259, "VA Accountability First Act of 2017." As you know, the Committee on Veterans' Affairs received an original referral and the Committee on Oversight and Government Reform a secondary referral when the bill was introduced on February 28, 2017. I recognize and appreciate your desire to bring this legislation before the House of Representatives in an expeditious manner, and accordingly, the Committee on Oversight and Government Reform will forego action on the bill.

The Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 1259 at this time we do not waive any jurisdiction over the subject matter contained in this or similar legislation. Further, I request your support for the appointment of conferees from the Committee on Oversight and Government Reform during any House-Senate conference convened on this or related legislation.

Finally, I would ask that a copy of our exchange of letters on this matter be included in the bill report filed by the Committee on Veterans' Affairs, as well as in the Congressional Record during floor consideration, to memorialize our understanding.

Sincerely,

JASON CHAFFETZ,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, March 10, 2017.

Hon. JASON CHAFFETZ,
Chairman, House Committee on Oversight and Government Reform, Washington, DC.

DEAR CHAIRMAN CHAFFETZ: In reference to your letter on March 10, 2017 I write to con-

firm our mutual understanding regarding H.R. 1259, the "VA Accountability First Act of 2017."

I appreciate the House Committee on Oversight and Government Reform's waiver of consideration of provisions under its jurisdiction and its subject matter as specified in your letter. I acknowledge that the waiver was granted only to expedite floor consideration of H.R. 1259, and does not in any way waive or diminish the House Committee on Oversight and Government Reform's jurisdictional interests over this legislation or similar legislation. I will support a request from the House Committee on Oversight and Government Reform for appointment to any House-Senate conference on H.R. 1259. Finally, I will also support your request to include a copy of our exchange of letters on this matter in the Congressional Record during floor consideration.

Again, thank you for your assistance with these matters.

Sincerely,

DAVID P. ROE M.D.,
Chairman.

Mr. WALZ. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to H.R. 1259. Let me be clear that I rise in opposition not after serving this Nation in uniform for 24 years; not after serving on this committee longer than anyone else on the committee; and not with serving honorably with my friend, the chairman, who—I want to be clear, first of all, where the commonality lies around this issue, about 95 percent of it, you are not going to find daylight between us.

The idea that anyone would put a special interest ahead of the care of a veteran is not only distasteful, it is wrong to assume that. There are legitimate differences on how to get accountability in the VA, and we have come to some conclusions that get us pretty close. This piece of legislation—and I do not condemn the committee because this is truly a bipartisan committee, but, for whatever reason, for the first time in the decade-plus that I have served on this committee, we have brought a bill to the floor without a hearing.

We held a markup and brought it to the floor. The majority has the right to do as they please. What that deprives us of is the ability to build consensus around issues we know we share. I know the chairman's heart is providing absolute best care to every single veteran. I also know the chairman's heart is to make sure that every employee who is doing their job is respected the way they are supposed to be. There is not disagreement on that.

This piece of legislation, and framing it as a false choice between veterans and the employees, the majority of whom are veterans, in many cases, serving other veterans, is a false choice. The chart that was put up, I belong to half those organizations. There is also an organization that is on there that differs from the others because it is a 501(c)(4) with the sole purpose of political attack ads on Members of the opposing party. Leave them off the sheet. The other ones I agree with. The others are 501(c)(3)s advocating for veterans, but for us to pretend this isn't a

proxy fight for outside groups on something bigger is disingenuous and moves us away from the place we should have gotten.

To show you the comity, my friend from Tennessee gave an impassioned, logical, and, in my opinion, correct assessment on the Veterans 2nd Amendment, H.R. 1181. I agree with the chairman on this. I believe we could have built consensus by bringing that through the committee, but it doesn't change the fact that I think the chairman eloquently got to the heart of that. I know what the heart of that was because the majority side used the term over two dozen times, "due process." It matters. These are veterans working in the VA who should have due process to their Second Amendment rights and to their employment rights. It ensures that the working environment attracts and retains the best and brightest.

So let's go through a little bit of what is here. One of the things is, we talk about going back and breaking a sacred pledge. You can disagree what is in the collective bargaining that was done between the administrations, Republican and Democrat, and those employees who work there, but to go in and arbitrarily change that from Congress, how is that due process? How about in the next bargaining agreement you make the case that those things need to be there. I will stand there with you and tell you this: The public sector unions need to give more, because you know what happens if they don't? They get painted with those examples.

I hear some people say there are 350,000 employees in the VA, and they gave five examples of five bad people. You should give those examples. That is unacceptable, horrid, and should never be agreed to. This is a zero sum proposition. If one bad employee gives substandard care, Mr. Chairman, to one veteran, that is a failure, and the majority and the minority are in absolute agreement on that.

But here is what I fear. We have had legislation—and I will offer up an amendment to do this—that has bipartisan support, that has Senate support. We will see if I am right or wrong on this, but I am almost certain—and it is our responsibility in this House not to message things for those outside groups to run attack ads, it is to get things that actually get through.

I am saying today—and I will be the first to come back and tell you I was wrong on this—the process of getting legislation into law to be enacted by the agencies means compromise must be there. I think we come back here in October, this isn't done yet. Why don't we give on the 5 percent that is not agreed upon and get the 95 percent right so we can act to enact it? This is going to be the perfect getting in the way of the good, and I would argue the zeal to get it done in the way of due process.

I do not question the heart of any of my colleagues to get this right. I do

not question—I hope it would not come back to me—the outrage I feel when I hear the story—and I know when the chairman tells me it, it is true—of someone showing up intoxicated trying to provide care to a veteran. How in goodness name is that person not done, not removed, and not moved forward? I will have to tell you this: I have been there on this. I am a public schoolteacher. Do you know who hates a bad public schoolteacher the most? A good public schoolteacher. What really angers me is when management doesn't do their dang job, follow the law and remove those people, and give the due process to them.

The same thing happens in the VA. Management needs to do their job. We have issued subpoenas for Phoenix, we have issued subpoenas for Philadelphia, we have issued subpoenas for St. Paul of people doing egregious things, not caring for veterans. They should come here, and they should lose their jobs. In some cases, they did. Do you know what they all did have in common? None of them were part of a collective bargaining agreement. They were the management. My fear on this is you have bad managers making bad decisions, and if someone speaks up, Mr. Chairman, who is a lower ranking member, their only protection to improve the system is by collectively bargained grievance processes to make sure their due process is heard. That is all we are asking for.

I do not deny there are going to be proxy fights on this. I will not deny that I believe the public sector unions need to be in a partnership with this. I believe we should have had them in a hearing and set those union members down there and asked them: How in God's name can you justify this? Ask them and say: What would help so that we can do this?

I have witnessed this as a public schoolteacher. Beating up on public schoolteachers all the time is not the best way to entice good people to go into public school teaching. I ask people, whether it be teachers or the veterans—go ask your veterans, how many have received quality care at the VA? How many really appreciate that floor nurse who did what he or she was supposed to do? How many are grateful that their cardiac surgeon is one of the best in the world and is choosing to make less money to serve there?

But I won't deny this. We have managers who are unaccountable. This piece of legislation does not get at the heart of it because the teeth are saved for the rank-and-file members. I agree. I think the gentleman is exactly right.

I want to read something. You tell me if this is okay. We had a VA employee who was written up and subsequently fired because they were practicing medicine without a license. That is outrageous. Outrageous that you would go there and you don't have the license, and you are practicing medicine. That person was fired. If we pass this piece of legislation, they are done and they are not coming back.

But there is a little bit different story to this. This was a Navy veteran in Arkansas, and you know what they got it for? Not picking up a scalpel and doing something that a doctor should do, not writing a prescription for an opioid and trying to steal medicine, which does happen. What they did was, they entered the wrong code on a chart, and that got them for practicing medicine without a license.

When they went through the approved negotiated grievance process, not only did they find out that this was wrong to this combat Navy veteran trying to serve other veterans who was discharged by a manager, it turns up the lack of management oversight. It was the entire system was flawed and the chart was wrong. So the grievance process not only returned the employee back to their rightful job, it fixed the system guaranteeing better care for veterans going forward.

So I don't disagree. When we try and make it, the big scary thing is, oh, we have unions that don't care about veterans, don't care about what the care is, and what we need to do is fire those people immediately. Well, you know what? Some of them do need to be fired. But if there is not a process in place—this Navy veteran caring for other veterans was released without due process—we don't find out about a broken system putting veterans' care at risk. That is what is at stake here.

My point is not to disagree. The chairman has insights into veterans that I think are second to none. The committee works together on this. Once again, when you gain the most votes, you get the majority, and I respect that. But I would also say that if we want to build consensus around this, I am going to offer up a piece of legislation that was written by a Republican Senator that has the ability to pass, be signed into law, and will get at the heart of this by going after the managers.

Mr. Chairman, it is important to me, and I know it is important to my chairman, a Vietnam veteran himself, it is important to the staff sitting behind, veterans ourselves, that we not allow what has happened in this country to get into the Committee on Veterans' Affairs, to divide us over talking points when our goals are exactly the same.

When we have legitimate differences, again, I don't think it is fair to me, as a veteran and a union member, to put something up that says you are choosing sides. I am not choosing sides. We are all in this together. What I disagree with is it is my opinion—and I wish I would have had experts testify to this, employment law people, bring the union folks in there, have us have this debate so that we can say: you know what, these changes are good, these won't make a difference.

I respectfully oppose the way this legislation is written. I respectfully totally associate myself with the chairman on why he wants to do it and why he believes that this is best. I only ask,

take a look at some of the improving amendments that can get us all to the same point, and give us the benefit of the doubt that we are not assuming the worst. And I don't—as some have said, this is an attempt to bust unions or bust the civil service system. That is the farthest thing from the chairman's mind. I know that because never, in my experience, has he done anything to disprove that veterans' care comes first, quality of care at the VA comes first, and accountability must go with that. My concern is, this doesn't get us there nor does it have a chance to become into law. With those things, let's come back at it, let's approach it a little differently, and let's find the common ground that is there.

Mr. Chair, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Chair, I yield myself such time as I may consume.

With that impassioned plea, I was asked yesterday on a Facebook page who I might, from the other side of the aisle, like to ride across the country with, and it was my friend TIM WALZ who I would like to ride with. He very passionately represents veterans very well, and it has been an absolute pleasure to work on the committee with him for the last 8 years.

Mr. Chair, just a couple things. The bill subjects all career employees to this new formal removal authority, and this would include frontline employees, middle management, even Senior Executive Service employees. Just a couple more things. It provides a unified process, not a bunch of different ones, for employees to appeal major adverse actions and other actions for title 38 when it pertains to a question involving direct patient care or clinical competence.

The current grievance procedures can allow an appeal to drag on for almost 350 days, and the House is the only legislative body that has passed a true accountability bill. I know, having spoken with Secretary Shulkin yesterday, he very much wants this piece of legislation in his toolbox to help reform the VA, which is desperately needed.

Mr. Chair, I yield 3 minutes to the gentlewoman from Washington (Mrs. McMORRIS RODGERS), our Conference chair.

Mrs. McMORRIS RODGERS. Mr. Chair, I thank our chairman for his leadership on this important issue.

The way that a grateful nation shows its appreciation to those who have served is to make sure that they get the care that they need when the time comes. Every day, veterans contact my office seeking help to address their concerns and help them navigate the VA.

□ 1545

Mrs. McMORRIS RODGERS. Mr. Chairman, the VA has one job. Its sole mission is to serve our veterans—our heroes. But it is clear that too often this agency has become disconnected

from its mission. When a veteran contacts the VA, they should have the red carpet rolled out for them and treated like heroes. Instead, they feel like they are a burden.

The VA Accountability First Act is one of many needed reforms. And it is common sense, if you are involved in misconduct, you should be demoted, suspended, or fired. You shouldn't get a pay raise or a bonus. If you are a whistleblower, you should be protected. And the Secretary of the VA should have the flexibility to hold staff accountable.

I thank the chairman and the committee for their work to create a culture of accountability at the VA. With his leadership and with our partners, I am confident that we will see some positive disruption that puts our veterans first.

Mr. WALZ. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER), my good friend, the distinguished minority whip.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding.

I rise in opposition to this bill, and I adopt many of the premises that my friend, Mr. WALZ, adopted.

I also adopt the premise of Dr. ROE, who is a really dear friend of mine, that TIM WALZ is the kind of guy you wouldn't mind riding across the country with. That is because he is honest, he is knowledgeable, and he is sincere. Frankly, I attribute all of those same characteristics to Dr. ROE.

But, Mr. Chairman, I rise in opposition to this bill. Everybody on this floor agrees that our veterans deserve the best care possible. There is no debate about that. All of us in this House are focused on that goal. But this bill does nothing to meet that goal, in my view. This bill is part of—and I do not ascribe it to Dr. ROE—a significantly long history of a partisan effort to scapegoat Federal civil servants that has been going on for decades, long before Dr. ROE got in it or Mr. WALZ got in it.

It is a follow-on to the dangerous hiring freeze the Trump administration imposed in January and the repeated attempts over the last several years to extract more and more cuts from Federal employees' pay and benefits, which contributed over \$150 billion in cuts in pay and benefits over the last 6 years. Stripping away the rights of VA employees to work in a nonpartisan, professional environment will not improve the care our veterans and their families deserve and expect from the VA medical system.

This bill, in my view, would undermine the collective bargaining rights—I am a very strong supporter of collective bargaining rights—of VA employees serving as doctors, nurses, physical therapists, and others in critical jobs, and disrupt the collaborative relationship between VA managers and employees that is essential to a successful workplace environment.

Many years ago—almost 100 years ago—we adopted a civil service system.

The premise of that system is we ought to have professional employees—not political employees, not political appointees—not subject to change because of the political whims that may be blowing one way or the other. This bill risks demoralizing those who have tirelessly been working to help our veterans reintegrate into civilian life in communities across this country.

Let me make it clear—and I am sure Dr. ROE is not surprised when I say this—that I agree with Mr. WALZ. If there is an employee who is not performing well, that employee ought not to be kept on. But this bill removes the process that was negotiated, or could be negotiated, in a collective bargaining way. And if, by the way, it takes 300-plus days, then perhaps this legislation could deal with that to shorten it. There are ways this could be dealt with that, in my view, will not undermine the civil service protections that are important not only for the employees, but for the system itself.

I have no doubt there are measures that can be adopted to improve VA performance and effectively and fairly discipline employees who engage in misconduct. We ought not to tolerate that. But this bill does not include them. I have not read Senator ISAKSON's bill, but perhaps that is closer, and I look forward to reviewing it with both the chairman and the ranking member.

This bill goes too far, shreds basic due process rights, in my view, and punishes even model employees. And let me say as an aside, when I say it undermines basic due process rights, part of those rights are to have some time to get representation, to thoughtfully respond, to have some discovery as to what is going on here, what is being alleged, why is it being alleged, and who is alleging it. This bill eviscerates that, in some respects.

I am proud to represent 62,000 Federal employees in Maryland's Fifth District, including many who work at the VA's clinic in Charlotte Hall and in Camp Springs in the neighboring Fourth District. We ought to remember, Mr. Chairman, that when we undermine our Federal workforce and our ability to recruit and retain the best and brightest, we undermine our government's ability to serve the American people. So this is not just about present employees. It is about those who might consider employment in the future.

Mr. Chairman, I hope we don't make the mistake of, in effect, throwing the baby out with the bath water. Let's not take away the rights and protections of those who serve us so ably.

But, yes, I agree with Dr. ROE and with Ranking Member WALZ. If there are those who are not serving us well, yes, there ought to be a process; it ought to be fair, it ought to provide time in which to respond, not interminable time, so that we can have an agency of which we can be proud and does what we all want—serve our veterans in a way that we would expect,

demand, and that we are morally obligated to give.

Mr. ROE of Tennessee. Mr. Chairman, also during that live Facebook page, I mentioned another person I wouldn't mind riding across the country with, and it was Mr. HOYER, just to clarify the RECORD.

Mr. Chairman, just a couple of clarification things.

All we have done with this bill is—we haven't removed due process rights—we have just shortened the time. And to show the concern that I had, I was afraid that if we used 14 or 15 calendar days—let's say, President's Day would be on a Monday, which would be a holiday—that would take a day away. So I said let's make this first part of this 15 business days. So that is 3 weeks. And then the accelerated review can go on 45 business days, which is 9 weeks. So this is 3 months of time, not a full year. But it simply compresses that time into a 3-month timeframe that this could last. So I think that people have their due process rights protected.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. BILIRAKIS), my good friend, vice chair of our committee.

Mr. BILIRAKIS. Mr. Chairman, I have enjoyed working with my chairman, and, of course, our ranking member, on behalf of our true American heroes over the years, and we have got much more good work to do for our heroes.

Mr. Chairman, too often, the VA has failed to hold employees accountable when they do not uphold their duty to care for those who served.

The vast majority, as has been said by our chairman, are hardworking and dedicated to our Nation's heroes. But those bad actors are harmful to veterans and the VA's reputation as a whole. They must be fired. If a VA employee fails in their duty to care for veterans, they should be removed, as I said, from their post swiftly, no matter how senior their position.

It is unacceptable that it can take a year, or even longer, to remove, demote, or suspend a VA employee. The VA Accountability First Act would remove those bureaucratic roadblocks and rid the agency of its toxic culture of mediocrity.

The bill would also safeguard whistleblowers—that is necessary—from retaliation and protect employees' due process rights.

I am proud to cosponsor the VA Accountability First Act, and I strongly urge passage.

Mr. WALZ. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. TAKANO), my good friend, the vice ranking member of the full Committee on Veterans Affairs.

Mr. TAKANO. Mr. Chairman, I thank the gentleman, Sergeant Major WALZ from the State of Minnesota, for yielding me time.

I also would like to say to the chairman, we had a wonderful time traveling to Afghanistan to pay respect to

our troops during Thanksgiving. I don't have to travel across the country with him, but I did travel halfway around the world with him.

Mr. Chairman, I rise in opposition to H.R. 1259.

Every Member of Congress supports accountability for employees at the Department of Veterans Affairs—everybody. Building a culture of excellence at the VA is critical to providing veterans the care and support they deserve.

However, H.R. 1259 does not further this goal, or improve outcomes at the VA. We are not going to be able to fire our way to better outcomes at the VA.

The question posed by the VA Accountability First Act is whether accountability or workers' rights are mutually exclusive. I, along with many of my colleagues, believe we can respect VA employees—a third of whom are veterans themselves—while also ensuring that poor-performing employees are held accountable.

This legislation violates workers' rights in two very specific ways:

First, it would erode due process protections by giving employees too little time—just 10 days—to prepare for a disciplinary hearing, and then just 7 days to file an appeal with the Merit Systems Protection Board.

Second, it goes much further than past accountability bills by eliminating the use of collectively bargained grievance procedures for front-line VA employees. Not only do collectively bargained procedures often lead to quicker and simpler solutions, but they also give added protection to potential whistleblowers by acting as a check against managers who may retaliate against an employee who raises an issue.

Mr. Chairman, there is no question that we have workforce challenges at the VA, but this bill does not solve them. Instead, it eschews the Senate's bipartisan accountability legislation in favor of a much more one-sided bill.

To my colleagues who voted on VA accountability legislation in the past: This is not the same bill. It goes much further. And I ask you to join me in opposing it.

This is the first time the majority has targeted collective bargaining at the VA in this way. Your vote against this bill today will show that you oppose this very tactic.

If we are serious about providing veterans the best care possible, we should focus on removing the Federal hiring freeze, advancing the appeals modernization bill, and other bipartisan efforts that will immediately improve veterans' access to high-quality care and support.

Mr. Chairman, I include in the RECORD a letter from the American Federation of State, County and Municipal Employees in opposition to this bill, a letter from the American Federation of Government Employees, as well as a letter from the American Federation of Labor and Congress of Industrial Organizations.

AFSCME,
March 15, 2017.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 1.6 million members of the American Federation of State, County and Municipal Employees (AFSCME), I'm writing to urge you to oppose H.R. 1259, which would eliminate collective bargaining rights and fundamental due process rights of employees at the Department of Veterans Affairs (VA).

The bill makes it easier to fire people for a good reason or a bad reason. By eliminating merit-based principles for workers facing a removal, demotion or suspension, the bill makes it easier for management or political appointees to scapegoat employees that advocate strongly for the veteran patients they serve. Basic civil service due process rights are necessary to block corruption, patronage, discrimination, and political pressure to cover up problems in the delivery of services to veterans.

The bill destroys the right of registered nurses and other front-line VA employees to use a union grievance procedure to efficiently and fairly address proposed adverse employment actions. This is union busting.

This bill will not help improve the care to veterans from the VA but rather make such care politicized and subject to corrupting and corrosive influences unrelated to quality. Moreover, this bill sets a dangerous precedent that could subsequently harm more than one million additional federal workers in other agencies and occupations, and the public they serve. We urge you to vote against H.R. 1259.

Sincerely,

SCOTT FREY,
Director of Federal Government Affairs.

AFGE,
March 7, 2017.

Re AFGE Opposition to H.R. 1259.

Hon. PHIL ROE,
Chairman, House Veterans' Affairs Committee,
Washington, DC.

Hon. TIM WALZ,
Ranking Member, House Veterans' Affairs Committee,
Washington, DC.

DEAR CHAIRMAN ROE AND RANKING MEMBER WALZ: I am writing on behalf of nearly 700,000 federal employees represented by the American Federation of Government Employees, AFL-CIO (AFGE), including 230,000 employees of the Department of Veterans Affairs (VA) to urge you to oppose H.R. 1259, a bill introduced by Representative Phil Roe (R-TN) to eliminate collective bargaining rights and significantly cut the due process rights of employees facing a proposed removal, demotion, or suspension (adverse action).

H.R. 1259 is a direct assault on the union rights of every VA employee, including more than 120,000 veterans within the VA workforce. This bill will hurt, not fix, the VA. It will reverse the significant improvements made over the past two years, and will make it harder for veterans to get the veteran-centric medical care and benefits on which they rely.

In addition to punitive, counterproductive due process attacks recycled from earlier bills, H.R. 1259 breaks new ground by union-busting. The bill destroys the right of every VA front line employee to use union grievance procedures to efficiently and fairly address proposed adverse actions. The grievance procedure is not only part of the law but also part of the contract negotiated between labor and management. The only avenue that VA front line employees will have left is a rushed management-run appeals process that does not allow good employees enough time to gather the evidence they

need to defend their jobs. For medical professionals facing proposed adverse actions related to professional conduct or competence, the reductions in the timeframe for the agency review process are more severe, even though their cases typically involve complex medical issues.

In addition, all front-line employees and managers will have weaker rights to appeal to the Merit System Protection Board (MSPB), their first chance at an independent review. They will only have seven days to appeal to the MSPB after they are fired (and off the payroll), and the bill ties the hands of the MSPB Administrative Judge (AJ) with the recycled "one-size-fits-all" prohibition against mitigating the penalty, regardless of the facts of the individual case.

When the employee loses at the MSPB (which happens in 80% of cases now), he would have only seven days to prepare an appeal to the United States Court of Appeals for the Federal Circuit.

How does this impact the life of a veteran working in a VA? What if a veteran working in a regional office processing claims is trying to do his job in the face of unfair allegations of poor performance by a manager who did not want to hire a veteran and did not train him properly before rushing him onto the job? It means that he only has ten days to gather all the evidence he needs to respond to a proposed removal and his manager only has five days to decide whether to go ahead and fire him. Therefore, 15 days after learning that he may be fired, he has no job and no paycheck. Then he has one week to get his appeal to the MSPB, during which he must hire an attorney if he can afford one, where the AJ cannot give him a suspension or demotion even if the judge believes that the facts dictate a less severe punishment than removal. When the MSPB upholds the decision to fire him, he has just one week to prepare his appeal to a federal appeals court (and again, hire an attorney if he can afford one), while he is without a job and without a paycheck.

Just last month, Chairman Roe stated that "the men and women who have fought for our great nation should never have to struggle to find a job," but his bill attacks every option that veterans in the VA workforce have to save their jobs in the face of unjustified firings.

Chairman Roe has also expressed his intentions to reduce mismanagement at the VA, but his bill weakens the critical protections that VA employees need to speak up against mismanagement and patient harm. Every day, employees throughout the VA report concerns to management that directly impact patient safety, health care access, processing of disability claims, and many other functions essential to the agency mission.

Chairman Roe opposes the hiring freeze because he understands how critical it is for veterans who depend on the VA to have a "robust clinical workforce." Yet his bill singles out VA employees, including every clinician caring for veterans, for worse treatment than other federal employees through recoupment of compensation already earned, including pensions, relocation bonuses, and performance bonuses. These provisions are unnecessary and violate due process. There are already ample safeguards in the law against retention of improper relocation and performance bonuses, and the VA has already dismantled the relocation bonus program that was the subject of abuse allegations. In addition, this bill directly contradicts private sector law that forbids the recoupment of pensions.

Thank you for considering the views of AFGE. If you need more information, please contact Marilyn Park of my staff.

Sincerely,

J. DAVID COX, Sr.,
National President.

AFL-CIO,
March 8, 2017.

Hon. PHIL ROE,
Chair, House Veterans' Affairs Committee,
Washington, DC.

Hon. TIM WALZ,
Ranking Member, House Veterans' Affairs Committee,
Washington, DC.

DEAR CHAIRMAN ROE AND RANKING MEMBER WALZ: On behalf of the AFL-CIO, I urge you to reject the VA Accountability First Act (H.R. 1259), introduced by Chairman David Roe. H.R. 1259 is a thinly veiled effort to destroy union rights and shift the blame for management failures at the VA onto the backs of front line employees.

The bill severely truncates the appeals process in current law and destroys grievance procedures that have been successfully used throughout the federal government to provide stability and protection against arbitrary treatment, and with it any guarantee that employees will feel safe speaking out against mismanagement or to protect patient safety.

Rather than building a culture of trust at the VA, H.R. 1259 would turn back the clock to an era when employees could be fired with the slightest justification and almost no opportunity to mount an effective defense. Worse, the bill would single out VA employees for harsher treatment than other federal workers, including the recoupment of compensation already earned without adequate due process, including pension benefits, and relocation and performance bonuses.

The Roe bill reflects the Chairman's opposition to collective bargaining and the crucial role labor organizations play in giving federal workers a voice on the job. For the 120,000 veterans who work at the VA, this bill is not only a slap in the face but a betrayal of the promise that they would be guaranteed fair treatment if they came to work for the federal government.

We urge you to reject H.R. 1259.

Sincerely,

WILLIAM SAMUEL, Director,
Government Affairs Department.

Mr. ROE of Tennessee. Mr. Chairman, I thank my friend, Mr. TAKANO.

"If you engage in an unethical practice, if you cover up a serious problem, you should be fired. Period. It shouldn't be that difficult." President Barack Obama, at the Choice Act's signing in 2014.

Dr. Shulkin is not a hard-line person. He received 100 votes, Mr. Chairman, in the Senate. I don't know that anybody else in this confirmation process has come close to that, but he has had unanimous support. He has asked for this. We worked with his office. He has personally asked that this be passed. That is why we are bringing this bill down here in this form.

Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. COFFMAN), one of my great friends here in Congress, a fellow classmate. We came in together. We, too, have traveled to Afghanistan together to visit our Active Duty military in combat. He, too, is a combat veteran.

□ 1600

Mr. COFFMAN. Mr. Chair, I thank the chairman for yielding.

Today, as a veteran of both the Army and the United States Marine Corps, I rise on behalf of all those who have called, written, and stopped by my office seeking reform and accountability of the Department of Veterans Affairs.

I, along with the chairman and my colleagues on the House Committee on Veterans' Affairs, introduced H.R. 1259, the VA Accountability First Act of 2017. Today the House will vote to ensure the VA can hold its employees accountable for their actions and make sure that this agency remains committed and connected to its sole mission of serving our Nation's veterans.

Additionally, this bill would provide improved protections for whistleblowers to ensure those brave enough to tell Congress and the American people what is really happening at the VA are protected.

After the wait-time scandal in Phoenix and the over \$1 billion cost overrun at the Aurora VA hospital, it is time that we reform the VA's culture of corruption and bureaucratic incompetence. This legislation will help the VA meet our Nation's obligations to the men and women who have made tremendous sacrifices on behalf of our freedom.

Mr. WALZ. Mr. Chairman, may I inquire how much time I have remaining?

The Acting CHAIR (Mr. POE of Texas). The gentleman from Minnesota has 10 minutes remaining.

Mr. WALZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chair, you are hearing it here, and these are folks, we work together. This idea of accountability matters deeply to all of us. We know when you are in any business, this business—we have had colleagues of ours in here be arrested for buying cocaine from undercover police officers in Washington, D.C.

Well, that brings great discredit to every single one of us, but I certainly don't think it requires all of us, then, to go through the same thing that person is going through or deprive us our rights of where we are at. This idea of due process, and what we are asking about, is not something meant to protect a bad employee. In fact, it is just the opposite. It is meant to improve the workforce.

My plea on this is—much of this bill, there is agreement on, Mr. TAKANO was right—it went a step further. Having been a rank-and-file person in a collectively bargained unit, my goal was to provide the best quality education so our students could learn—an environment, quality teachers, and all of those things.

I am at a loss for the desire to come here and decide that, and again, we say it in passing: Well, I don't want to deride all of those really good employees who are there. I just want to take away their collectively bargained right that was there.

Even though we can give example after example, like Robert. He was a

service-connected disabled Navy veteran with over a decade of experience at the Veterans Benefits Administration. He was demoted after consistently, every single year, receiving highly satisfactory or top-rated performance reviews. Robert volunteered to be part of a quality review team to get rid of the backlog, and he had the audacity to tell his manager that there were better ways we could do this. Perhaps all of this overtime pay and consolidating all of these claims to one place was not in the best interest of that. That manager, on the way out the door, demoted and tried to remove Robert from that position.

Now, keep in mind, that same manager, all of those years before, had rated him well. Well, maybe something happened. Maybe Robert started doing something wrong. Maybe Robert wasn't that good an employee.

But again, under this piece of legislation, Robert's collectively bargained right—which he used and grieved it and got back his job, and subsequently, the manager had problems on their performance reviews, where it came from.

So again, don't set this up as if everything is wrong.

And I would make note of this: We are doing our best to attract the best and brightest to the VA. Nobody is defending the bad. But when I hear folks come to the floor and it is nothing but what a horrific place this is, I leave this for you, Mr. Chairman.

I also have the privilege of representing America's premier medical institution in the Mayo Clinic, and I look at what they do. Folks at Mayo Clinic will tell me some of the finest cardiac surgeons in the world are at the Minneapolis VA.

I will also tell you this. If you, in America, go to any hospital—Dr. ROE can attest to this—the thing that you should probably be most worried about and the thing that kills most people—over 90,000 a year—is hospital-acquired infections.

Do you know who does it better and has the lowest rate, better than Mayo Clinic, better than Johns Hopkins? The VA. So somebody among those rank-and-file members who is cleaning the operating rooms and cleaning the equipment is doing so in a manner that is better than any other.

What message are we sending them today? If a manager doesn't do their job and decides they want to fire you, we are going to lump everybody together. I just ask, once again, to my colleagues, to this body, these are things that should have been debated in a hearing. We should have brought in the experts.

Here is what I think. I think you would build a broader coalition—because I have to be very honest with you. I think our public sector unions could help us and step up and say: What was the real situation here? How do you respond to this egregious breach of trust? And what do you think would be a better way?

I am not saying they would give us a suggestion. I want to be very honest and not disingenuous. They may not answer us. We should have at least asked them: What would you do to make this better? What could speed it up, and what could protect them?

We didn't do that because we didn't have a hearing, and I think that stops building the consensus. I think it makes it harder to get this.

I will tell you this. The bill I keep referencing that was over in the Senate had 45 Senate cosponsors. Good luck getting 45 of them to agree today. It is Thursday, and we did it on an accountability plea that also had the support of every single one of those groups on there, except one, to support that piece of legislation.

So we went a step further. We didn't have a hearing. We tried to let outside groups frame this as a veterans versus public sector union folks, who were also veterans. That is not what it is. We just need to get it right.

Mr. Chair, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Chair, I yield myself such time as I may consume.

Mr. Chair, I think my good friend, Mr. WALZ, helps make the point that this person who was aggrieved, it doesn't have to last so long. You can actually compress this time. As I mentioned, it is not short; 3 months to get this resolved. But this process we are putting together actually helps that person that has been aggrieved by the supervisor, I would argue.

Mr. Chair, I yield 1½ minutes to the gentleman from Florida (Mr. DUNN), a new member of our committee, a veteran and physician from Florida.

Mr. DUNN. Mr. Chair, I rise in support of H.R. 1259, the VA Accountability First Act of 2017.

President Lincoln reminds us of our duty “to care for him who shall have borne the battle,” and, frankly, our government has done a miserable job of it.

While a large number of VA employees honorably serve our veterans, that is not always the case. In the real world, if you don't do your job, you get fired. Yet we have employees at the VA who are guilty of gross misconduct, even major felonies, and they are still on the job.

“Why is this?” you ask. Because the process to fire them is too arduous. The VA system that lives up to our veterans' sacrifices starts with personnel. The VA Accountability First Act is a great first step in addressing poor performance and misconduct at the VA. It will allow Secretary Shulkin to make substantive changes as he works to improve veterans' care.

We need to make the VA work for our veterans instead of our bureaucrats.

Mr. WALZ. Mr. Chair, I yield myself such time as I may consume.

Again, we are not going to find a lot of disagreement.

I will tell you what a good first step would be: hire some surgeons. There are openings there. This is our first salvo at trying to fix the VA. We have an appeals bill that every single veterans service organization agrees: appeals modernization. We have worked that thing through. We have had the language. It is not here.

We have a Choice bill that is expiring August 7. We have had a hearing with the VA Secretary, and that is the way it should have been. It is not here today.

What we have is a bill that did not go through regular order, a bill that obviously didn't build a consensus, and this is very unusual to have a bill from the VA Committee. I bet you 90 to 95 percent of the time when one hits this floor, it gets 300 to 400 votes up on that board, but this one is not.

So, again, if the contention is that Members of this House don't care if there is a bad employee working there, that is disingenuous and wrong. But if we do believe, putting it in place—and again, the example I gave, the chairman is right. It took Robert 6 weeks to get all of the information gathered together because the manager who left was holding on to it and had to get the union to force the release of that information. His 14 days would have come and gone, and that is it.

This is why, sometimes, I am not going to defend 400 days. That is ridiculous. I am not going to spend—if they are dragging their feet. But this guy got fired by a manager, got demoted down, wanted to get the information. The outgoing manager said, “It isn't my problem.” The union had to go—and had to go, in this case, almost to court—to get the information back to them so he could present a case that said exactly what was ruled upon: You got fired illegally by a bad manager.

I am telling people, if you are angry when things go wrong at the VA, you have got 330 million Americans who are with you. We have subpoenaed them. None of them were collectively bargained. The problem is in management and middle management not doing their job.

Do your work.

You know what would be great is if the management actually did what they are supposed to do and improved bad performance before it gets to a point where it causes problems and you actually improve that employee, which saves us money from having to go out and hire someone else and you have the system working better. But to watch something go wrong, not do your due diligence, not follow the law, then fire someone and then complain that it takes too long to fix it, how about we figure out what really gets, keeps, retains, and makes the VA better?

There are other places that we could work on. Ninety percent of it, you have got my agreement. I think you are going to see that 10 percent is going to ensure this does not get into law; and that, in itself, is simply wrong because

no one disagrees. We could make this system work better.

Mr. Chair, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Chair, I will just point out that I don't think the VA has a reputation of firing too many people.

Mr. Chair, I yield 1 minute to the gentleman from Florida (Mr. RUTHERFORD), a new Member, and a very active member of our committee.

Mr. RUTHERFORD. Mr. Chairman, I thank my colleague from Tennessee for this opportunity.

I rise today, Mr. Chairman, in support of H.R. 1259, the VA Accountability First Act, because our veterans deserve to receive the best care possible, and our VA personnel deserve to work alongside only the best qualified and professional caregivers.

Mr. Chairman, I am proud to serve almost 100,000 veterans in northeast Florida, and this important bill will ensure that veterans throughout the Nation get the care and respect that they have earned.

In addition, thousands of good and caring VA employees dedicate their lives to serving our veterans in some of their greatest times of need. But it is unfair—unfair—to these many hardworking VA employees when those working alongside of them engage in misconduct and they are not held accountable.

Mr. Chairman, our veterans deserve better, and our caring, hardworking VA employees deserve better. As has been stated multiple times, this bill does not eliminate employee due process. My colleagues and I in Congress carry a sacred obligation to our veterans, have a sacred obligation to our Nation to improve accountability at our VA.

Mr. WALZ. Mr. Chair, after the gentleman finishes with his speakers, I will close.

I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Chair, I would like to inquire as to the balance of my time.

The Acting CHAIR. The gentleman has 9 minutes remaining.

Mr. ROE of Tennessee. Mr. Chair, I yield 3 minutes to the gentleman from Utah (Mr. CHAFFETZ), the chairman of the Oversight and Government Reform Committee, a fellow classmate.

□ 1615

Mr. CHAFFETZ. Mr. Chair, I really appreciate what Chairman ROE of Tennessee is doing. He pours his heart and soul into one of the most important issues and things we can deal with here in Congress and, that is, helping our veterans.

Veterans step up and serve in our military. I stand in awe. They do the heavy lifting. They run through the fire. They engage. Then they come home, and we have got to do a better job of taking care of those people who take care of us.

The Veterans Administration, just like the rest of Federal Government,

has a lot of good people who actually work there, do care, and have big hearts. With a government of more than 2 million people, every once in a while you come across some bad apples. They may be a poor performer, or they may just have their heart in a different place, and we have got to deal with these bad apples.

While you have a whole set of people who are actually trying to do the right thing, you are going to run into some people every once in a while who aren't doing the right thing, and you have to be able to dismiss them.

Now, the Oversight and Government Reform Committee has jurisdiction on the Federal civilian workforce, and we have worked closely with Chairman ROE of Tennessee to help make this possible.

Through the last couple of years that I have been chairman of the Oversight and Government Reform Committee, we have heard a number of accounts where Federal employees couldn't be disciplined fast enough. It was obvious what they had done, but they had run into roadblocks in being able to dismiss people.

We heard horror stories from the Environmental Protection Agency where there was a sexually harassed intern that lasted for 3 years. It took 5 weeks to process the harasser's removal proceedings.

We heard the Government Accountability Office come and testify before our committee that it can take 6 months to a year to remove a Federal employee for poor performance. You know what? That isn't good enough. When you have a bad apple and somebody is misusing the system and they are not performing, they are hurting our veterans. And when they are hurting our veterans, I take that personally. Everybody should take that personally. Nobody wants to see that happen.

So this bill, H.R. 1259, is a very important bill to accelerate that process. Again, let's remember that most of the people who work there are good, hardworking, patriotic people who care. But when you do have a bad apple and you do need to get rid of that person, we have to have an expedited removal proceeding.

I know this bill does a number of things, but I can tell you, having heard testimony time and time and time again in a variety of Federal agencies, especially the VA, this is a much-needed bill.

We are going to work as a committee to implement reforms like this governmentwide. To put the Veterans Administration first and deal with this first, I think, is the right priority of this Congress.

Again, hats off to Chairman ROE of Tennessee and the committee as a whole for addressing this so aggressively and so early in the 115th Congress.

I urge passage of H.R. 1259.

Mr. WALZ. Mr. Chairman, I would say that I am pleased that the gen-

tleman from Utah (Mr. CHAFFETZ) is going to use the Oversight and Government Reform Committee to provide oversight of this administration. I welcome it. I have some suggestions for some other oversight of the administration, and I would be glad to share them.

I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. BANKS), a new member of our committee who is also in the Reserves serving our Nation in the military.

Mr. BANKS of Indiana. Mr. Chairman, let me first commend the gentleman from Tennessee (Mr. ROE) for his leadership on this issue and so many others on behalf of our veteran population.

As a veteran myself of the war in Afghanistan, I have a deep commitment to ensuring that my fellow veterans receive the proper care and treatment that they have earned by serving our country. That is why I am proud to be an original cosponsor of the VA Accountability First Act.

This bipartisan legislation will give Secretary Shulkin the tools that he needs to change the dysfunctional culture of the VA. It has been 3 years since the wait list at VA facilities became public, yet too many of our veterans deal with VA employees who engage in misconduct that could endanger their lives.

Too often, it takes months or even years to remove those employees. Worse still, sometimes these employees are not removed at all. Most VA employees, though, are hardworking and dedicated people, which makes it that much more unfair when the VA can't or won't hold bad employees accountable.

We can and must do better, and this bill is a first step in that process.

The Acting CHAIR. The time of the gentleman has expired.

Mr. ROE of Tennessee. Mr. Chair, I yield an additional 30 seconds to the gentleman.

Mr. BANKS of Indiana. The bill would shorten the time it takes to fire a VA employee for misconduct, give the Secretary the discretion to both revoke bonuses previously paid to employees engaging in misconduct and reduce pensions of employees found guilty of felonies while on the job, and provide improved protections for whistleblowers.

These are commonsense proposals supported by many veterans' groups. This bill is also supported by Secretary Shulkin. It is a no-brainer, and that is why I support it.

Mr. WALZ. Mr. Chairman, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. LAMBORN), a good friend and long-term member of the Veterans' Affairs Committee.

Mr. LAMBORN. Mr. Chairman, I thank Chairman ROE of Tennessee for

his leadership on this legislation and also for letting me speak.

I rise today in strong support of H.R. 1259, the VA Accountability First Act. For years, my colleagues and I have fought hard to hold VA bureaucrats accountable. The VA still lacks the ability to take swift action against employees who prevent veterans from getting the benefits that they have earned.

We should be able to terminate senior executives at failing hospitals that force veterans to languish on secret wait lists. We should not award bonuses to poorly performing employees who engage in misconduct, and we shouldn't provide full retirement benefits to convicted criminals whose crime harmed veterans.

We can't stop there. We must go further to pursue bold reform at the VA. I look forward to working with Chairman ROE of Tennessee, Chairwoman MCMORRIS RODGERS, and others to pass the Caring for Our Heroes in the 21st Century Act, which would finally empower veterans, including the almost 100,000 in my congressional district in Colorado, to make their own healthcare decisions.

Let's pass H.R. 1259 today. It is a good piece of legislation.

Mr. WALZ. Mr. Chair, may I inquire how much time I have remaining?

The Acting CHAIR. The gentleman from Minnesota has 1 minute remaining.

Mr. WALZ. Mr. Chair, I am glad we got an opportunity to debate this, which is what we should do. There is no disagreement that we need to hold folks accountable. We need to get the best people at the VA. We need to commit to improving the VA the best we can.

My respect and admiration for the chairman is as it has always been, the highest it can be. I know his heart and his intellect is aimed at that. We have some legitimate differences on this. I don't believe they are so big they can't be overcome. I do believe we should try and keep this away from the partisanship that so often engulfs this House.

My commitment to Chairman ROE of Tennessee is to do the best I can to continue to try and improve upon these. We have a lot more work to do that will be happening together to improve the care of our veterans.

I yield back the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, to go along with what Sergeant Major WALZ said, it is truly a privilege to work with him on these issues. His heart is in the right place. He truly cares about veterans.

I believe this bill, though, does do what needs to be done. Secretary Shulkin—approved 100-0 in the Senate—believes that he needs this tool to be able to reform the VA. I think it is imperative that we, as legislators, provide him the tools when we say we demand accountability at the VA.

Once again, I encourage all Members to support H.R. 1259.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

It shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-7. That amendment in the nature of a substitute shall be considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “VA Accountability First Act of 2017”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

Sec. 3. Removal, demotion, and suspension of employees based on performance or misconduct.

Sec. 4. Reduction of benefits for Department of Veterans Affairs employees convicted of certain crimes.

Sec. 5. Authority to recoup bonuses or awards paid to employees of Department of Veterans Affairs.

Sec. 6. Authority to recoup relocation expenses paid to or on behalf of employees of Department of Veterans Affairs.

Sec. 7. Time period for response to notice of adverse actions against supervisory employees who commit prohibited personnel actions.

Sec. 8. Direct hiring authority for medical center directors and VISN directors.

Sec. 9. Time periods for review of adverse actions with respect to certain employees.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. REMOVAL, DEMOTION, AND SUSPENSION OF EMPLOYEES BASED ON PERFORMANCE OR MISCONDUCT.

(a) **IN GENERAL.**—Subchapter I of chapter 7 is amended by adding at the end the following new section:

“§ 719. Employees: removal, demotion, or suspension based on performance or misconduct

“(a) **IN GENERAL.**—The Secretary may remove, demote, or suspend an individual who is an employee of the Department if the Secretary determines the performance or misconduct of the individual warrants such removal, demotion, or suspension. If the Secretary so removes, demotes, or suspends such an individual, the Secretary may—

“(1) remove the individual from the civil service (as defined in section 2101 of title 5);

“(2) demote the individual by means of a reduction in grade for which the individual is qualified, that the Secretary determines is appropriate, and that reduces the annual rate of pay of the individual; or

“(3) suspend the individual.

“(b) **PAY OF CERTAIN DEMOTED INDIVIDUALS.**—(1) Notwithstanding any other provision of law, any individual subject to a demotion under subsection (a)(2) shall, beginning on the date of such demotion, receive the annual rate of pay applicable to such grade.

“(2) An individual so demoted may not be placed on administrative leave during the period during which an appeal (if any) under this section is ongoing, and may only receive pay if the individual reports for duty or is approved to use accrued unused annual, sick, family medical, military, or court leave. If an individual so demoted does not report for duty or receive approval to use accrued unused leave, such individual shall not receive pay or other benefits pursuant to subsection (e)(5).

“(c) **NOTICE TO CONGRESS.**—(1) Not later than 30 days after removing, demoting, or suspending an individual employed in a senior executive position under subsection (a) or after removing, demoting, or suspending an individual under chapter 74 of this title, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives and to each Member of Congress representing a district in the State or territory where the facility where the individual was employed immediately before being removed, demoted, or suspended is located notice in writing of such removal, demotion, or suspension. Such notice shall include the job title of the individual, the location where the individual was employed immediately before being removed, demoted, or suspended, the proposed action, and the reason for such removal, demotion, or suspension.

“(2) Not later than 30 days after the last day of a fiscal year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report listing all removals, demotions, and suspensions under this section or under chapter 74 of this title during such fiscal year. Each such report shall include the job title of each individual removed, demoted, or suspended, the location where the individual was employed immediately before being so removed, demoted or suspended, the proposed action, and the reason for such removal, demotion, or suspension.

“(3) In this subsection, the term ‘senior executive position’ means, with respect to a career appointee (as that term is defined in section 3132(a)(4) of title 5), a Senior Executive Service position (as such term is defined in section 3132(a)(2) of title 5).

“(d) **PROCEDURE.**—(1) Subsection (b) of section 7513 of title 5 shall apply with respect to a removal, demotion, or suspension under this section, except that the period for notice and response, which includes the advance notice period required by paragraph (1) of such subsection and the response period required by paragraph (2) of such subsection, shall not exceed a total of 10 business days. Subsection (c) of such section and section 7121 of such title shall not apply with respect to such a removal, demotion, or suspension.

“(2) The Secretary shall issue a final decision with respect to a removal, demotion, or suspension under this section—

“(A) in the case of a proposed removal, demotion, or suspension to which an individual responds under paragraph (1), not later than five business days after receiving the response of the individual; or

“(B) in the case of a proposed removal, demotion, or suspension to which an individual does not respond, not later than 15 business days after the Secretary provides notice to the individual under paragraph (1).

“(3) The procedures under chapter 43 of title 5 shall not apply to a removal, demotion, or suspension under this section.

“(4)(A) Subject to subparagraph (B) and subsection (e), any removal, demotion, or suspension under subsection (a) may be appealed to the Merit Systems Protection Board, which shall refer such appeal to an administrative judge pursuant to section 7701(b)(1) of title 5.

“(B) An appeal under subparagraph (A) of a removal, demotion, or suspension may only be made if such appeal is made not later than 7 days after the date of such removal, demotion, or suspension.

“(e) EXPEDITED REVIEW.—(1) Upon receipt of an appeal under subsection (d)(4)(A), the administrative judge shall expedite any such appeal under such section and, in any such case, shall issue a final and complete decision not later than 45 business days after the date of the appeal.

“(2) Notwithstanding section 7701(c)(1)(B) of title 5, the administrative judge shall uphold the decision of the Secretary to remove, demote, or suspend an employee under subsection (a) if the decision is supported by substantial evidence. If the decision of the Secretary is supported by substantial evidence, the administrative judge shall not mitigate the penalty prescribed by the Secretary.

“(3)(A) The decision of the administrative judge under paragraph (1) may be appealed to the Merit Systems Protection Board.

“(B) An appeal under subparagraph (A) of a decision of an administrative judge may only be made if such appeal is made not later than 7 business days after the date of the decision of the administrative judge.

“(4) In any case in which the administrative judge cannot issue a decision in accordance with the 45-day requirement under paragraph (1), the Merit Systems Protection Board shall, not later than 14 business days after the expiration of the 45-day period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report that explains the reasons why a decision was not issued in accordance with such requirement.

“(5)(A) A decision of the Merit Systems Protection Board under paragraph (3) may be appealed to the United States Court of Appeals for the Federal Circuit pursuant to section 7703 of title 5.

“(B) An appeal under subparagraph (A) of a decision of the Merit Systems Protection Board may only be made if such appeal is made not later than 7 business days after the date of the decision of the Board.

“(C) Any decision by such Court shall be in compliance with section 7462(f)(2) of this title.

“(6) The Merit Systems Protection Board may not stay any removal, demotion, under this section.

“(7) During the period beginning on the date on which an individual appeals a removal from the civil service under subsection (d) and ending on the date that the United States Court of Appeals for the Federal Circuit issues a final decision on such appeal, such individual may not receive any pay, awards, bonuses, incentives, allowances, differentials, student loan repayments, special payments, or benefits related to the employment of the individual by the Department.

“(8) To the maximum extent practicable, the Secretary shall provide to the Merit Systems Protection Board such information and assistance as may be necessary to ensure an appeal under this subsection is expedited.

“(9) If an employee prevails on appeal under this section, the employee shall be entitled to backpay (as provided in section 5596 of title 5).

“(10) This subsection shall supercede any collective bargaining agreement to the extent that such an agreement conflicts with this subsection.

“(f) WHISTLEBLOWER PROTECTION.—(1) In the case of an individual seeking corrective action (or on behalf of whom corrective action is sought) from the Office of Special Counsel based on an alleged prohibited personnel practice described in section 2302(b) of title 5, the Secretary may not remove, demote, or suspend such individual under subsection (a) without the approval of the Special Counsel under section 1214(f) of title 5.

“(2) In the case of an individual who has filed a whistleblower complaint, as such term is de-

fined in section 731 of this title, the Secretary may not remove, demote, or suspend such individual under subsection (a) until a final decision with respect to the whistleblower complaint has been made.

“(g) TERMINATION OF INVESTIGATIONS BY OFFICE OF SPECIAL COUNSEL.—Notwithstanding any other provision of law, the Special Counsel (established by section 1211 of title 5) may terminate an investigation of a prohibited personnel practice alleged by an employee or former employee of the Department after the Special Counsel provides to the employee or former employee a written statement of the reasons for the termination of the investigation. Such statement may not be admissible as evidence in any judicial or administrative proceeding without the consent of such employee or former employee.

“(h) VACANCIES.—In the case of an individual who is removed or demoted under subsection (a), to the maximum extent feasible, the Secretary shall fill the vacancy arising as a result of such removal or demotion.

“(i) DEFINITIONS.—In this section:

“(1) The term ‘individual’ means an individual occupying a position at the Department but does not include—

“(A) an individual appointed pursuant to section 7306, 7401(1), or 7405 of this title;

“(B) an individual who has not completed a probationary or trial period; or

“(C) a political appointee.

“(2) The term ‘suspend’ means the placing of an employee, for disciplinary reasons, in a temporary status without duties and pay for a period in excess of 14 days.

“(3) The term ‘grade’ has the meaning given such term in section 7511(a) of title 5.

“(4) The term ‘misconduct’ includes neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

“(5) The term ‘political appointee’ means an individual who is—

“(A) employed in a position described under sections 5312 through 5316 of title 5 (relating to the Executive Schedule);

“(B) a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5; or

“(C) employed in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.”

(b) REPEAL OF SUPERCEDED PROVISION OF LAW.—

(1) IN GENERAL.—Section 713 of title 38, United States Code, is hereby repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 is amended by striking the item relating to section 713.

(c) CLERICAL AND CONFORMING AMENDMENTS.—

(1) CLERICAL.—The table of sections at the beginning of chapter 7 is amended by inserting after the item relating to section 717 the following new item:

“719. Employees: removal, demotion, or suspension based on performance or misconduct.”

(2) CONFORMING.—Section 4303(f) of title 5, United States Code, is amended—

(A) by striking “or” at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting “, or”; and

(C) by adding at the end the following:

“(4) any removal or demotion under section 719 of title 38.”

(d) TEMPORARY EXEMPTION FROM CERTAIN LIMITATION ON INITIATION FROM REMOVAL FROM SENIOR EXECUTIVE SERVICE.—During the 120-day period beginning on the date of enactment of this Act, an action to remove an individual from the Senior Executive Service at the

Department of Veterans Affairs pursuant to this section may be initiated, notwithstanding section 3592(b) of title 5, United States Code, or any other provision of law.

SEC. 4. REDUCTION OF BENEFITS FOR DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES CONVICTED OF CERTAIN CRIMES.

(a) REDUCTION OF BENEFITS.—

(1) IN GENERAL.—Subchapter I of chapter 7 is further amended by inserting after section 719, as added by section 3, the following new section:

“§ 721. Reduction of benefits of employees convicted of certain crimes

“(a) REDUCTION OF ANNUITY FOR REMOVED EMPLOYEE.—(1) The Secretary shall order that the covered service of an employee of the Department removed from a position for performance or misconduct under section 719 or 7461 of this title or any other provision of law shall not be taken into account for purposes of calculating an annuity with respect to such individual under chapter 83 or chapter 84 of title 5, if—

“(A) the Secretary determines that the individual is convicted of a felony that influenced the individual's performance while employed in the position;

“(B) before such order is made, the individual is afforded—

“(i) notice of the proposed order; and

“(ii) an opportunity to respond to the proposed order by not later than ten business days following receipt of such notice; and

“(C) the Secretary issues the order—

“(i) in the case of a proposed order to which an individual responds under subparagraph (B)(ii), not later than five business days after receiving the response of the individual; or

“(ii) in the case of a proposed order to which an individual does not respond, not later than 15 business days after the Secretary provides notice to the individual under subparagraph (B)(i).

“(2) Upon the issuance of an order by the Secretary under paragraph (1), the individual shall have an opportunity to appeal the order to the Director of the Office of Personnel Management before the date that is seven business days after the date of such issuance.

“(3) The Director of the Office of Personnel Management shall make a final decision with respect to an appeal under paragraph (2) within 30 business days of receiving the appeal.

(b) REDUCTION OF ANNUITY FOR RETIRED EMPLOYEE.—(1) The Secretary may order that the covered service of an individual who is removed for performance or misconduct under section 719 or 7461 of this title or any other provision of law but who leaves employment at the Department prior to the issuance of a final decision with respect to such action shall not be taken into account for purposes of calculating an annuity with respect to such individual under chapter 83 or chapter 84 of title 5, if—

“(A) the Secretary determines that the individual is convicted of a felony that influenced the individual's performance while employed in the position;

“(B) before such order is made, the individual is afforded—

“(i) notice of the proposed order; and

“(ii) opportunity to respond to the proposed order by not later than ten business days following receipt of such notice; and

“(C) the Secretary issues the order—

“(i) in the case of a proposed order to which an individual responds under subparagraph (B)(ii), not later than five business days after receiving the response of the individual; or

“(ii) in the case of a proposed order to which an individual does not respond, not later than 15 business days after the Secretary provides notice to the individual under subparagraph (B)(i).

“(2) Upon the issuance of an order by the Secretary under paragraph (1), the individual shall

have an opportunity to appeal the order to the Director of the Office of Personnel Management before the date that is seven business days after the date of such issuance.

“(3) The Director of the Office of Personnel Management shall make a final decision with respect to an appeal under paragraph (2) within 30 business days of receiving the appeal.

“(c) ADMINISTRATIVE REQUIREMENTS.—Not later than 37 business days after the Secretary issues a final order under subsection (a) or (b), the Director of the Office of Personnel Management shall recalculate the annuity of the individual.

“(d) LUMP-SUM ANNUITY CREDIT.—Any individual with respect to whom an annuity is reduced under subsection (a) or (b) shall be entitled to be paid so much of such individual's lump-sum credit as is attributable to the period of covered service.

“(e) SPOUSE OR CHILDREN EXCEPTION.—The Secretary, in consultation with the Office of Personnel Management, shall prescribe regulations that may provide for the payment to the spouse or children of any individual referred to in subsection (a) or (b) of any amounts which (but for this subsection) would otherwise have been nonpayable by reason of such subsections. Any such regulations shall be consistent with the requirements of sections 8332(o)(5) and 8411(l)(5) of title 5, as the case may be.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘covered service’ means, with respect to an individual subject to a removal for performance or misconduct under section 719 or 7461 of this title or any other provision of law, the period of service beginning on the date that the Secretary determines under such applicable provision that the individual engaged in activity that gave rise to such action and ending on the date that the individual is removed from or leaves a position of employment at the Department prior to the issuance of a final decision with respect to such action.

“(2) The term ‘lump-sum credit’ has the meaning given such term in section 8331(8) or section 8401(19) of title 5, as the case may be.

“(3) The term ‘service’ has the meaning given such term in section 8331(12) or section 8401(26) of title 5, as the case may be.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 is amended by inserting after the item relating to section 719, as added by section 3, the following new item:

“721. Reduction of benefits of employees convicted of certain crimes.”

(b) APPLICATION.—Section 721 of title 38, United States Code, as added by subsection (a)(1), shall apply to any action of removal of an employee of the Department of Veterans Affairs under section 719 or 7461 of this title or any other provision of law, commencing on or after the date of the enactment of this Act.

SEC. 5. AUTHORITY TO RECOUP BONUSES OR AWARDS PAID TO EMPLOYEES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Subchapter I of chapter 7 is further amended by inserting after section 721, as added by section 4, the following new section:

“§ 723. Recoupment of bonuses or awards paid to employees of Department

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may issue an order directing an employee of the Department to repay the amount, or a portion of the amount, of any award or bonus paid to the employee under title 5, including under chapter 45 or 53 of such title, or this title if—

“(1) the Secretary determines that the individual engaged in misconduct or poor performance prior to payment of the award or bonus, and that such award or bonus would not have been paid, in whole or in part, had the misconduct or poor performance been known prior to payment;

“(2) before such repayment, the employee is afforded—

“(A) notice of the proposed order; and

“(B) an opportunity to respond to the proposed order by not later than ten business days after the receipt of such notice; and

“(3) the Secretary issues the order—

“(A) in the case of a proposed order to which an individual responds under paragraph (2)(B), not later than five business days after receiving the response of the individual; or

“(B) in the case of a proposed order to which an individual does not respond, not later than 15 business days after the Secretary provides notice to the individual under paragraph (2)(A).

“(b) APPEALS.—Upon the issuance of an order by the Secretary under subsection (a), the individual shall have an opportunity to appeal the order to another department or agency of the Federal Government before the date that is seven business days after the date of such issuance.

“(c) FINAL DECISIONS.—The head of the applicable department or agency of the Federal Government shall make a final decision with respect to an appeal under subsection (b) within 30 business days after receiving such appeal.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 4, is amended by inserting after the item relating to section 721, as added by section 4(a)(2), the following new item:

“723. Recoupment of bonuses or awards paid to employees of Department.”

(c) EFFECTIVE DATE.—Section 723 of title 38, United States Code, as added by subsection (a), shall apply with respect to an award or bonus paid by the Secretary of Veterans Affairs to an employee of the Department of Veterans Affairs on or after the date of the enactment of this Act.

(d) CONSTRUCTION.—Nothing in this Act or the amendments made by this Act may be construed to modify the certification issued by the Office of Management and Budget regarding the performance appraisal system of the Senior Executive Service of the Department of Veterans Affairs.

SEC. 6. AUTHORITY TO RECOUP RELOCATION EXPENSES PAID TO OR ON BEHALF OF EMPLOYEES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Subchapter I of chapter 7 is further amended by adding at the end the following new section:

“§ 725. Recoupment of relocation expenses paid on behalf of employees of Department

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may issue an order directing an employee of the Department to repay the amount, or a portion of the amount, paid to or on behalf of the employee under title 5 for relocation expenses, including any expenses under section 5724 or 5724a of such title, or this title if—

“(1) the Secretary determines that relocation expenses were not lawfully authorized or that the employee committed an act of fraud, waste, or malfeasance that influenced the authorization of the relocation expenses;

“(2) before such repayment, the employee is afforded—

“(A) notice of the proposed order; and

“(B) an opportunity to respond to the proposed order not later than ten business days following the receipt of such notice; and

“(3) the Secretary issues the order—

“(A) in the case of a proposed order to which an individual responds under paragraph (2)(B), not later than five business days after receiving the response of the individual; or

“(B) in the case of a proposed order to which an individual does not respond, not later than 15 business days after the Secretary provides notice to the individual under paragraph (2)(A).

“(b) APPEALS.—Upon the issuance of an order by the Secretary under subsection (a), the individual shall have an opportunity to appeal the order to another department or agency of the Federal Government before the date that is

seven business days after the date of such issuance.

“(c) FINAL DECISIONS.—The head of the applicable department or agency of the Federal Government shall make a final decision with respect to an appeal under subsection (b) within 30 days after receiving such appeal.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is further amended by inserting after the item relating to section 723, as added by section 5(b), the following new item:

“725. Recoupment of relocation expenses paid to or on behalf of employees of Department.”

(c) EFFECTIVE DATE.—Section 725 of title 38, United States Code, as added by subsection (a), shall apply with respect to an amount paid by the Secretary of Veterans Affairs to or on behalf of an employee of the Department of Veterans Affairs for relocation expenses on or after the date of the enactment of this Act.

SEC. 7. TIME PERIOD FOR RESPONSE TO NOTICE OF ADVERSE ACTIONS AGAINST SUPERVISORY EMPLOYEES WHO COMMIT PROHIBITED PERSONNEL ACTIONS.

Section 733(a)(2)(B) is amended—

(1) in clause (i), by striking “14 days” and inserting “10 days”; and

(2) in clause (ii), by striking “14-day period” and inserting “10-day period”.

SEC. 8. DIRECT HIRING AUTHORITY FOR MEDICAL CENTER DIRECTORS AND VISN DIRECTORS.

(a) IN GENERAL.—Section 7401 is amended by adding at the end the following new paragraph:

“(4) Medical center directors and directors of Veterans Integrated Service Networks with demonstrated ability in the medical profession, in health care administration, or in health care fiscal management.”

(b) CONFORMING AMENDMENT.—Section 7404(a)(1) is amended by inserting “and 7401(4)” after “7306”.

SEC. 9. TIME PERIODS FOR REVIEW OF ADVERSE ACTIONS WITH RESPECT TO CERTAIN EMPLOYEES.

(a) PHYSICIANS, DENTISTS, PODIATRISTS, CHIROPRACTORS, OPTOMETRISTS, REGISTERED NURSES, PHYSICIAN ASSISTANTS, AND EXPANDED-FUNCTION DENTAL AUXILIARIES.—Section 7461(b)(2) is amended to read as follows:

“(2) In any case other than a case described in paragraph (1) that involves or includes a question of professional conduct or competence in which a major adverse action was not taken, such an appeal shall be made through Department grievance procedures under section 7463 of this title.”

(b) MAJOR ADVERSE ACTIONS INVOLVING PROFESSIONAL CONDUCT OR COMPETENCE.—Section 7462 is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “At least 30” and inserting “Ten business”; and

(ii) in subparagraph (B)—

(I) by striking “A reasonable time, but not less than seven days” and inserting “The opportunity, within the ten-day notice period”; and

(II) by striking “orally and”;

(B) in paragraph (3)—

(i) by striking “(A) If a proposed adverse action covered by this section is not withdrawn” and inserting “After considering the employee's answer, if any”;

(ii) by striking “21 days” and inserting “5 business days”;

(iii) by striking “answer. The decision shall include a statement of” and inserting “answer stating”; and

(iv) by striking subparagraph (B); and

(C) in paragraph (4)—

(i) by striking “(A) The Secretary” and all that follows through “(B) The Secretary” and inserting “The Secretary”; and

(ii) by striking "30 days" and inserting "7 business days";

(2) in subsection (c)—

(A) in paragraph (3), by inserting "the hearing must be concluded not later than 30 business days after the date on which the appeal is filed, and" after "If such a hearing is held,"; and

(B) in paragraph (4)—

(i) by striking "45 days" and inserting "15 business days"; and

(ii) by striking "120 days" and inserting "45 business days"; and

(3) in subsection (d)(1), by striking "90 days" and inserting "15 business days".

(c) OTHER ADVERSE ACTIONS.—Section 7463 is amended—

(1) by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(2) in subsection (b)(2), as so redesignated—

(A) in subparagraph (A), by striking "an advance" and inserting "ten business days"; and

(B) in subparagraph (B)—

(i) by striking "a reasonable time" and inserting "the opportunity, within the ten business day notice period,"; and

(ii) by striking "orally and".

The Acting CHAIR. No amendment to that amendment in the nature of a substitute shall be in order except those printed in part A of House Report 115-39. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the 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.

AMENDMENT NO. 1 OFFERED BY MR. ROE OF TENNESSEE

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in part A of House Report 115-39.

Mr. ROE of Tennessee. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 20, line 15, insert "to or" after "paid".

The Acting CHAIR. Pursuant to House Resolution 198, the gentleman from Tennessee (Mr. ROE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. ROE of Tennessee. Mr. Chairman, this manager's amendment would provide technical changes to the bill, while not changing the overall substance of the bill. The amendment is noncontroversial and no cost. It does not change any underlying policy in the bill.

I urge adoption of the amendment.

I reserve the balance of my time.

Mr. WALZ. Mr. Chairman, I claim the time in opposition, although I am not opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. WALZ. Mr. Chairman, this amendment is just a simple technical

correction. It does not change my concerns with the underlying bill on H.R. 1259, but I am not opposed to the technical corrections.

I yield back the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, I urge approval of the amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Tennessee (Mr. ROE).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. WALZ

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in part A of House Report 115-39.

Mr. WALZ. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike section 3 and insert the following new section 3:

SEC. 3. IMPROVED AUTHORITIES OF SECRETARY OF VETERANS AFFAIRS TO IMPROVE ACCOUNTABILITY OF SENIOR EXECUTIVES.

(a) ACCOUNTABILITY OF SENIOR EXECUTIVES.—

(1) IN GENERAL.—Section 713 of title 38, United States Code, is amended to read as follows:

"§ 713. Accountability of senior executives

"(a) AUTHORITY.—(1) The Secretary may, as provided in this section, reprimand or suspend, involuntarily reassign, demote, or remove a covered individual from a senior executive position at the Department if the Secretary determines that the misconduct or performance of the covered individual warrants such action.

"(2) If the Secretary so removes such an individual, the Secretary may remove the individual from the civil service (as defined in section 2101 of title 5).

"(b) RIGHTS AND PROCEDURES.—(1) A covered individual who is the subject of an action under subsection (a) is entitled to—

"(A) be represented by an attorney or other representative of the covered individual's choice;

"(B) not fewer than 10 business days advance written notice of the charges and evidence supporting the action and an opportunity to respond, in a manner prescribed by the Secretary, before a decision is made regarding the action; and

"(C) grieve the action in accordance with an internal grievance process that the Secretary, in consultation with the Assistant Secretary for Accountability and Whistleblower Protection, shall establish for purposes of this subsection.

"(2)(A) The Secretary shall ensure that the grievance process established under paragraph (1)(C) takes fewer than 21 days.

"(B) The Secretary shall ensure that, under the process established pursuant to paragraph (1)(C), grievances are reviewed only by employees of the Department.

"(3) A decision or grievance decision under paragraph (1)(C) shall be final and conclusive.

"(4) A covered individual adversely affected by a final decision under paragraph (1)(C) may obtain judicial review of the decision.

"(5) In any case in which judicial review is sought under paragraph (4), the court shall review the record and may set aside any Department action found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with a provision of law;

"(B) obtained without procedures required by a provision of law having been followed; or

"(C) unsupported by substantial evidence.

"(c) RELATION TO OTHER PROVISIONS OF LAW.—(1) The authority provided by subsection (a) is in addition to the authority provided by section 3592 or subchapter V of chapter 75 of title 5.

"(2) Section 3592(b)(1) of title 5 and the procedures under section 7543(b) of such title do not apply to an action under subsection (a).

"(d) DEFINITIONS.—In this section:

"(1) The term 'covered individual' means—

"(A) a career appointee (as that term is defined in section 3132(a)(4) of title 5); or

"(B) any individual who occupies an administrative or executive position and who was appointed under section 7306(a) or section 7401(1) of this title.

"(2) The term 'misconduct' includes neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

"(3) The term 'senior executive position' means—

"(A) with respect to a career appointee (as that term is defined in section 3132(a) of title 5), a Senior Executive Service position (as such term is defined in such section); and

"(B) with respect to a covered individual appointed under section 7306(a) or section 7401(1) of this title, an administrative or executive position."

(2) CONFORMING AMENDMENT.—Section 7461(c)(1) of such title is amended by inserting "employees in senior executive positions (as defined in section 713(d) of this title) and" before "interns".

(b) PERFORMANCE MANAGEMENT.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall establish a performance management system for employees in senior executive positions, as defined in section 713(d) of title 38, United States Code, as amended by subsection (a), that ensures performance ratings and awards given to such employees—

(A) meaningfully differentiate extraordinary from satisfactory contributions; and

(B) substantively reflect organizational achievements over which the employee has responsibility and control.

(2) REGULATIONS.—The Secretary shall prescribe regulations to carry out paragraph (1).

Strike section 9 and insert the following new section 9:

SEC. 9. REMOVAL OF EMPLOYEES OF DEPARTMENT OF VETERANS AFFAIRS BASED ON PERFORMANCE OR MISCONDUCT.

(a) IN GENERAL.—Subchapter I of chapter 7 of title 38, United States Code, is further amended by inserting after section 713 the following new section:

"§ 714. Employees: removal based on performance or misconduct

"(a) IN GENERAL.—(1) The Secretary may remove a covered individual who is an employee of the Department if the Secretary determines that—

"(A) the performance or misconduct of the covered individual warrants such removal; and

"(B) in the case of removal for performance, a portion of such performance occurred during the two-year period ending on the date of the determination.

"(2) If the Secretary removes a covered individual under paragraph (1), the Secretary may remove the covered individual from the civil service (as defined in section 2101 of title 5).

"(3) Nothing in this section may be construed to authorize a finalized performance appraisal of an employee to be retroactively amended.

“(b) NOTICE TO CONGRESS.—Not later than 30 days after removing a covered individual under subsection (a), the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives notice in writing of such removal and the reason for such removal.

“(c) PROCEDURE.—(1) An employee removed under subsection (a) is entitled, before removal, to—

“(A) at least 10 business days written notice (which, in the case of removal for performance, shall identify specific instances as described in clause (i) of section 4303(b)(1)(A) of title 5 and critical elements as described in clause (ii) of such section), unless there is reasonable cause to believe that the employee committed a crime for which a sentence of imprisonment can be imposed—

“(i) stating the specific reasons for the proposed action; and

“(ii) including a file containing all evidence in support of the proposed action;

“(B) 10 business days to answer the charges orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

“(C) be represented by an attorney or other representative;

“(D) a review of the case by the Secretary before a decision adverse to the employee is made final;

“(E) as soon as practicable, a decision of the Secretary with respect to the charges of the employee; and

“(F) a written statement of the decision of the Secretary that—

“(i) includes the specific reasons of the decision; and

“(ii) in the case of a removal based on performance, complies with section 4303(b)(1)(D) of title 5.

“(2)(A) Subject to subparagraph (B) and subsection (e), any final decision of the Secretary regarding removal under subsection (a) may be appealed to the Merit Systems Protection Board.

“(B) An appeal under subparagraph (A) of a removal may only be made if such appeal is made not later than 10 business days after the date of such removal.

“(C)(i) Subject to clause (ii), the decision of the Secretary shall be sustained under subparagraph (A) only if the Secretary’s decision—

“(I) in the case of an action based on performance, is supported by substantial evidence; or

“(II) in any other case, is supported by a preponderance of the evidence.

“(ii) Notwithstanding clause (i), the Secretary’s decision may not be sustained under subparagraph (A) if the covered individual—

“(I) shows harmful error in the application of the Secretary’s procedures in arriving at such decision;

“(II) shows that the decision was based on any prohibited personnel practice described in section 2302(b) of title 5; or

“(III) shows that the decision was not in accordance with law.

“(3) The procedures under section 7513(b) of title 5 and chapter 43 of such title shall not apply to a removal under this section.

“(d) EXPEDITED REVIEW.—(1) The Merit Systems Protection Board shall promulgate such rules as the Board considers appropriate to expedite appeals under subsection (c)(2).

“(2) The Board shall ensure that a final decision on an appeal described in paragraph (1) is issued not later than 90 days after the appeal is made.

“(3) During the period beginning on the date on which a covered individual appeals a removal from the civil service under subsection (c)(2) and ending on the date that the Board issues a final decision on such appeal,

such covered individual may not receive any pay, awards, bonuses, incentives, allowances, differentials, student loan repayments, special payments, or benefits.

“(4) To the maximum extent practicable, the Secretary shall provide to the Merit Systems Protection Board such information and assistance as may be necessary to ensure an appeal under subsection (c)(2) is expedited.

“(e) RELATION TO TITLE 5.—The authority provided by this section is in addition to the authority provided by subchapter V of chapter 75 of title 5 and chapter 43 of such title.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘covered individual’ means an individual occupying a position at the Department but does not include—

“(A) an individual, as that term is defined in section 713(d); or

“(B) a political appointee.

“(2) The term ‘misconduct’ includes a violation of paragraph (8) or (9) of section 2302(b) of title 5, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function.

“(3) The term ‘political appointee’ means an individual who is—

“(A) employed in a position described under sections 5312 through 5316 of title 5 (relating to the Executive Schedule);

“(B) a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5; or

“(C) employed in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.”.

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) CLERICAL.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 713 the following new item:

“714. Employees: removal based on performance or misconduct.”.

(2) CONFORMING.—

(A) TITLE 5.—Section 4303(f) of title 5, United States Code, is amended—

(i) in paragraph (2), by striking “or” at the end;

(ii) in paragraph (3), by striking the period at the end and inserting “, or”; and

(iii) by adding at the end the following:

“(4) any removal under section 714 of title 38.”.

(B) TITLE 38.—Subchapter V of chapter 74 of title 38, United States Code, is amended—

(i) in section 7461(b)(1), by striking “If the” and inserting “Except as provided in section 714 of this title, if the”; and

(ii) in section 7462—

(I) in subsection (a)(1), by striking “Disciplinary” and inserting “Except as provided in section 714 of this title, the Disciplinary”; and

(II) in subsection (b)(1), by striking “In any case” and inserting “Except as provided in section 714 of this title, in any case”.

The Acting CHAIR. Pursuant to House Resolution 198, the gentleman from Minnesota (Mr. WALZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. WALZ. Mr. Chairman, I thank Chairman ROE of Tennessee and Chairman SESSIONS of the Rules Committee for making this amendment in order. I have voiced my concern with the regular order. I think it is important to note that we are given the opportunity

here to offer amendments in good faith, and I am grateful for that.

This amendment to H.R. 1259 would replace sections 3 and 9 of the underlying bill with bipartisan legislation from the Veterans First Act that was first introduced by Senator ISAKSON last Congress. This is a piece of legislation I have been talking about.

It is supported from both sides of the aisle, as well as those veterans service organizations, with the exception of one, that was shown earlier.

If we hope to reach any compromise with the Senate on accountability, I believe this amendment could be made in order, be voted on, debated, and passed into it.

The amendment specifically targets senior executives. It has been the senior executives, not the frontline employees, who we have subpoenaed before our committee, and who the VA has failed to hold accountable.

Like H.R. 1259, it provides an expedited process for the VA Secretary to hold senior executives and VA employees accountable.

For a senior executive employee, the employee would get 10 business days’ notice. The employee subject to an adverse action would be able to grieve the action through an internal grievance process that would take no longer than 21 days. The employee would also be permitted to appeal an adverse action to court. It would also require the VA Secretary to develop a performance management system for SES employees. Do your job. Have the management do their job.

For VA employees, the employee would be removed from misconduct or poor performance that took place within the previous 2 years before the proposed removal. The employee would get 10 business days’ notice. The employee would get 10 business days to respond to the charges. The VA Secretary would be required to provide the employee a decision in a reasonable period of time, and the employee would have 10 days to appeal the decision to the Merit Systems Protection Board. This takes a little time.

The Merit Systems Protection Board would have 90 days to issue a decision. During that time, the employee would receive no pay and no benefits.

My amendment would also leave in place sections 4 through 8 of H.R. 1259 because I agree employees convicted of felonies connected to their jobs should not receive pensions, and poor-performing employees should not receive bonuses. No disagreement.

Most importantly, my amendment provides a fair process that protects whistleblowers. By allowing our frontline employees to use arbitration and grievance procedures under collective bargaining agreements, these frontline employees remain protected from bad managers who want to retaliate against them for speaking out when something is wrong.

I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. ROE of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the spirit in which this amendment is proposed by the gentleman from Minnesota (Mr. WALZ), but I must oppose it at this time.

The amendment would dramatically weaken the current accountability language for non-SES employees to the point that it would not be a meaningful improvement to or departure from current law. Just as a point of clarification, the Senate never did move the Veterans First Act.

□ 1630

The amendment includes many of the archaic and unnecessary civil service rules that currently hamper true reform and accountability at the Department. And unlike H.R. 1259, which would require the entire internal and first level of external appeals process to be completed within 67 days, the Walz amendment would allow for the process to take at least 120 days, and this period could expand indefinitely.

Additionally, the standard used in this agreement for removing or demoting employees for performance is not a meaningful departure from current law, and I fear it won't make any true changes that are desperately needed at VA.

On the collective bargaining piece, I understand the ranking member's concern, but the last thing I want to do is create a giant loophole that makes it harder to discipline bad employees. Just looking at one of VA's master contracts with employee unions, AFGE, which is the largest union at VA, one can see that the grievance procedures that he wishes to keep in place to dispute discipline can extend to almost 350 days, and this timeline can be easily extended.

With the Walz amendment, we would be creating a giant loophole where the Secretary would have one expedited process in place, while the long and administratively burdensome grievance process remains in place for nearly 285,000 employees at the Department, or 76 percent of the VA's workforce.

Clearly, covering only 24 percent of the VA workforce under an expedited authority is not what I want to do, nor do I expect veterans and taxpayers or the Secretary want to do.

Additionally, when the committee first began working on accountability issues at VA, they were told by the largest Federal Government union, AFGE general counsel, that the union would never support any legislation that changes the status quo.

Based on AFGE's strong support for language identical to the Walz amendment last Congress, I think the message is clear. If Congress adopts this language, we would not be protecting taxpayers or veterans, and we would be supporting the corrupt status quo that fails VA employees and veterans daily.

In the end, the question is very clear: Do we want to stand with veterans and taxpayers to provide the Secretary with the appropriate tools he has asked for to hold these employees accountable? Or do we want to give in to special interests groups to support the status quo?

Once again, I urge all Members to oppose the Walz amendment and support the underlying bill.

Mr. Chairman, I reserve the balance of my time.

Mr. WALZ. Mr. Chairman, the choice is not as easy as that. Do you want to stand with Robert, the good employee who was fired by a bad manager who used the process to get their job back, or do we want to just hurry it?

It is better to get it right than get it done. And I will point out, AFGE, the union you keep hearing about, Mr. Chairman, does not endorse my amendment. They do not endorse my amendment, nor do I care about that.

What I do believe is that this amendment has the opportunity to improve upon on a bill that we 90 percent agree upon, taking out the piece that is going to make it difficult and not improve care for our veterans. And I guess the thing that I would hope matters, I believe—and we will come back here and see. We will see. That is the good part about this place. If this piece of legislation is passed by October, by Halloween, we should have this bill through and it should be done, and we should be seeing changes.

If we don't, perhaps we do this exercise again, through regular order, taking some of these suggestions that make it possible to get it done.

I encourage my colleagues to support this change that makes sure we can get accountability. Let's agree where we know we agree. It is not picking one over the other. It is deciding how you give due process, encouraging good employees to have the rights that they have earned to improve that care and workplace while at the same time removing those that don't.

Mr. Chairman, I yield back the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, I am just looking at the AFGE website, and it does have support for the Veterans First Act here on the website; so that is true.

Mr. WALZ. Will the gentleman yield? Mr. ROE of Tennessee. I yield to the gentleman from Minnesota.

Mr. WALZ. This is not the Veterans First Act. It is pieces from the Veterans First Act, but changes.

Mr. ROE of Tennessee. Mr. Chairman, reclaiming my time.

Basically, the accountability provisions are the same. I, once again, urge all Members to oppose the Walz amendment and support the underlying bill.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Minnesota (Mr. WALZ).

The question was taken; and the Acting Chair announced that the yeas appeared to have it.

Mr. WALZ. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota will be postponed.

The Chair understands that amendment No. 3 will not be offered.

AMENDMENT NO. 4 OFFERED BY MS. KUSTER OF NEW HAMPSHIRE

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part A of House Report 115-39.

Ms. KUSTER of New Hampshire. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 8, line 20, insert "or section 733(c) of this title" after "title 5".

The Acting CHAIR. Pursuant to House Resolution 198, the gentlewoman from New Hampshire (Ms. KUSTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New Hampshire.

Ms. KUSTER of New Hampshire. Mr. Chairman, today I speak on behalf of my amendment, Kuster amendment No. 4. I firmly believe that my amendment will improve accountability at the Veterans Administration.

One of my concerns with the bill before us is that it will inadvertently hurt whistleblowers through retaliation and other discriminatory practices. Whistleblowers are vital for our mission to ensure accountability at the VA.

As the ranking member of the Oversight and Investigations Subcommittee, I know that whistleblowers provide the VA and our committee with information of misconduct before it goes too far or before those responsible can deflect blame or otherwise hide incriminating details. We must ensure that these folks are protected in any bill that seeks to streamline the VA's ability to release employees.

I appreciate the inclusion of whistleblower protections within section 3 of the bill. We understand the importance of protecting whistleblowers, and my amendment would improve upon this language.

Last year's MILCON-VA appropriations bill included what is now section 733 of title 38. This title clarifies and further specifies prohibited personnel actions as they relate to VA whistleblowers. For example, section 733 explicitly prohibits the denial of an otherwise meritorious promotion because that employee filed a whistleblower complaint. The bill currently only references more generic protections found within title 5.

Section 733 was added because of concerns that title 5 was not specific enough to the issues that face the VA. This amendment will ensure that an employee is protected if they help the GAO or the VA Office of Inspector General in any investigations.

This language is bipartisan in nature, and my amendment is supported by the Project on Government Oversight, an independent nonprofit that seeks to improve accountability.

My amendment aligns with the spirit of this bill. It protects those who virtuously serve our Nation's veterans, and punishes those who do wrong by them. I urge my colleagues to vote "yes" on my amendment, Kuster No. 4, because it is common sense and the right thing to do.

Mr. Chairman, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, I ask unanimous consent to rise in opposition, although I am not opposed.

The Acting CHAIR. Is there objection to the request of the gentleman?

There was no objection.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. ROE of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment would allow a whistleblower who is alleging prohibited personnel practices, as defined in title 38, from being disciplined under the bill until the whistleblower complaint is resolved.

The committee has always favored strengthening protections for whistleblowers. My bill already protects whistleblowers, but I am not opposed to Ms. KUSTER's amendment and suggested changes, and I appreciate her offering it. The bill has my full support.

Mr. Chairman, I reserve the balance of my time.

Ms. KUSTER of New Hampshire. Mr. Chairman, I have learned one thing in 4 years: quit while I am ahead.

Mr. Chairman, I have nothing further to add, and I yield back the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New Hampshire (Ms. KUSTER).

The amendment was agreed to.

The Acting CHAIR. The Chair understands that amendment No. 5 will not be offered.

AMENDMENT NO. 6 OFFERED BY MR. TAYLOR

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part A of House Report 115-39.

Mr. TAYLOR. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 9, after line 19, insert the following:
 "(i) SEMI-ANNUAL REPORT ON TRANSFERRED EMPLOYEES.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives semi-annual reports on senior executive employees who are transferred within the Department. Each such report shall include, for each such senior executive employee transferred during the period covered by the report, the reason for the transfer and any costs associated with the transfer."

Page 9, line 20, strike "(i)" and insert "(j)".

The Acting CHAIR. Pursuant to House Resolution 198, the gentleman from Virginia (Mr. TAYLOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. TAYLOR. Mr. Chairman, I rise to offer my amendment to the VA Accountability First Act. This amendment would require the Secretary of Veterans Affairs to submit a semi-annual report to Congress on the reasons and costs of the transfer of any senior executive employees within the Department.

Mr. Chairman, in my district and the surrounding area, we have the fastest-growing veterans' population in the Nation, specifically, with women veterans, Operation Enduring Freedom veterans, and Operation Iraqi Freedom veterans. I am honored to serve in the district that has the largest population of Active Duty and veterans in the country.

Our own VA center, where I personally receive care, was previously rated as a one-star facility, the lowest rating available; this, by the VA's own rating system. Now, I am pleased to say the center has made strides and progress in many areas. However, the director in charge during the time of poor performance was simply moved to another facility to be a director there. We have to do better. We will do better. The VA Accountability First Act of 2017 is a wonderful and great start.

This amendment will contribute to more transparency, accountability, and oversight. We must continually and consistently hold the VA accountable for underperformance. Our veterans are sacred and deserve the same commitment to high standards they upheld as servicemembers.

We should never defend mediocrity at the VA; rather, strive for better service, care, and excellence.

Mr. Chairman, I reserve the balance of my time.

Mr. WALZ. Mr. Chairman, I claim time in opposition, although I am not opposed to the amendment and, in fact, I am enthusiastically supportive of the amendment.

The Acting CHAIR. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. WALZ. Mr. Chairman, I thank the gentleman for bringing this forward. This amendment addresses an issue that we dealt with in our committee last Congress, where senior executives are transferred to different positions around the country, receive pay increases and relocation incentives.

We subpoenaed two senior executives. In fact, the first subpoenas ever issued out of the VA Committee, I asked for them to get there; and they were backed by Mr. ROE, backed by our chairman and ranking member. And to refresh people's minds, these were folks that took positions of lesser power,

used their positions to negotiate to get there, and then, in some cases, took \$129,000 moving expenses.

You cannot find anyone more outraged than me. And I will tell you, because it was not done correctly, and we didn't focus on this, I still work with some of those very same people. They have their jobs back.

Now, the debate that the gentleman may have heard earlier is we don't disagree at all that we should get rid of these people. This amendment will focus on the right things, that is what we have been making the case of.

So I applaud the gentleman. I am glad he is here. His military service is greatly appreciated. The statistics he gave on veterans shows that he will be there. I support this amendment, and I certainly believe that my colleagues should all support it.

It is this type of work that improves upon a bill, as I say, once again, 90 percent of what is in this bill is in absolute agreement. This just makes the bill better.

Mr. Chairman, I yield back the balance of my time.

Mr. TAYLOR. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. ROE).

□ 1645

Mr. ROE of Tennessee. Mr. Chairman, I want to thank Mr. TAYLOR for his service to our country and to our Nation. I am appreciative of him and his staff for working with us on the amendment. The amendment has, as chair, my full support.

Mr. TAYLOR. Mr. Chairman, I just want to state I thank the gentleman, and I thank the gentleman on the other side, as well, for his support. I think this is the right thing to do for transparency and for accountability for our veterans in the VA.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Virginia (Mr. TAYLOR).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MS. TENNEY

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part A of House Report 115-39.

Ms. TENNEY. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Add at the end the following new section:

SEC. 10. ANNUAL REPORT ON PERFORMANCE AWARDS AND BONUSES AWARDED TO CERTAIN HIGH-LEVEL EMPLOYEES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Chapter 7 of title 38, United States Code, is further amended by inserting after section 723, as added by section 5, the following new section:

"§ 724. Annual report on performance awards and bonuses awarded to certain high-level employees

"(a) IN GENERAL.—Not later than 30 days after the end of each fiscal year, the Secretary shall submit to the appropriate committees of Congress a report that contains,

for the most recent fiscal year ending before the submittal of the report, a description of the performance awards and bonuses awarded to Regional Office Directors of the Department, Directors of Medical Centers of the Department, Directors of Veterans Integrated Service Networks, and any other individual employed in a senior executive position.

“(b) ELEMENTS.—Each report submitted under subsection (a) shall include the following with respect to each performance award or bonus awarded to an individual described in such subsection:

“(1) The amount of each award or bonus.

“(2) The job title of the individual awarded the award or bonus.

“(3) The location where the individual awarded the award or bonus works.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘appropriate committees of Congress’ means—

“(A) the Committee on Veterans’ Affairs and the Committee on Appropriations of the Senate; and

“(B) the Committee on Veterans’ Affairs and the Committee on Appropriations of the House of Representatives.

“(2) The term ‘individual’ means—

“(A) a career appointee (as that term is defined in section 3132(a)(4) of title 5); or

“(B) any individual who occupies an administrative or executive position and who was appointed under section 7306(a) or section 7401(1) of this title.

“(3) The term ‘senior executive position’ means—

“(A) with respect to a career appointee (as that term is defined in section 3132(a)(4) of title 5), a Senior Executive Service position (as such term is defined in section 3132(a)(2) of title 5); and

“(B) with respect to an individual appointed under section 7306(a) or section 7401(1) of this title, an administrative or executive position.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 723, as added by section 5, the following new item:

“724. Annual report on performance awards and bonuses awarded to certain high-level employees.”

The Acting CHAIR. Pursuant to House Resolution 198, the gentlewoman from New York (Ms. TENNEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. TENNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of my amendment to H.R. 1259, which would require the VA to submit a report to Congress at the end of each fiscal year listing the bonuses that were awarded to senior-level executives.

In 2015, VA employees received more than \$177 million in bonuses, which was 24 percent more than they received in 2014. The average bonus for a senior executive was \$10,000.

I have no doubt that the men and women of the VA serve our veterans admirably each day. In my own district, I have spoken with veterans who are grateful for the compassionate care that they receive from local VA clinics throughout upstate New York. VA employees should be fairly compensated for their work and awarded for their achievement.

It is also clear to me that there is more work to be done. Just this month, an audit of several VA facilities in North Carolina and Virginia revealed that wait times continue to be misrepresented and that nearly 14,000 veterans were denied access to timely care. The audit also found that veterans were waiting an average of 26 days to see mental health specialists, while the VA falsely reported average wait times of 6 days. In light of this information, the American people are right to wonder who at the VA may be receiving a bonus this year.

My amendment adds a simple reporting requirement to the bill that will streamline oversight of bonuses at the VA by requiring the agency to proactively provide information to Congress that details the amount of each bonus awarded to senior executives as well as the job titles of the individuals and the location of their employment. Given the patterns of mismanagement at the VA, the American people deserve to know how bonuses are being awarded at the agency. This bill increases transparency over the bonus process without placing any undue burdens on the agency.

I would encourage my colleagues to support it, and I thank the committee for the opportunity to offer this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WALZ. Mr. Chairman, I rise in opposition, although I am not opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. WALZ. Mr. Chairman, once again, I am not only not opposed, I am enthusiastically supportive of the gentlewoman’s commonsense, absolutely important piece of legislation. It improves upon the bill. I am glad we had a rule that brought it here, something we have worked on in our committee. I will make note of this.

The gentlewoman is absolutely right. The people we just talked about in the last amendment received bonuses also, but the bulk of this bill also deals with kitchen staff, janitorial staff, and rank-and-file members on the floor that we are working to go after their agreed-upon grievance process to keep their jobs. So this amendment is absolutely something that will get total approval from certainly, I believe, all Members of the House. This should be in the bill and will be in the bill.

This is how bills get better, address real issues, and take on the issue of accountability in a bipartisan manner. Mr. Chairman, I would encourage all my colleagues to support the gentlewoman. We have more work, as the gentlewoman said in this, but this is how it is done to get it right.

Mr. Chairman, I yield back the balance of my time.

Ms. TENNEY. Mr. Chairman, I yield such time as he may consume to the

gentleman from Tennessee (Mr. ROE), who is the chairman.

Mr. ROE of Tennessee. Mr. Chairman, this would require the Secretary to report to Congress each year any performance awards or bonuses provided to Senior Executive Service employees at the VA. This is an excellent amendment from the gentlewoman from New York and will provide additional needed transparency at the Department where taxpayer money is being spent, especially when being spent on bonuses for the most senior individuals at VA. This amendment has my full support.

Ms. TENNEY. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from New York (Ms. TENNEY).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MS. KUSTER OF NEW HAMPSHIRE

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part A of House Report 115–39.

Ms. KUSTER of New Hampshire. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Add at the end the following:

SEC. 10. ACCOUNTABILITY OF SUPERVISORS AT DEPARTMENT OF VETERANS AFFAIRS FOR ADDRESSING PERFORMANCE OF EMPLOYEES.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall ensure that, as a part of the annual performance plan of a supervisor in the Department, the supervisor is evaluated on the following:

(1) Taking action to address poor performance and misconduct among the employees that report to the supervisor.

(2) Taking steps to improve or sustain high levels of employee engagement.

(3) Promoting a positive culture of service that—

(A) reflects the mission of the Department and the values of integrity, commitment, advocacy, respect, and excellence; and

(B) emphasizes the greatest degree of performance and conduct.

(b) SUPERVISOR DEFINED.—In this section, the term “supervisor” has the meaning given such term in section 7103(a) of title 5, United States Code.

SEC. 11. IMPROVEMENT OF TRAINING FOR SUPERVISORS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall provide to each employee of the Department of Veterans Affairs who is employed as a supervisor periodic training on the following:

(1) The rights of whistleblowers and how to address a report by an employee of a hostile work environment, reprisal, or harassment.

(2) How to effectively motivate, manage, and reward the employees who report to the supervisor.

(3) How to effectively manage employees who are performing at an unacceptable level and access assistance from the human resources office of the Department and the Office of the General Counsel of the Department with respect to those employees.

(b) DEFINITIONS.—In this section:

(1) SUPERVISOR.—The term “supervisor” has the meaning given such term in section 7103(a) of title 5, United States Code.

(2) WHISTLEBLOWER.—The term “whistle-blower” has the meaning given such term in section 323(g) of title 38, United States Code, as added by section 101.

The Acting CHAIR. Pursuant to House Resolution 198, the gentlewoman from New Hampshire (Ms. KUSTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New Hampshire.

Ms. KUSTER of New Hampshire. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to speak on my second amendment to H.R. 1259, Kuster amendment No. 8. I am concerned that an unintended consequence of the bill before us would be retaliation against whistleblowers at the VA.

After my 4 years on the House Veterans' Affairs Committee and my time as ranking member of its Oversight and Investigations Subcommittee, I know that whistleblower protections are a bipartisan issue for our committee, and I know that this Congress recognizes the incredible importance of whistleblowers at the VA.

Whistleblowers provided many details that made Congress and the public aware of the Phoenix scandal. They provided valuable information in uncovering the Aurora construction debacle. Whistleblowers save lives and save taxpayer money. Unfortunately, whistleblowers are sometimes targeted for retaliation by their supervisors. My amendment seeks to address this.

My amendment requires supervisors to detail their efforts to correct poor performance and misconduct, efforts that come before the procedures outlined by this bill. It requires supervisors to detail the efforts they have made to improve their work environment and ensure that employees of their team uphold the primary mission of the VA: to serve and to honor our Nation's veterans.

The amendment will also improve training of supervisors to ensure they are equipped to be leaders that improve employee performance and the quality of care at the VA. More importantly, this enhanced training will include instruction on the rights of whistleblowers and how to address concerns or complaints raised by them.

These provisions could help to protect those whistleblowers who are actually experiencing retaliation because it would provide evidence of the past actions a supervisor has taken to address alleged misconduct, and it will highlight leadership shortfalls that could implicate attempted actions taken against an employee.

Together, these provisions will proactively improve the culture of management at the VA so it reflects the virtue and quality that Congress has strived to achieve for so many years. I urge all of my colleagues to vote in favor of my amendment, Kuster No. 8.

Mr. Chairman, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, I ask unanimous consent to claim the time in opposition, although I am not opposed.

The Acting CHAIR. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. ROE of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Ms. KUSTER's amendment would require VA supervisors to develop performance plans for employees which would, as a part of the plan, measure steps taken to address poor performance but also improve training for VA supervisors—an excellent suggestion.

I agree that all VA employees, especially our managers, should be held to high standards and should have as much training provided them as is available. Ms. KUSTER's amendment has my full support.

Mr. Chairman, I reserve the balance of my time.

Ms. KUSTER of New Hampshire. Mr. Chairman, I have no further comment other than to thank Dr. ROE for his support.

Mr. Chairman, I yield back the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, this is an excellent amendment, and I urge support.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from New Hampshire (Ms. KUSTER).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MR. TAKANO

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in part A of House Report 115-39.

Mr. TAKANO. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike sections 1 through 9 and insert the following:

SECTION 1. SUSPENSION AND REMOVAL OF DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES FOR PERFORMANCE OR MISCONDUCT THAT IS A THREAT TO PUBLIC HEALTH OR SAFETY.

(a) IN GENERAL.—Chapter 7 of title 38, United States Code, is amended by adding after section 713 the following new section:

“§715. Employees: suspension and removal for performance or misconduct that is a threat to public health or safety

“(a) SUSPENSION AND REMOVAL.—Subject to subsections (b) and (c), the Secretary may—

“(1) suspend without pay an employee of the Department of Veterans Affairs if the Secretary determines the performance or misconduct of the employee is a threat to public health or safety, including the health and safety of veterans; and

“(2) remove an employee suspended under paragraph (1) when, after such investigation and review as the Secretary considers necessary, the Secretary determines that re-

moval is necessary in the interests of public health or safety.

“(b) PROCEDURE.—An employee suspended under subsection (a)(1) is entitled, after suspension and before removal, to—

“(1) within 30 days after suspension, a written statement of the specific charges against the employee, which may be amended within 30 days thereafter;

“(2) an opportunity within 30 days thereafter, plus an additional 30 days if the charges are amended, to answer the charges and submit affidavits;

“(3) a hearing, at the request of the employee, by a Department authority duly constituted for this purpose;

“(4) a review of the case by the Secretary, before a decision adverse to the employee is made final; and

“(5) written statement of the decision of the Secretary.

“(c) RELATION TO OTHER DISCIPLINARY RULES.—The authority provided under this section shall be in addition to the authority provided under section 713 and title 5 with respect to disciplinary actions for performance or misconduct.

“(d) BACK PAY FOR WHISTLEBLOWERS.—If any employee of the Department of Veterans Affairs is subject to a suspension or removal under this section and such suspension or removal is determined by an appropriate authority under applicable law, rule, regulation, or collective bargaining agreement to be a prohibited personnel practice described under section 2302(b)(8) or (9) of title 5, such employee shall receive back pay equal to the total amount of basic pay that such employee would have received during the period that the suspension and removal (as the case may be) was in effect, less any amounts earned by the employee through other employment during that period.

“(e) DEFINITIONS.—In this section, the term ‘employee’ means any individual occupying a position within the Department of Veterans Affairs under a permanent or indefinite appointment and who is not serving a probationary or trial period.”.

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) CLERICAL.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 713 the following new item:

“715. Employees: suspension and removal for performance or misconduct that is a threat to public health or safety.”.

(2) CONFORMING.—Section 4303(f) of title 5, United States Code, is amended—

(A) by striking “or” at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting “, or”; and

(C) by adding at the end the following:

“(4) any suspension or removal under section 715 of title 38.”.

(c) REPORT ON SUSPENSIONS AND REMOVALS.—Not later than one year after the date of the enactment of this Act, the Inspector General of the Department of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on suspensions and removals of employees of the Department made under section 715 of title 38, United States Code, as added by subsection (a). Such report shall include, with respect to the period covered by the report, the following:

(1) The number of employees who were suspended under such section.

(2) The number of employees who were removed under such section.

(3) A description of the threats to public health or safety that caused such suspensions and removals.

(4) The number of such suspensions or removals, or proposed suspensions or removals, that were of employees who filed a complaint regarding—

(A) an alleged prohibited personnel practice committed by an officer or employee of the Department and described in section 2302(b)(8) or 2302(b)(9)(A)(i), (B), (C), or (D) of title 5, United States Code; or

(B) the safety of a patient at a medical facility of the Department.

(5) Of the number of suspensions and removals listed under paragraph (4), the number that the Inspector General considers to be retaliation for whistleblowing.

(6) The number of such suspensions or removals that were of an employee who was the subject of a complaint made to the Department regarding the health or safety of a patient at a medical facility of the Department.

(7) Any recommendations by the Inspector General, based on the information described in paragraphs (1) through (6), to improve the authority to make such suspensions and removals.

The Acting CHAIR. Pursuant to House Resolution 198, the gentleman from California (Mr. TAKANO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. TAKANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment in the nature of a substitute would strike the text of H.R. 1259 and insert a new provision allowing the Secretary to suspend, without pay, any VA employee whose performance or misconduct threatens public health or safety, including the health and safety of veterans. It would give the Secretary the authority to remove a suspended employee after an investigation and review if the Secretary determines removal is in the interests of public health and safety.

Both parties share the desire to protect veterans from mistreatment or harm, especially when they are seeking medical care at a VA facility, but the language in my amendment would be more likely to achieve the majority's stated outcome of removing VA employees whose misconduct harms veterans.

We have voted on similar accountability bills before, but I want to point out that this bill goes much further in the wrong direction. While in the past we have had disagreements on procedure and the amount of time an employee is given to file an appeal, for the very first time, this version of the accountability bill is attempting to undermine VA employees' collective bargaining rights.

Buried in this bill is a new provision that would take away the rights of frontline VA employees to use collectively bargained agreements for settling grievances. This has not been a part of past negotiations, and the vote that Members take on the underlying bill should not be based solely on their votes on previous accountability bills.

Collectively bargained grievance settlement procedures often lead to quicker and simpler solutions, and they give added protection to potential

whistleblowers. When these basic protections are undermined, we give too much power to managers whose goal may be to retaliate against someone who called out a mistake.

The bill, as it is currently being offered, does not provide enough time for an employee to get their case together to file an appeal. It undermines collective bargaining agreements negotiated in good faith between management and employees. It doesn't do enough to protect whistleblowers.

My amendment addresses our shared goal to create accountability at the VA. It would ensure that the Secretary has the authority to immediately suspend any VA employee whose behavior threatens the health and safety of veterans, and that the suspended employee does not accrue pay while the investigation is being carried out.

I hope that Members will join me and vote in favor of my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. ROE of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment.

I appreciate Mr. TAKANO's—who is a very hardworking member of the committee—attempt to insert what he thinks is an appropriate balance of due process and accountability, but the substitute language misses the bar of what we are trying to accomplish.

It would strike the entire bill and insert new language only allowing the Secretary to remove someone if they present a threat to health or safety. This is a nearly unobtainable, if not an immeasurable, bar to reach. This undefined standard makes it almost impossible for the Secretary to remove any employee. It would create a confusing process that only allows someone to be removed after they are suspended first and the Secretary conducts an investigation into the individual.

It would allow for employees to be on indefinite suspension for months, if not years, awaiting the Secretary's final decision, which is not fair to veterans and the employee or good-performing employees and taxpayers. The employee deserves a quick opportunity to present their case, and, if exonerated, get back to doing their job.

Unlike my bill, this would only provide backpay to someone if their removal is overturned on appeal if they are a whistleblower. My bill would require any individual whose disciplinary action is overturned on appeal to receive any backpay for that period.

□ 1700

This amendment does nothing to provide the Secretary with the authority to recoup bonuses or relocation expenses from individuals who receive

taxpayer-funded money through ill-gotten means such as fraud, waste, or abuse, nor does it allow the Secretary to recoup a portion of a Federal pension of someone convicted of a felony that influenced their VA job.

It would ensure that the current ineffective civil service rules would continue to hamper any change to the corrosive and unaccountable culture at the VA, and would also, more than likely, not apply to some of the employees associated with the VA's egregious scandals, including the bloated Denver, Colorado, construction project; data management at the Philadelphia regional office; FY 2015 \$2.5 billion shortfall cost overruns at the Orlando VA Medical Center; allegations of inappropriate use of government purchase cards to the tune of \$6 billion; and many others.

These are the types of employees that our constituents and veterans expect to be held accountable, but this amendment would not cover.

In the end, the facts are clear: our veterans and the American taxpayer support the reform in H.R. 1259, and not the status quo, which is supported by public sector unions.

I encourage all Members to oppose the Takano amendment and support the underlying bill.

Mr. Chair, I reserve the balance of my time.

Mr. TAKANO. Mr. Chair, I continue to oppose the underlying bill and support my amendment.

I would assert that my amendment would apply to many of the employees in the scandals who were cited by our esteemed chairman.

I want to remind the body that several Republican speakers this afternoon repeated a phrase that the vast majority of employees at the VA are doing a good job. My amendment really does address those few employees who really do pose a threat to veterans' safety or health.

I would also say that I want to remind also the chairman and inform the body that we heard testimony from the bipartisan Commission on Care established through the Choice Act. They were charged with the responsibility of reviewing VA health care.

One of the co-chairs was appointed by a Republican—I believe the Senate majority leader—and the other by the White House. They both reported back that we cannot create excellence at the VA through enhancing the firing process.

They were astounded that more effort and resources have not been invested in the personnel function of the VA to better train our managers in progressive discipline and to do the kind of documentation that really will bring about effective accountability.

By the way, both of these co-chairs led, and do still, large, private sector healthcare organizations. They pushed back on a suggestion that we needed to enhance our dismissal process, our accountability process.

I do agree with the chairman and the ranking member that we have an opportunity to work together as Democrats and Republicans. We are not far apart on the bipartisan agreement that came out of the Senate.

Mr. Chairman, I yield back the balance of my time.

Mr. ROE of Tennessee. Mr. Chair, I agree with my friend on the other side of the aisle that you cannot fire your way to excellence, nor can you grieve your way to excellence. You have to perform your way to excellence.

I certainly appreciate his passion for the committee and the hard work that he has done on numerous bills, but, in this particular case, I will urge all Members to oppose the Takano amendment and support the underlying bill in which the Secretary has asked for the authority.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. TAKANO).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. TAKANO. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part A of House Report 115-39 on which further proceedings were postponed, in the following order:

Amendment No. 2 by Mr. WALZ of Minnesota.

Amendment No. 9 by Mr. TAKANO of California.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. WALZ

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. WALZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 223, not voting 12, as follows:

[Roll No. 165]

AYES—194

Adams	Bera	Boyle, Brendan
Aguilar	Bishop (GA)	F.
Barragán	Blumenauer	Brady (PA)
Bass	Blunt Rochester	Brown (MD)
Beatty	Bonamici	Brownley (CA)

Bustos	Himes
Butterfield	Hoyer
Capuano	Huffman
Carbajal	Jackson Lee
Cárdenas	Jayapal
Carson (IN)	Jeffries
Cartwright	Johnson (GA)
Castor (FL)	Johnson, E. B.
Castro (TX)	Jones
Chu, Judy	Kaptur
Cicilline	Katko
Clark (MA)	Keating
Clarke (NY)	Kelly (IL)
Clay	Kennedy
Cleaver	Khanna
Clyburn	Kihuen
Cohen	Kildee
Cole	Kilmer
Connolly	Kind
Conyers	Krishnamoorthi
Cooper	Kuster (NH)
Correa	Langevin
Costa	Larsen (WA)
Courtney	Larson (CT)
Crist	Lawrence
Crowley	Lawson (FL)
Cuellar	Lee
Cummings	Levin
Davis (CA)	Lewis (GA)
DeFazio	Lieu, Ted
DeGette	Lipinski
Delaney	LoBiondo
DeLauro	Loeb
DeBene	Loftgren
Demings	Lowenthal
DeSaulnier	Lowe
Dingell	Lujan Grisham,
Doggett	M.
Doyle, Michael	Luján, Ben Ray
F.	Lynch
Ellison	Maloney,
Engel	Carolyn B.
Eshoo	Maloney, Sean
Español	Matsui
Eshoo	McCollum
Español	McEachin
Esty	McGovern
Evans	McKinley
Foster	McNerney
Frankel (FL)	Meeks
Fudge	Meng
Gabbard	Moore
Gallego	Moulton
Garamendi	Murphy (FL)
Gonzalez (TX)	Nadler
Gottheimer	Napolitano
Green, Al	Neal
Green, Gene	Nolan
Grijalva	Norcross
Gutiérrez	O'Halleran
Hanabusa	O'Rourke
Hastings	Pallone
Heck	
Higgins (NY)	

NOES—223

Abraham	Chabot	Franks (AZ)
Aderholt	Chaffetz	Frelinghuysen
Allen	Cheney	Gaetz
Amash	Coffman	Gallagher
Amodei	Collins (GA)	Garrett
Arrington	Comer	Gibbs
Babin	Comstock	Gohmert
Bacon	Conaway	Goodlatte
Banks (IN)	Cook	Gosar
Barletta	Costello (PA)	Gowdy
Barr	Cramer	Granger
Barton	Crawford	Graves (GA)
Bergman	Culberson	Graves (LA)
Biggs	Curbelo (FL)	Graves (MO)
Bilirakis	Davidson	Griffith
Bishop (MI)	Davis, Rodney	Grothman
Bishop (UT)	Denham	Guthrie
Black	Dent	Harper
Blackburn	DeSantis	Harris
Blum	DesJarlais	Hartzer
Bost	Diaz-Balart	Hensarling
Brady (TX)	Donovan	Herrera Beutler
Brat	Duffy	Hice, Jody B.
Bridenstine	Duncan (SC)	Higgins (LA)
Brooks (AL)	Duncan (TN)	Hill
Brooks (IN)	Dunn	Holding
Buchanan	Emmer	Hollingsworth
Buck	Farenthold	Hudson
Bucshon	Faso	Huizenga
Budd	Ferguson	Hultgren
Burgess	Fitzpatrick	Hunter
Byrne	Fleischmann	Hurd
Calvert	Flores	Issa
Carter (GA)	Fortenberry	Jenkins (KS)
Carter (TX)	Fox	Jenkins (WV)

Johnson (LA)	Murphy (PA)	Sensenbrenner
Johnson (OH)	Newhouse	Sessions
Johnson, Sam	Noem	Shimkus
Joyce (OH)	Nunes	Shuster
Kelly (MS)	Olson	Simpson
King (IA)	Palazzo	Smith (NE)
Kinzie	Palmer	Smith (TX)
Knight	Paulsen	Smucker
Kustoff (TN)	Pearce	Stefanik
Latta	Perry	Stewart
Labrador	Pittenger	Stivers
LaHood	Poe (TX)	Taylor
LaMalfa	Poliquin	Tenney
Lamborn	Posey	Thompson (PA)
Lance	Ratcliffe	Thornberry
Latta	Reed	Tiberi
Lewis (MN)	Reichert	Tipton
Long	Renacci	Trott
Loudermilk	Rice (SC)	Turner
Love	Roby	Upton
Lucas	Roe (TN)	Valadao
Luetkemeyer	Rogers (AL)	Wagner
MacArthur	Rogers (KY)	Walberg
Marchant	Rohrabacher	Walden
Marshall	Rokita	Walker
Massie	Rooney, Francis	Walorski
Mast	Rooney, Thomas	Walters, Mimi
McCarthy	J.	Weber (TX)
McCaul	Ros-Lehtinen	Webster (FL)
McClintock	Roskam	Wenstrup
McHenry	Ross	Westerman
McMorris	Rothfus	Williams
Rodgers	Rouzer	Wilson (SC)
McSally	Royce (CA)	Wittman
Meadows	Russell	Womack
Meehan	Rutherford	Woodall
Messer	Sanford	Yoder
Mitchell	Scalise	Yoho
Moolenaar	Schweikert	Young (IA)
Mooney (WV)	Scott, Austin	Zeldin
Mullin		

NOT VOTING—12

Beyer	Jordan	Payne
Collins (NY)	Kelly (PA)	Rush
Davis, Danny	King (NY)	Slaughter
Deutch	Marino	Smith (MO)

□ 1729

Messrs. GROTHMAN, MITCHELL, COSTELLO of Pennsylvania, WILSON of South Carolina, ZELDIN, MCHENRY, Ms. GRANGER, and Mr. DENT changed their vote from “aye” to “no.”

Messrs. KILDEE and GUTIÉRREZ changed their vote from “no” to “aye.” So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MR. TAKANO

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. TAKANO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 183, noes 232, not voting 14, as follows:

[Roll No. 166]

AYES—183

Adams	Bishop (GA)	Brady (PA)
Aguilar	Blumenauer	Brown (MD)
Barragán	Blunt Rochester	Brownley (CA)
Bass	Bonamici	Bustos
Beatty	Boyle, Brendan	Butterfield
Bera	F.	Capuano

Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Cleave
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Costa
Courtney
Crist
Crowley
Cuellar
Davis (CA)
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espallat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Galleo
Garamendi
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)

Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsock
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney,
Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
Pallone

Panetta
Pascarelli
Pelosi
Perlmutter
Peters
Peterson
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sires
Smith (WA)
Soto
Speier
Suozi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Visclosky
Walz
Wasserman
Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOES—232

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Comer
Comstock
Conaway
Cook
Costello (PA)
Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxy
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Harris
Hartzler
Hensarling
Herrera Beutler
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hutner
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jones
Joyce (OH)
Katko
Kelly (MS)
King (IA)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lamborn

Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marshall
Massie
Rice (NY)
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris
Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (PA)
Newhouse
Noem
Nunes
O'Rourke
Olson
Palazzo
Palmer
Paulsen

Perry
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Rutherford
Sanford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sinema
Smith (MO)

Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Velázquez
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—14

Beyer
Black
Collins (NY)
Cummings
Davis, Danny
Deutch
Jordan
Kelly (PA)
King (NY)
Marino
Payne
Pearce
Rush
Slaughter

ANNOUNCEMENT BY THE ACTING CHAIR
The Acting CHAIR (during the vote).
There is 1 minute remaining.

□ 1733

So the amendment was rejected.
The result of the vote was announced as above recorded.
The Acting CHAIR. The question is on the amendment in the nature of a substitute, as amended.

The amendment was agreed to.
The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. OLSON) having assumed the chair, Mr. POE of Texas, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1259) to amend title 38, United States Code, to provide for the removal or demotion of employees of the Department of Veterans Affairs based on performance or misconduct, and for other purposes, and, pursuant to House Resolution 198, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. KIHUEN. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore (Mr. POE of Texas). Is the gentleman opposed to the bill?

Mr. KIHUEN. I am opposed in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Kihuen moves to recommit the bill H.R. 1259 to the Committee on Veterans' Affairs with instructions to report the same back to the House forthwith, with the following amendments:

Page 8, line 19, insert "or an individual who makes a whistleblower disclosure to the central whistleblower office, including anonymous whistleblower disclosures made through a toll-free telephone number or Internet website" after "Special Counsel".

Add at the end the following new section:

SEC. 10. TREATMENT OF VETERANS, MEMBERS OF UNIFORMED SERVICES, AND WHISTLEBLOWERS.

The amendments made by sections 3 and 9 of this Act shall not apply to any individual who is—

(1) preference eligible under section 2108(3) of title 5, United States Code;

(2) a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service (as such term is defined in section 4303(16) of title 38, United States Code); or

(3) seeking corrective action (or on behalf of whom corrective action is sought) from the Office of Special Counsel based on an alleged prohibited personnel practice described in section 2302(b) of title 5, United States Code.

Mr. ROE of Tennessee (during the reading). Mr. Speaker, I ask unanimous consent to suspend with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER pro tempore. The gentleman from Nevada is recognized for 5 minutes.

Mr. KIHUEN. Mr. Speaker, this is the final amendment to the bill, which will not kill the bill or send it back to committee. If adopted, the bill will immediately proceed to final passage, as amended.

Mr. Speaker, as a nation, we have the moral responsibility for providing for the men and women who have served our country. One of my highest priorities in Congress is ensuring that our veterans receive the care and benefit they have earned.

It has been almost 3 years since a whistleblower shocked the Nation by disclosing 1,400 veterans languish without care at the Phoenix VA. Since then, many others have come forward to report excessive wait times, substandard care, and dirty facilities in VA hospitals all across the country.

The issues we have seen at different VA hospitals have been completely disgraceful. However, what is even more shocking is that many of these whistleblowers have reported some sort of retaliation from hospital directors or the VA's Office of Inspector General, even though Federal law specifically prohibits harassment or retaliation of Federal employees who bring wrongdoing to light.

The recent reports about VA employees facing retaliation is disheartening and it is unacceptable. We need to protect these employees who are trying to ensure that the VA is transparent and accountable to all of our veterans.

Mr. Speaker, my amendment is very simple and commonsense. It merely builds upon existing language in the bill seeking to protect whistleblowers.

Under the bill, a whistleblower can still be fired during the expedited procedure with limited recourse. This amendment would close that loophole.

This amendment would also cover those who come forward to a central whistleblower office instead of just a special counsel.

And, as my colleagues have noted numerous times on the floor today, one-third of our VA employees are veterans. This amendment also works to protect them from unjust firings without due process.

We should never tolerate fraud, waste, or abuse on our Federal agencies. This is especially true when it comes to caring for our Nation's veterans. The brave men and women who have put their lives on the line should be provided with the best quality of care, and it is imperative that the whistleblowers who have stood up to protect our veterans should be fully protected from retaliation.

We should provide whistleblowers with the confidence to step up and help make a change. Helping improve our veterans' health care is dependent in part on the encouragement and protection of whistleblowers within the VA.

Mr. Speaker, in closing, I say this. No one in this body wants to vote on a bill that may give potential whistleblowers doubt about coming forward. Let's give them the assurance they deserve by voting for this motion to recommit, which will strengthen the whistleblower protection language in the underlying bill.

Mr. Speaker, I urge support for my amendment, and I yield back the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. ROE of Tennessee. Mr. Speaker: "If you engage in an unethical practice, if you cover up a serious problem, you should be fired. Period. It shouldn't be that difficult"—Barack Obama at the Veterans Choice Act signing in August of 2014. That is who said that.

Yesterday, I had breakfast with the Secretary of the VA. We know that ac-

countability and the VA needs reform. The first thing he said to me when he was there was he needs this accountability act to better manage the VA.

What does this bill do, in a nutshell, very quickly? It simply shortens the process instead of taking as much as a year or longer to terminate someone. And we have had people in egregious things they have done. The Phoenix VA issue was mentioned. It took 2 years to get rid of anybody out there.

The Secretary says he needs these authorities. It maintains the due process rights of the employees, which is important. It simply shortens the length of time for as much as a year for some people. The VA said it would take 6 months to a year to fire a government employee—or longer.

It also has accentuated whistleblower protections, allows the Secretary to recoup bonuses from people who have gotten them illegally.

It allows the Secretary to hire people. We have many VA facilities out there that do not have CEOs at this time.

Mr. Speaker, I would recommend that we oppose the MTR, and I would strongly encourage my colleagues from both sides of the aisle, in a bipartisan way, to support the underlying bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KIHUEN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 5-minute vote on the motion to recommit will be followed by 5-minute votes on passage of the bill, if ordered, and passage of H.R. 1181.

The vote was taken by electronic device, and there were—ayes 189, noes 229, not voting 11, as follows:

[Roll No. 167]

AYES—189

Adams
Aguilar
Barragan
Bass
Beatty
Bera
Bishop (GA)
Blum
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan
F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)

Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Costa
Courtney
Crist
Crowley
Cuellar
Cummings
Davis (CA)

DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Dingell
Doggett
Doyle, Michael
F.
Ellison
Engel
Eshoo
Espallat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego

Garamendi
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsock
Lofgren

Lowenthal
Lowey
Lujan Grisham,
M.
Luján, Ben Ray
Lynch
Maloney,
Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascarella
Pelosi
Kuster (NH)
Peters
Peterson
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard

Ruiz
Ruppersberger
Ryan (OH)
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Smith (WA)
Soto
Speier
Suzuki
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman
Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOES—229

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Comer
Comstock
Conaway
Cook
Costello (PA)
Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis

DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Fox
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Harris
Hartzler
Hensarling
Herrera Beutler
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam

Joyce (OH)
Katko
Kelly (MS)
King (IA)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lamborn
Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris
Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moelenaar
Mooney (WV)
Mullin
Murphy (PA)
Newhouse
Noem
Nunes
Olson
Palazzo
Palmer
Paulsen
Pearce
Perry
Pittenger
Poe (TX)
Poliquin
Posey

Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Rutherford
Sanford

Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott

Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—11

Beyer
Collins (NY)
Davis, Danny
Deutch

Jordan
Kelly (PA)
King (NY)
Marino

Payne
Rush
Slaughter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1751

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TAKANO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 237, noes 178, not voting 14, as follows:

[Roll No. 168]

AYES—237

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Biggs
Bilirakis
Bishop (MI)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Castro (TX)

Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Comer
Comstock
Conaway
Cook
Costa
Costello (PA)
Cramer
Crawford
Cuellar
Culbertson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann

Flores
Fortenberry
Foxy
Franks (AZ)
Frelinghuysen
Gabbard
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gottheimer
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Hartzler
Hensarling
Herrera Beutler
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren

Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jones
Joyce (OH)
Katko
Kelly (MS)
King (IA)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lamborn
Lance
Latta
Lewis (MN)
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris
Rodgers
McSally
Meadows
Meehan
Messer
Mitchell

Moore
Mooney (WV)
Mullin
Murphy (FL)
Murphy (PA)
Newhouse
Noem
Nunes
O'Halleran
O'Rourke
Olson
Palazzo
Palmer
Paulsen
Pearce
Perry
Peters
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Rutherford
Sanford
Scalise

Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sinema
Smith (MO)
Smith (NE)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (IA)
Zeldin

NOES—178

Adams
Aguilar
Barragan
Bass
Beatty
Bera
Bishop (GA)
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castror (FL)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Courtney
Crist
Crowley
Cummings
Davis (CA)
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo

Espallat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gallego
Garamendi
Gonzalez (TX)
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
LoBiondo
Loebach
Lofgren
Lowenthal
Lowey

Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney,
Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Nadler
Napolitano
Neal
Nolan
Norcross
Pallone
Panetta
Pascrell
Pelosi
Perlmutter
Peterson
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman

Sires
Smith (NJ)
Smith (WA)
Soto
Speier
Suozi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)

Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz

NOT VOTING—14

Beyer
Bishop (UT)
Blumenauer
Capuano
Collins (NY)

Davis, Danny
Deutch
Jordan
Kelly (PA)
King (NY)

Marino
Payne
Rush
Slaughter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1758

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERANS 2ND AMENDMENT PROTECTION ACT

The SPEAKER pro tempore. The unfinished business is the vote on passage of the bill (H.R. 1181) to amend title 38, United States Code, to clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 240, nays 175, not voting 14, as follows:

[Roll No. 169]

YEAS—240

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Biggs
Bilirakis
Bishop (GA)
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz

Cheney
Coffman
Cole
Collins (GA)
Comer
Comstock
Conaway
Cook
Correa
Costello (PA)
Cramer
Crawford
Cuellar
Culbertson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxy
Franks (AZ)
Frelinghuysen
Gabbard

Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Gonzalez (TX)
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Green, Gene
Griffith
Grothman
Guthrie
Harper
Harris
Hartzler
Hensarling
Herrera Beutler
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam