There is important workplace protections that do not exist in this bill, and that is my position. We cannot start off by blaming unions, blaming the VA.

We have been through this before. There are some bad actors there. We are trying to get rid of them, and I want to get rid of them faster than you want to get rid of them, but I don't want to take down the whole group.

We paint with a very wide brush. We have done this with other Federal agencies. The reality is that the civil service protections available to these employees and all other Federal employees actually protect whistleblowers—that is in the law already—and allow them to come forward when they see wrongdoing, without fearing some retaliation.

Whistleblowers were how we discovered the problems, Mr. Chairman, in the first place. That is how we found out about what was going on in Phoenix and in some other places. Correct me if I am wrong; I think you will agree with me.

I agree that poorly performing employees have no place at the VA—or any other Federal agency for that matter. We agree on both sides of the aisle. We can't—as some have said, you guys are in favor of the vets, and we are not in favor of the vets.

Come on. We are away from that. We did that 15 years ago. That didn't work.

I agree that poorly performing employees have no place at the VA—or any other Federal agency, not just this one. This demonization of government employees that my colleagues are spearheading does not encourage productive work and, frankly, is just plain wrong.

I urge my colleagues to oppose this legislation. We are not going to make these folks any more accountable by demonizing the work.

By the way, just as you can't have community policing without police, you have got to understand, you cannot have service with thousands and thousands of positions being vacant because you don't want to spend the money.

That is at one of the cores; it may not be the most fundamental reason. That is one of the reasons at least why we can't provide service.

The Acting CHAIR (Mr. BYRNE). The Committee will rise informally.

The Speaker pro tempore (Mrs. WALORSKI) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Brian Pate, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

VA ACCOUNTABILITY ACT OF 2015

The Committee resumed its sitting.

Mr. MILLER of Florida. Mr. Chairman, I don't believe I have mentioned the unions one time, but I now think I understand why the disparity in the vote. The senior executive level that we passed the accountability for last year is nonunionized, and the people that we are talking about today are unionized.

I yield 2 minutes to the gentleman from the First District of Tennessee (Mr. ROE).

Mr. ROE of Tennessee. Mr. Chairman, it is a pleasure to join my colleagues on the House floor today to speak in support of H.R. 1994, the VA Accountability Act, as amended.

I would like to begin by noting that most of the VA's 300,000-plus employees are honest, hard-working folks who get up every day and go to work with the sole intention of helping our veterans, just as they do at Mountain Home VA Medical Center in my hometown of Johnson City, Tennessee.

With the scandals at the VA medical centers and reports of whistleblower retribution, it has become evident that there are more bad apples than we would like to believe.

The VA Accountability Act would provide the flexibility necessary for the Secretary of Veterans Affairs to remove these bad actors and send a message about the type of performance that we expect for our veterans.

Additionally, this bill would provide frontline employees with increased whistleblower protections from retribution from superiors and colleagues through the office of special counsel.

As a member of the Veterans' Affairs Subcommittee on Oversight and Investigations and as a veteran myself, I understand how crucial it is for whistleblowers to continue coming forward with allegations of mismanagement, misconduct, and outright negligence. If whistleblowers don't feel safe stepping forward, we will never, never be able to fix the problems at the VA.

I think it is important to note that nothing in this bill compels the Secretary to remove anyone. Let me say that again. Nothing in this bill requires the Secretary to remove anyone. It simply gives the Secretary the tools necessary to remove bad employees, which would be a welcomed authority, I would think.

Mr. Chairman, we must change the culture at the VA. As the second largest employing Department in the U.S. Government, second only to the Department of Defense, there are far too many bureaucratic hurdles in place to reasonably and responsibly manage it.

Just one thing about spending at the VA, Mr. Chairman, I have been on the Veterans' Affairs Committee since I have been in Congress, 6½ years. The budget is up 74 percent. We are spending the money. We need to spend it more wisely.

I urge my colleagues to support this legislation for our Nation's veterans.

Mr. TAKANO. Mr. Chairman, I am glad that my colleagues on the other side believe that we need to protect whistleblowers. It is precisely the at-will nature, making all of the 200,000 employees of the VA at-will employees, which makes them more vulnerable to the caprices of managers and makes them less likely to want to come forward as whistleblowers.

I yield 2 minutes to the gentleman from Pennsylvania (Mr. CARTWRIGHT).

Mr. CARTWRIGHT. Mr. Chairman, I rise to oppose H.R. 1994, which seeks to transform 300,000 VA personnel to what we call at-will employees, capable of being fired based on anything, including their beliefs and not their merit necessarily. It effectively destroys the civil service as it is and as we know it at the VA.

Now, some jaded colleagues of mine would look at this bill and say it is just a clever attempt to drive a wedge between our Nation's veterans—all of whom we ardently support on both sides of the aisle—between those veterans and the civil servants who serve them at the VA and the unions that represent them.

This bill strips due process rights away from every nonmanagement VA employee, including over 100,000 veterans. That is the key, is that there are 100,000 veterans themselves affected by this bill; and they will lose rights as a result if this bill passes.

Now, H.R. 1994 will have a chilling effect on those willing to speak out, and that has been addressed amply heretofore, but I am here to say it goes beyond whistleblowers. Whistleblowers in this country have a lot of protections.

This goes beyond whistleblowers because, remember, a lot of the bad actors at the VA that have led to the Phoenix situation and the others that we have seen are management people.

Think of it. If we take away the due process rights of employees, not only who would serve as whistleblowers to blow the whistle on bad management conduct, but we take away their rights to due process before they lose their jobs; what we are doing to them is that we are perpetuating this culture of tacit compliance with bad actor managers at VA.

For example, if an employee simply doesn't want to go along with an improper and an unethical practice that a manager is asking him or her to do, that employee right now can say: No, I am not going to do it.

If we pass this bill and they refuse to do it, they can be fired for not doing it. This is not the way to serve our Nation's veterans.

Mr. MILLER of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. BENISHEK), chairman of the Health Subcommittee.

□ 1515

Mr. BENISHEK. Mr. Chairman, today I rise in support of H.R. 1994, legislation to allow the VA Secretary to fire employees because of poor performance or misconduct. I want to thank Chairman MILLER for his strong leadership on this bill.

The VA Committee has been relentless in our pursuit of answers and accountability for our veterans since the

wait time scandal first surfaced. And, yet, the VA has only held three individuals responsible for these unacceptable failings.

I am the father of a veteran, and I served our returning heroes as a doctor at the Iron Mountain VA hospital for 20 years. I know exactly the quality of our veterans, and they deserve so much better.

In northern Michigan, we all know that, if you don't do your job, you get fired. It is that simple.

The VA needs to remember that it is not there to serve the VA, it is there to serve our veterans. Until we refocus the VA on this fundamental and sacred mission, we will continue to have the issues of mismanagement and incompetence that have plagued the Department.

This bill takes an important step in that direction. I am pleased to support it. I urge my colleagues to do the same.

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

I just want to address again the fact that most of us did, in fact, vote for the Veterans Access, Choice and Accountability Act SES provision.

I want to reiterate that the courts—not Congress, not the President—determine whether a law we pass comports with the Constitution.

In hindsight, we should have given that SES provision closer scrutiny. We might have reacted a bit too hastily to the Phoenix scandal. We were all, I think, unified in our outrage.

However, that SES provision is now working its way through the court system and is very well possibly going to be overturned.

I reserve the balance of my time.

Mr. MILLER of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from the First District of Kansas (Mr. HUELSKAMP).

Mr. HUELSKAMP. I thank the chairman. I appreciate the opportunity to speak in support of our legislation.

Mr. Chairman, we do know in the last year there has been a lot of talk about accountability at the VA. Unfortunately, though, there has not been enough action or change by the VA under this administration.

This bill provides much-needed tools to ensure the VA Secretary has the authority and the responsibility to remove corrupt or incompetent employees.

As a Member of Congress, I am simply tired of hearing stories about employees placed on indefinite administrative leave or getting early retirement with full benefits for offenses that should get them fired, if we really cared about the veterans.

Ultimately, here is the purpose of this bill: ending the culture of nonaccountability at the VA. My bill, the Whistleblower Testimony Travel Act, is also included.

It provides much-needed protections for courageous whistleblowers who testify before Congress about the shortfalls of this agency.

It might be hard to believe, Mr. Chairman, but, currently, if a VA whistleblower is invited to testify before Congress, they are required to use their personal vacation time and personally cover all their own travel expenses.

This bill would ensure that brave employees who report to Congress and the public on what is broken within the VA can do so on official time and be compensated by the VA for their travel costs.

Ultimately, this legislation is about protecting our veterans. It is about making sure our veterans are treated with dignity and respect. It is about making certain that our brave veterans have a VA that works for them, not the other way around.

Mr. TAKANO. Mr. Chairman, may I inquire as to the time remaining?

The Acting CHAIR. The gentleman from California has 12 minutes remaining.

Mr. TAKANO. Mr. Chairman, I just want to state for the record that, as of last year, under the current due process regime in effect at the VA, 872 permanent employees were removed, 487 more resigned in lieu of being fired, and 958 probationary employees were terminated.

So it is indeed very possible under the current due process regime for employees to be disciplined and dismissed. We need to work more closely with the VA to make sure that we empower managers to utilize the current processes in place.

I yield 3 minutes to the gentlewoman from Maryland (Ms. EDWARDS).

Ms. EDWARDS. I thank the gentleman from California.

Mr. Chairman, I rise in strong opposition to H.R. 1994, the so-called VA Accountability Act.

I am the daughter of a career servicemember and a veteran. I, too, was outraged last year at the findings that wait time records were falsified at the Department of Veterans Affairs.

But I have to tell you—and it has been said on the other side—my father actually received really good care and services in VA, as hundreds of thousands of veterans do all across this country, by the hundreds of thousands of veteran employees and workers at the VA.

I recall that, in my State of Maryland, 10 percent of our population are veterans, and we are a small State. We all care about veterans and the care that they receive.

Just before adjourning for our August district work period last year, Congress passed and I voted for and the President signed into law the Veterans Access, Choice and Accountability Act.

That law gave the VA Secretary expanded authority to fire or demote Senior Executive Service employees, capped the amount of bonuses the VA could pay each year, and it required the VA to establish penalties for employees who knowingly submit false wait time data.

Well, enough already. Almost 1 year later House Republicans are not only here skipping town early with a whole bunch of unfinished business, but they are spending the last day of the session on an ideological bill that is aimed to disparage Federal employees.

All employees, including Federal employees, must be held to the highest standards for their quality of work and their behavior. There are mechanisms that are in place to enforce those standards for all Federal employees, including those at the Veterans Affairs.

The main provision of the bill would single out nonmanagement VA employees, including over 100,000 veterans in the workforce to be fired or demoted without due process.

We work really closely with our employees at the Baltimore regional office and the Washington, D.C., Medical Center. These people, many veterans themselves, are dedicated. They care deeply about the patients they serve and the mission of the administration.

This legislation is nothing more than a last-minute attempt by House Republicans to terminate, demoralize, and unfairly blame Federal employees and shrink the government so it can't do anything for the American people.

I will work with like-minded Members of Congress who want to do the right thing and provide the right kind of oversight. But this is not the answer, and it would destroy VA's merit-based civil service system.

Let me just say this is not about accountability. It is not about whistleblowers. It is not about improving services for our Nation's veterans.

This bill is nothing more than union-busting. Let's just call it what it is. It is union-busting, and it needs to be stopped.

The House Republicans should be ashamed of trying to use VA employees and Federal employees for their own political gain.

Mr. MILLER of Florida. Mr. Chairman, I would remind the gentlewoman that she voted at the last minute before the August work recess for the Veterans Access, Choice and Accountability Act. The same language is in there now. The only difference is it did not cover union employees. This one does.

I yield 2 minutes to the gentleman from the Sixth District of Colorado (Mr. COFFMAN).

Mr. COFFMAN. Mr. Chairman, I rise in strong support of H.R. 1994, the VA Accountability Act.

You don't have to look any further than my hometown of Aurora, Colorado, to see that the VA is in desperate need of fundamental reforms.

What happens when the VA bursts its budget on a single construction project by over $1 billion? Nobody gets fired. Nobody gets disciplined. Nobody is at fault.

Of course, that is not technically true. The VA was willing to fire one person involved, a whistleblower attempting to warn VA leaders early on of the growing problems with the project.

To make matters worse, the VA didn't just fail to discipline the people in charge of the Aurora project, but they awarded the VA's construction chief over $600,000 in bonuses and let him retire with a full pension.

There is a culture of bureaucratic incompetence and corruption within the VA which is hurting our Nation's veterans and wasting billions of taxpayer dollars.

The VA Accountability Act is an important step in the right direction, and I urge its full support.

Mr. TAKANO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. BROWN), the ranking member of the Veterans' Affairs Committee.

Ms. BROWN of Florida. Mr. Chairman, let me just say, first of all, that I have been on this committee for the entire time I have been in Congress, 23 years.

What I have always enjoyed about this committee is the bipartisan nature of this committee. But let me just tell you this bill, H.R. 1994, I do not support.

The gentleman from Florida, Chairman MILLER, has said repeatedly that we voted for this provision in the Choice Act. And the only reason we did it was because these were union people or not union people.

I went to every single meeting, every single conference, and this provision that you are talking about—the devil is always in the details.

Maybe we need to make sure we read every bill closely because I was not—yes, the Secretary has the authority to fire people. But we want to make sure that they have due process.

We are voting to give the VA the additional resources they need to do away with the backlog.

Would the gentleman from Florida respond to that. Because none of us were voting for H.R. 1994. It was a bad year for Congress, a bad year for the American people.

I yield to the gentleman from Florida.

Mr. MILLER of Florida. I would say to the gentlewoman from Florida that, if she would ask a question, I will be more than happy to answer her question.

Ms. BROWN of Florida. Mr. Chairman, Chairman MILLER has said repeatedly that this provision that you have was in the base bill of the Choice program and that we all knew that we were voting to give the Secretary additional authority to fire people.

Mr. MILLER of Florida. That is correct.

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

Mr. TAKANO. I yield an additional 1 minute to the gentlewoman.

Ms. BROWN of Florida. Yesterday in the committee I heard someone say that the goal is to close all of the VA facilities and privatize it.

Now, let me be clear that that is not the goal of the Members on the Democratic side.

Mr. MILLER of Florida. Mr. Chairman, I would also say that H.R. 4031 last year was a stand-alone bill that dealt specifically with firing senior executive-level individuals, the same language that is in here now for the rest of the VA.

The Democrats unanimously supported that language in the Veterans Access, Choice and Accountability Act.

I yield 2 minutes to the gentlewoman from the State of Indiana (Mrs. WALORSKI).

Mrs. WALORSKI. Mr. Chairman, I rise today in support of the VA Accountability Act. I also want to thank Chairman MILLER for sponsoring this bill and for his work to reform the Department of Veterans Affairs.

It wasn't long ago that news reports of VA mismanagement made headlines across this country. Reports surfaced of veterans dying due to mismanaged wait times and senior executives receiving bonuses instead of receiving punishment for knowingly allowing this negligence to occur.

Over the past year, the Veterans' Affairs Committee has continued to uncover instances of mismanagement or misconduct by VA employees.

We discovered the VA often does not hold employees accountable for their actions. When the VA attempts to take disciplinary action against an employee, the process is so complicated and lengthy that such action rarely occurs.

In May, VA Deputy Secretary Sloan Gibson admitted that it was very difficult to fire bad employees. For too long, taxpayers have been footing the bill to pay poor-performing employees to provide substandard care to our veterans.

Only in government are special protections put in place that protect those who cannot appropriately do their job.

However, I also recognize there are individuals in the VA who do a great job for our veterans, and they should be commended for that.

This legislation simply builds on last year's law that gave the VA Secretary the authority to remove employees for poor performance or misconduct.

The VA Accountability Act of 2015 expands that power further to the entire VA workforce, giving the Secretary increased authority to remove employees who are not meeting the standards of service that veterans deserve and taxpayers expect.

In addition, the legislation protects whistleblowers and would shorten the appeal period and end what many veterans believe is a never-ending process to remove employees who may be damaging the Department's reputation and, even worse, putting veterans at risk.

□ 1530

This bill takes those steps to ensure our Nation's servicemen and -women receive the care they rightfully deserve.

I urge my colleagues to join me in supporting this bill because our veterans deserve nothing but the best.

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

I just want to point out we keep getting back to this point about everybody voted for the SES provision that is only now being extended to all employees now, but I want to remind my colleagues that that provision was part of a large, large conference report that included the $10 billion to address the problems we had in Phoenix. There were 1,500 graduate medical education slots. It was a huge, huge, huge bill.

There were a number of people who did have concerns about the provision that affected the SES employees, but given the enormity of the situation we were trying to address, I believe that many folks just believe that it was the best thing to do to come together on a bipartisan basis and pass a bill that addressed the situation in Phoenix.

I also want to address another issue. H.R. 1994 does not protect whistleblowers to the extent that whistleblowers are protected now under the current regime. In fact, it creates extra hurdles for whistleblowers, and I bring this point up because we would not know about the terrible egregious situation in Phoenix without whistleblowers coming forward.

What do I mean by that? This bill does nothing to protect the firing of a whistleblower who has not yet filed an official complaint before they even have the opportunity to report danger to patient safety, wrongdoing, malfeasance, or discrimination.

This bill will encourage bad employees to file for whistleblower status to prevent themselves from being fired, and these bad employees will overburden the office of special counsel with frivolous complaints.

Now, if you are an at-will employee and you are under threat of immediate dismissal, an immediate threat to your livelihood, that is even more of an intimidating situation for that employee not to want to come forward as a whistleblower.

Mr. Chairman, I believe that this bill actually worsens the situation for whistleblowers and does not protect them more; it protects them less. It gives them extra burdens.

I reserve the balance of my time.

Mr. MILLER of Florida. Mr. Chairman, I yield myself such time as I may consume.

I would say that the statutory definition in chapter 5 of a whistleblower ''means a complaint by an employee of the Department disclosing, or assisting another employee to disclose, a potential violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.''

I yield 2 minutes to the gentleman from Louisiana, Dr. Abraham, an ablebodied member of our committee.

Mr. ABRAHAM. Mr. Chairman, I thank the chairman for bringing up this very strong bill which, in my opinion, will be lifesaving for some of our Nation's heroes.

I rise today in support of the VA Accountability Act of 2015. I am a proud original cosponsor of the bill, and I believe the legislation is vital to rooting out the pervasive bureaucracy that plagues the Federal Government.

As a direct result of this broken system, we have seen instances where a VA employee actually took a patient to a crackhouse to get a ''fix.'' It took an entire year for that employee to be fired—an entire year.

As a direct result of this broken system, we have seen senior employees caught participating in retaliation against whistleblowers, only to remain on the job.

As a direct result of this broken system, we have seen employees who were caught manipulating veterans' disability claims.

Do you know what happened to those employees? They were promoted. They received bonuses. This is unacceptable on so many levels, and it is time for it to stop. We have to make the VA work for the veteran. The current law protects those who have forgotten that they work for the veteran, not the other way around.

Even the Veterans Affairs Department's own Deputy Secretary, Sloan Gibson, as you heard before, recently admitted at a congressional hearing that ''it is too hard to fire someone at the VA.'' There is no excuse for those who fail to do their job and then get promoted, none.

H.R. 1994 is a giant step forward in ensuring that good employees are protected, ensuring whistleblowers are protected, and, most importantly, that our Nation's heroes are protected.

I urge my colleagues to stand up for the veterans who have to stand up for us by supporting the VA Accountability Act of 2015.

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

Mr. MILLER of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. COSTELLO), from the Sixth District.

Mr. COSTELLO of Pennsylvania. Mr. Chairman, should the Secretary of the VA be allowed to remove or demote an employee of the Department for poor performance or misconduct? That is the question, as I see it.

Common sense to me dictates that, if an employee is poorly performing or has demonstrated incompetence or dishonesty, as we have seen at VAs in Philadelphia and across the country, we need to be able to get rid of them—common sense.

I hear those who are speaking about due process violations implicit or explicit in this legislation, and I simply just don't see it. For one, there was a law passed last Congress; I wasn't here then, but it was part of a larger, broader bill that brought more money to the VA, and with more money, there should be more accountability. I think that is common sense.

Here is the example: Poorly performing employee, employee who misbehaves, demoted or terminated? Under this bill, that employee, within 7 days, gets to file an expedited appeal with the Merit Systems Protection Board, and then the MSPB would have to make a final decision within 45 days. If you get fired, if you get demoted, if you think that that was wrong, there is a process that is in place to address that.

This comes on the heels of a lot of problems in the VA. We need more accountability, and we need more transparency, and we hear that all the time. This bill addresses that.

This bill also provides more protections to whistleblowers. It is the courageous whistleblowers, through their tenacity, that have brought a lot of the problems forward. This bill seeks to protect them.

I want to thank the chairman for his leadership.

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

I wish to address this issue of the appeals process that takes place post facto. The Supreme Court decisions and case law make very clear that Federal employees are entitled to due process on the front end and that this bill clearly does not meet that upfront, front-loaded due process moment.

Clearly, 45 days, the Board that makes these decisions, if they don't make a decision, the decision for the firing stands, so they do not have to make a firm decision, and there is no appeal. There is no appeal. That decision is final.

I want to remind my colleagues that the Secretary of the VA hopefully is always appointed by the President with a sense of merit, but I remind you that these are political appointees confirmed by the Senate, as are the top appointees in any Federal department.

You do away with due process rights, you do away with the very cornerstone of a merit-based civil service system. You subject it long term to becoming a spoils system to be dismissed, rehired at the whim of any incoming administration.

I reserve the balance of my time.

Mr. MILLER of Florida. Mr. Chairman, I yield myself such time as I may consume.

My bill provides all employees an appeal to the MSPB. Post-depravation is not an issue; and regarding pre-depravation due process, my bill provides the same protections as the Choice Act, which the MSPB has held does not, on its face, violate the due process clause.

I yield 1 minute to the gentlewoman from American Samoa (Mrs. RADEWAGEN), a new member of our committee.

Mrs. RADEWAGEN. Mr. Chairman, I want to thank Chairman MILLER for introducing this important legislation that will increase accountability in the VA.

For too long, our veterans, including the large number I represent in American Samoa, have been subjected to improper treatment, long wait times, and other serious matters that have yet to be addressed.

This commonsense legislation, of which I am proud to be a cosponsor, will enable the VA to hold those who do not perform their duties accountable, which will surely lead to better services for our veterans. No longer should our veterans come second to lifelong bureaucrats who have gamed the system while our veterans have suffered.

I want to be clear that I believe the vast majority of those VA employees who serve our veterans do so honorably and are dedicated to making sure that those they serve are awarded the services and benefits they have so rightfully earned. However, it is clear that there are some bad apples in the VA, and we must not let them continue to ruin the bunch.

Mr. Chairman, I want to, once again, thank Chairman MILLER for his work on this bill, and I look forward to seeing it signed into law.

Mr. MILLER of Florida. Mr. Chairman, I would like to ask how much time is remaining.

The Acting CHAIR. The gentleman from Florida has 2½ minutes. The gentleman from California has 2 minutes.

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

I just want to remind my colleagues that the front-end provisions that were accorded to the SES employees, we stripped them completely of the front-end due process.

Only with a regulatory move by the VA itself, instituted a 5-day procedure of due process because they, too, believed that case law required at least some front end, and that was over the objections of many of my colleagues. That rule was over the objections of many of my colleagues.

H.R. 1994 strips away front-end due process for all 348,728 employees, of whom 114,740 are veterans. Before we paint them as faceless bureaucrats, one of every three VA employees is a veteran who has laid their life on the line for our country. I think we need to talk about our VA employees with respect.

Even my good friend, the chairman of the VA committee, has said the vast majority of the employees are good, hard-working, competent, good-intentioned people. They deserve to be treated fairly; they deserve to be treated with respect.

Certainly, our frontline employees, our frontline employees, we need to protect them from a capricious, politically motivated manager who will fire them at will and intimidate them into not being a whistleblower.

I reserve the balance of my time.

Mr. MILLER of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. ROTHFUS).

Mr. ROTHFUS. Mr. Chairman, I rise in strong support of the VA Accountability Act.

In his recent remarks at the VFW national convention in Pittsburgh,

Barack Obama discussed the outbreak of Legionnaire's disease at the Pittsburgh VA that killed six veterans and sickened many more.

The Office of the Inspector General concluded that systemic failures and mismanagement at the VA were to blame for the outbreak, and the President stated unequivocally: ''Whenever there are any missteps, there is no excuse.''

Mr. Chairman, that is the essence of the VA Accountability Act. With the enactment of this important legislation, there is no longer any excuse for chronic dysfunction at the VA. There is no excuse for the VA keeping bad employees, placing them on indefinite paid leave, or rewarding them with lavish bonuses. There is no excuse for the VA looking the other way when there is retaliation against courageous whistleblowers.

Simply put, this legislation ensures that there is no excuse for the VA failing our veterans and their families anymore.

I thank the committee for its hard work on this legislation, and I urge my colleagues to support this bill.

□ 1545

Mr. TAKANO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of Florida. Mr. Chairman, I yield myself the balance of my time.

In closing, there has been a lot said today about a lack of due process. I do want to remind my colleagues that, in the Cleveland Board of Education v. Loudermill of 1985, it basically states that, if post-deprivation due process includes a full hearing, on appeal, the Supreme Court has long held that pre-deprivation due process need only be minimal, to only include notice of charges, an explanation of the evidence, and an opportunity to present their side of the story.

In fact, in the Merit Systems Protection Board ruling, the administrative law judge in the Hellman case basically said he did not find the response period was so short—it was 5 days—as to constitute on its face a due process violation, i.e., lack of meaningful opportunity to respond to the charges.

There has been a lot said so far, and I am sure there will be more that will be said on the floor as amendments are brought; but I encourage all of my colleagues to support H.R. 1994, as amended.

I yield back the balance of my time.

Mr. GENE GREEN of Texas. Mr. Chair, I rise today in opposition to H.R. 1994, the VA Accountability Act of 2015. While no member of this body will deny that there is a need for fundamental and transparent reform at the Department of Veterans Affairs this bill does nothing to address the systematic issues that have plagued the VA.

Currently, VA Management has many different routes to hold their employees accountable through existing law. H.R. 1994 would allow the VA to immediately fire employees for poor performance, violating a worker's right to due process. I'm concerned that the bill would effectively make the VA the only ''at-will'' federal agency and this would further deplete the talent and retention of the public servants who serve our veterans.

I fully support Mr. TAKANO's amendment in nature of a substitute which would allow the VA to immediately suspend without pay any employee who's suspected misconducted threatened health or safety then allow the employee to tell their side of the story, preventing cases of political patronage and an increase in false whistleblower cases.

Mr. VAN HOLLEN. Mr. Chair, I rise today in opposition to H.R. 1994, the so-called ''VA Accountability Act of 2015.'' There is nothing more important than providing for the men and women who have made so many sacrifices for our country. However, today's legislation is a fake solution and provides no real fix to the fundamental problems at the VA.

This legislation turns hundreds of thousands of VA employees—including many who served in the armed services and are veteran's themselves—into at-will employees. As a result, this would open the door for political abuse and witch-hunts, effectively creating a mechanism where career federal employees could be removed because of their views or political affiliation. In addition, turning individuals into at-will employees would likely discourage whistleblowers from coming forward out of fear of being terminated. Moreover, if this legislation passes, the Department of Veterans Affairs would be the only federal agency with at-will employment, making it harder to recruit and retain the best and brightest employees who are needed to serve our veterans.

I was disappointed that a substitute amendment offered by Congressman TAKANO was not adopted. Rep. TAKANO's amendment would immediately suspend without pay any employee that is found to put a veteran's health and safety in jeopardy. However, it also ensures that all employees—included whistleblowers—are granted their constitutional right to due process. On the other hand, H.R. 1994 would dismantle civil service protections that have been in place for decades. It would strip away important protections for federal workers and would deny a VA employee the opportunity to appeal a decision to the full Merit Systems Protection Board.

Unfortunately, nothing in this bill addresses the systemic problems that continue to plague the VA health care system. I urge my colleagues to oppose this legislation.

The Acting CHAIR (Mr. HULTGREN). 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 the amendment in the nature of a substitute recommended by the Committee on Veterans' Affairs, printed in the bill. The committee amendment in the nature of a substitute shall be considered as read.

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

H.R. 1994

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''VA Accountability Act of 2015''.

SEC. 2. REMOVAL OR DEMOTION OF EMPLOYEES BASED ON PERFORMANCE OR MISCONDUCT.

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

''§ 715. Employees: removal or demotion based on performance or misconduct

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

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

''(2) demote the individual by means of—

''(A) a reduction in grade for which the individual is qualified and that the Secretary determines is appropriate; or

''(B) a reduction in annual rate of pay that the Secretary determines is appropriate.

''(b) PAY OF CERTAIN DEMOTED INDIVIDUALS.—(1) Notwithstanding any other provision of law, any individual subject to a demotion under subsection (a)(2)(A) 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 or any other category of paid 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. If an individual so demoted does not report for duty, such individual shall not receive pay or other benefits pursuant to subsection (e)(5).

''(c) NOTICE TO CONGRESS.—Not later than 30 days after removing or demoting an 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 or demotion and the reason for such removal or demotion.

''(d) PROCEDURE.—(1) The procedures under section 7513(b) of title 5 and chapter 43 of such title shall not apply to a removal or demotion under this section.

''(2)(A) Subject to subparagraph (B) and subsection (e), any removal or demotion under subsection (a) may be appealed to the Merit Systems Protection Board under section 7701 of title 5.

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

''(e) EXPEDITED REVIEW BY ADMINISTRATIVE JUDGE.—(1) Upon receipt of an appeal under subsection (d)(2)(A), the Merit Systems Protection Board shall refer such appeal to an administrative judge pursuant to section 7701(b)(1) of title 5. The administrative judge shall expedite any such appeal under such section and, in any such case, shall issue a decision not later than 45 days after the date of the appeal.

''(2) Notwithstanding any other provision of law, including section 7703 of title 5, the decision of an administrative judge under paragraph (1) shall be final and shall not be subject to any further appeal.

''(3) In any case in which the administrative judge cannot issue a decision in accordance with the 45-day requirement under paragraph (1), the removal or demotion is final. In such a case, the Merit Systems Protection Board shall, within 14 days after the date that such removal or demotion is final, submit to Congress and 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.

''(4) The Merit Systems Protection Board or administrative judge may not stay any removal or demotion under this section.

''(5) 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 administrative judge 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.

''(6) To the maximum extent practicable, the Secretary shall provide to the Merit Systems Protection Board, and to any administrative judge to whom an appeal under this section is referred, such information and assistance as may be necessary to ensure an appeal under this subsection is expedited.

''(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 or demote 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 defined in section 731 of this title, the Secretary may not remove or demote such individual under subsection (a) until the central whistleblower office under section 732(h) of this title has made a final decision with respect to the whistleblower complaint.

''(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) 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.

''(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, as that term is defined in section 713(g)(1); or

''(B) a political appointee.

''(2) The term 'grade' has the meaning given such term in section 7511(a) of title 5.

''(3) 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.

''(4) 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 adding at the end the following new item:

''715. Employees: removal or demotion 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 715 of title 38.''.

SEC. 3. REQUIRED PROBATIONARY PERIOD FOR NEW EMPLOYEES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) PROBATIONARY PERIOD.—

(1) IN GENERAL.—Chapter 7 of title 38, United States Code, as amended by section 2, is further amended by adding at the end the following new section:

''§ 717. Probationary period for employees

''(a) IN GENERAL.—Notwithstanding sections 3321 and 3393(d) of title 5, the appointment of a covered employee shall become final only after such employee has served a probationary period of 18 months. The Secretary may extend a probationary period under this subsection at the discretion of the Secretary.

''(b) COVERED EMPLOYEE.—In this section, the term 'covered employee'—

''(1) means any individual—

''(A) appointed to a permanent position within the competitive service at the Department; or

''(B) appointed as a career appointee (as that term is defined in section 3132(a)(4) of title 5) within the Senior Executive Service at the Department; and

''(2) does not include any individual with a probationary period prescribed by section 7403 of this title.

''(c) PERMANENT HIRES.—Upon the expiration of a covered employee's probationary period under subsection (a), the supervisor of the employee shall determine whether the appointment becomes final based on regulations prescribed for such purpose by the Secretary.''.

(2) CLERICAL AND CONFORMING AMENDMENTS.—

(A) CLERICAL.—The table of sections at the beginning of such chapter, as amended by section 2, is further amended by adding at the end the following new item:

''717. Probationary period for employees.''.

(B) CONFORMING.—Title 5, United States Code, is amended—

(i) in section 3321(c)—

(I) by striking ''Service or'' and inserting ''Service,''; and

(II) by inserting at the end before the period the following: '', or any individual covered by section 717 of title 38''; and

(ii) in section 3393(d), by adding at the end after the period the following: ''The preceding sentence shall not apply to any individual covered by section 717 of title 38.''.

(b) APPLICATION.—Section 717 of title 38, United States Code, as added by subsection (a)(1), shall apply to any covered employee (as that term is defined in subsection (b) of such section 717, as so added) appointed after the date of the enactment of this Act.

SEC. 4. TREATMENT OF WHISTLEBLOWER COMPLAINTS IN DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Chapter 7 of title 38, United States Code, is further amended by adding at the end the following new subchapter:

''SUBCHAPTER II—WHISTLEBLOWER COMPLAINTS

''§ 731. Whistleblower complaint defined

''In this subchapter, the term 'whistleblower complaint' means a complaint by an employee of the Department disclosing, or assisting another employee to disclose, a potential violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.

''§ 732. Treatment of whistleblower complaints

''(a) FILING.—(1) In addition to any other method established by law in which an employee may file a whistleblower complaint, an employee of the Department may file a whistleblower complaint in accordance with subsection (g) with a supervisor of the employee.

''(2) Except as provided by subsection (d)(1), in making a whistleblower complaint under paragraph (1), an employee shall file the initial complaint with the immediate supervisor of the employee.

''(b) NOTIFICATION.—(1) Not later than four business days after the date on which a supervisor receives a whistleblower complaint by an employee under this section, the supervisor shall notify, in writing, the employee of whether the supervisor determines that there is a reasonable likelihood that the complaint discloses a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety. The supervisor shall retain written documentation regarding the whistleblower complaint and shall submit to the next-level supervisor and the central whistleblower office described in subsection (h) a written report on the complaint.

''(2) On a monthly basis, the supervisor shall submit to the appropriate director or other official who is superior to the supervisor a written report that includes the number of whistleblower complaints received by the supervisor under this section during the month covered by the report, the disposition of such complaints, and any actions taken because of such complaints pursuant to subsection (c). In the case in which such a director or official carries out this paragraph, the director or official shall submit such monthly report to the supervisor of the director or official and to the central whistleblower office described in subsection (h).

''(c) POSITIVE DETERMINATION.—If a supervisor makes a positive determination under subsection (b)(1) regarding a whistleblower complaint of an employee, the supervisor shall include in the notification to the employee under such subsection the specific actions that the supervisor will take to address the complaint.

''(d) FILING COMPLAINT WITH NEXT-LEVEL SUPERVISORS.—(1) If any circumstance described in paragraph (3) is met, an employee may file a whistleblower complaint in accordance with subsection (g) with the next-level supervisor who shall treat such complaint in accordance with this section.

''(2) An employee may file a whistleblower complaint with the Secretary if the employee has filed the whistleblower complaint to each level of supervisors between the employee and the Secretary in accordance with paragraph (1).

''(3) A circumstance described in this paragraph are any of the following circumstances:

''(A) A supervisor does not make a timely determination under subsection (b)(1) regarding a whistleblower complaint.

''(B) The employee who made a whistleblower complaint determines that the supervisor did not adequately address the complaint pursuant to subsection (c).

''(C) The immediate supervisor of the employee is the basis of the whistleblower complaint.

''(e) TRANSFER OF EMPLOYEE WHO FILES WHISTLEBLOWER COMPLAINT.—If a supervisor makes a positive determination under subsection (b)(1) regarding a whistleblower complaint filed by an employee, the Secretary shall—

''(1) inform the employee of the ability to volunteer for a transfer in accordance with section 3352 of title 5; and

''(2) give preference to the employee for such a transfer in accordance with such section.

''(f) PROHIBITION ON EXEMPTION.—The Secretary may not exempt any employee of the Department from being covered by this section.

''(g) WHISTLEBLOWER COMPLAINT FORM.—(1) A whistleblower complaint filed by an employee under subsection (a) or (d) shall consist of the form described in paragraph (2) and any supporting materials or documentation the employee determines necessary.

''(2) The form described in this paragraph is a form developed by the Secretary, in consultation with the Special Counsel, that includes the following:

''(A) An explanation of the purpose of the whistleblower complaint form.

''(B) Instructions for filing a whistleblower complaint as described in this section.

''(C) An explanation that filing a whistleblower complaint under this section does not preclude the employee from any other method established by law in which an employee may file a whistleblower complaint.

''(D) A statement directing the employee to information accessible on the Internet website of the Department as described in section 735(c).

''(E) Fields for the employee to provide—

''(i) the date that the form is submitted;

''(ii) the name of the employee;

''(iii) the contact information of the employee;

''(iv) a summary of the whistleblower complaint (including the option to append supporting documents pursuant to paragraph (1)); and

''(v) proposed solutions to complaint.

''(F) Any other information or fields that the Secretary determines appropriate.

''(3) The Secretary, in consultation with the Special Counsel, shall develop the form described in paragraph (2) by not later than 60 days after the date of the enactment of this section.

''(h) CENTRAL WHISTLEBLOWER OFFICE.—(1) The Secretary shall ensure that the central whistleblower office—

''(A) is not an element of the Office of the General Counsel;

''(B) is not headed by an official who reports to the General Counsel;

''(C) does not provide, or receive from, the General Counsel any information regarding a whistleblower complaint except pursuant to an action regarding the complaint before an administrative body or court; and

''(D) does not provide advice to the General Counsel.

''(2) The central whistleblower office shall be responsible for investigating all whistleblower complaints of the Department, regardless of whether such complaints are made by or against an employee who is not a member of the Senior Executive Service.

''(3) The Secretary shall ensure that the central whistleblower office maintains a toll-free hotline to anonymously receive whistleblower complaints.

''(4) In this subsection, the term 'central whistleblower office' means the Office of Accountability Review or a successor office that is established or designated by the Secretary to investigate whistleblower complaints filed under this section or any other method established by law.

''§ 733. Adverse actions against supervisory employees who commit prohibited personnel actions relating to whistleblower complaints

''(a) IN GENERAL.—(1) In accordance with paragraph (2), the Secretary shall carry out the following adverse actions against supervisory employees whom the Secretary, an administrative judge, the Merit Systems Protection Board, the Office of Special Counsel, an adjudicating body provided under a union contract, a Federal judge, or the Inspector General of the Department determines committed a prohibited personnel action described in subsection (c):

''(A) With respect to the first offense, an adverse action that is not less than a 14-day suspension and not more than removal.

''(B) With respect to the second offense, removal.

''(2)(A) Except as provided by subparagraph (B), and notwithstanding subsections (b) and (c) of section 7513 and section 7543 of title 5, the provisions of subsections (d) and (e) of section 713 of this title shall apply with respect to an adverse action carried out under paragraph (1).

''(B) An employee who is notified of being the subject of a proposed adverse action under paragraph (1) may not be given more than five days following such notification to provide evidence to dispute such proposed adverse action. If the employee does not provide any such evidence, or if the Secretary determines that such evidence is not sufficient to reverse the determination to propose the adverse action, the Secretary shall carry out the adverse action following such five-day period.

''(b) LIMITATION ON OTHER ADVERSE ACTIONS.—With respect to a prohibited personnel action described in subsection (c), if the Secretary carries out an adverse action against a supervisory employee, the Secretary may carry out an additional adverse action under this section based on the same prohibited personnel action if the total severity of the adverse actions do not exceed the level specified in subsection (a).

''(c) PROHIBITED PERSONNEL ACTION DESCRIBED.—A prohibited personnel action described in this subsection is any of the following actions:

''(1) Taking or failing to take a personnel action in violation of section 2302 of title 5 against an employee relating to the employee—

''(A) filing a whistleblower complaint in accordance with section 732 of this title;

''(B) filing a whistleblower complaint with the Inspector General of the Department, the Special Counsel, or Congress;

''(C) providing information or participating as a witness in an investigation of a whistleblower complaint in accordance with section 732 or with the Inspector General of the Department, the Special Counsel, or Congress;

''(D) participating in an audit or investigation by the Comptroller General of the United States;

''(E) refusing to perform an action that is unlawful or prohibited by the Department; or

''(F) engaging in communications that are related to the duties of the position or are otherwise protected.

''(2) Preventing or restricting an employee from making an action described in any of subparagraphs (A) through (F) of paragraph (1).

''(3) Conducting a peer review or opening a retaliatory investigation relating to an activity of an employee that is protected by section 2302 of title 5.

''(4) Requesting a contractor to carry out an action that is prohibited by section 4705(b) or section 4712(a)(1) of title 41, as the case may be.

''§ 734. Evaluation criteria of supervisors and treatment of bonuses

''(a) EVALUATION CRITERIA.—(1) In evaluating the performance of supervisors of the Department, the Secretary shall include the criteria described in paragraph (2).

''(2) The criteria described in this subsection are the following:

''(A) Whether the supervisor treats whistleblower complaints in accordance with section 732.

''(B) Whether the appropriate deciding official, performance review board, or performance review committee determines that the supervisor was found to have committed a prohibited personnel action described in section 733(b) by an administrative judge, the Merit Systems Protection Board, the Office of Special Counsel, an adjudicating body provided under a union contract, a Federal judge, or, in the case of a settlement of a whistleblower complaint (regardless of whether any fault was assigned under such settlement), the Secretary.

''(b) BONUSES.—(1) The Secretary may not pay to a supervisor described in subsection (a)(2)(B) an award or bonus under this title or title 5, including under chapter 45 or 53 of such title, during the one-year period beginning on the date on which the determination was made under such subsection.

''(2) Notwithstanding any other provision of law, the Secretary shall issue an order directing a supervisor described in subsection (a)(2)(B) to repay the amount of any award or bonus paid under this title or title 5, including under chapter 45 or 53 of such title, if—

''(A) such award or bonus was paid for performance during a period in which the supervisor committed a prohibited personnel action as determined pursuant to such subsection (a)(2)(B);

''(B) the Secretary determines such repayment appropriate pursuant to regulations prescribed by the Secretary to carry out this section; and

''(C) the supervisor is afforded notice and an opportunity for a hearing before making such repayment.

''§ 735. Training regarding whistleblower complaints

''(a) TRAINING.—The Secretary, in coordination with the Whistleblower Protection Ombudsman designated under section 3(d)(1)(C) of the Inspector General Act of 1978 (5 U.S.C. App.), shall annually provide to each employee of the Department training regarding whistleblower complaints, including—

''(1) an explanation of each method established by law in which an employee may file a whistleblower complaint;

''(2) an explanation of prohibited personnel actions described by section 733(c) of this title;

''(3) with respect to supervisors, how to treat whistleblower complaints in accordance with section 732 of this title;

''(4) the right of the employee to petition Congress regarding a whistleblower complaint in accordance with section 7211 of title 5;

''(5) an explanation that the employee may not be prosecuted or reprised against for disclosing information to Congress in instances where such disclosure is permitted by law, including under sections 5701, 5705, and 7732 of this title, under section 552a of title 5 (commonly referred to as the Privacy Act), under chapter 93 of title 18, and pursuant to regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191);

''(6) an explanation of the language that is required to be included in all nondisclosure policies, forms, and agreements pursuant to section 115(a)(1) of the Whistleblower Protection Enhancement Act of 2012 (5 U.S.C. 2302 note); and

''(7) the right of contractors to be protected from reprisal for the disclosure of certain information under section 4705 or 4712 of title 41.

''(b) CERTIFICATION.—The Secretary shall annually provide training on merit system protection in a manner that the Special Counsel certifies as being satisfactory.

''(c) PUBLICATION.—(1) The Secretary shall publish on the Internet website of the Department, and display prominently at each facility of the Department, the rights of an employee to file a whistleblower complaint, including the information described in paragraphs (1) through (7) of subsection (a).

''(2) The Secretary shall publish on the Internet website of the Department, the whistleblower complaint form described in section 732(g)(2).

''§ 736. Reports to Congress

''(a) ANNUAL REPORTS.—The Secretary shall annually submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that includes—

''(1) with respect to whistleblower complaints filed under section 732 during the year covered by the report—

''(A) the number of such complaints filed;

''(B) the disposition of such complaints; and

''(C) the ways in which the Secretary addressed such complaints in which a positive determination was made by a supervisor under subsection (b)(1) of such section;

''(2) the number of whistleblower complaints filed during the year covered by the report that are not included under paragraph (1), including—

''(A) the method in which such complaints were filed;

''(B) the disposition of such complaints; and

''(C) the ways in which the Secretary addressed such complaints; and

''(3) with respect to disclosures made by a contractor under section 4705 or 4712 of title 41—

''(A) the number of complaints relating to such disclosures that were investigated by the Inspector General of the Department of Veterans Affairs during the year covered by the report;

''(B) the disposition of such complaints; and

''(C) the ways in which the Secretary addressed such complaints.

''(b) NOTICE OF OFFICE OF SPECIAL COUNSEL DETERMINATIONS.—Not later than 30 days after the date on which the Secretary receives from the Special Counsel information relating to a whistleblower complaint pursuant to section 1213 of title 5, the Secretary shall notify the Committees on Veterans' Affairs of the House of Representatives and the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate of such information, including the determination made by the Special Counsel.''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—Such chapter is further amended by inserting before section 701 the following:

''SUBCHAPTER I—GENERAL EMPLOYEE MATTERS''.

(2) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended—

(A) by inserting before the item relating to section 701 the following new item:

''SUBCHAPTER I—GENERAL EMPLOYEE MATTERS'';

and

(B) by adding at the end the following new items:

''SUBCHAPTER II—WHISTLEBLOWER COMPLAINTS

''731. Whistleblower complaint defined.
''732. Treatment of whistleblower complaints.
''733. Adverse actions against supervisory employees who commit prohibited personnel actions relating to whistleblower complaints.
''734. Evaluation criteria of supervisors and treatment of bonuses.
''735. Training regarding whistleblower complaints.
''736. Reports to Congress.''.

SEC. 5. REFORM OF PERFORMANCE APPRAISAL SYSTEM FOR SENIOR EXECUTIVE SERVICE EMPLOYEES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) PERFORMANCE APPRAISAL SYSTEM.—

(1) IN GENERAL.—Chapter 7 of title 38, United States Code, is further amended by inserting after section 717, as added by section 3, the following new section:

''§ 719. Senior executives: performance appraisal

''(a) PERFORMANCE APPRAISAL SYSTEM.—(1) The performance appraisal system for individuals employed in senior executive positions in the Department required by section 4312 of title 5 shall provide, in addition to the requirements of such section, for five annual summary ratings of levels of performance as follows:

''(A) One outstanding level.

''(B) One exceeds fully successful level.

''(C) One fully successful level.

''(D) One minimally satisfactory level.

''(E) One unsatisfactory level.

''(2) The following limitations apply to the rating of the performance of such individuals:

''(A) For any year, not more than 10 percent of such individuals who receive a performance rating during that year may receive the outstanding level under paragraph (1)(A).

''(B) For any year, not more than 20 percent of such individuals who receive a performance rating during that year may receive the exceeds fully successful level under paragraph (1)(B).

''(3) In evaluating the performance of an individual under the performance appraisal system, the Secretary shall take into consideration—

''(A) any complaint or report (including any pending or published report) submitted by the Inspector General of the Department, the Comptroller General of the United States, the Equal Employment Opportunity Commission, or any other appropriate person or entity, related to any facility or program managed by the individual, as determined by the Secretary;

''(B) efforts made by the individual to maintain high levels of satisfaction and commitment among the employees supervised by the individual; and

''(C) the criteria described in section 734(a)(2) of this title.

''(b) CHANGE OF POSITION.—(1) At least once every five years, the Secretary shall reassign each individual employed in a senior executive position to a position at a different location that does not include the supervision of the same personnel or programs. The Secretary shall make such reassignments on a rolling basis based on the date on which an individual was originally assigned to a position.

''(2) The Secretary may waive the requirement under paragraph (1) for any such individual, if the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives notice of the waiver and an explanation of the reasons for the waiver.

''(c) REPORT.—Not later than March 1 of each year, the Secretary shall submit to the Committees on Veterans' Affairs and Homeland Security and Governmental Affairs of the Senate and the Committees on Veterans' Affairs and Oversight and Government Reform of the House of Representatives a report on the performance appraisal system of the Department under subsection (a). Each such report shall include, for the year preceding the year during which the report is submitted, each of the following:

''(1) All documentation concerning each of the following for each individual employed in a senior executive position in the Department:

''(A) The initial performance appraisal.

''(B) The higher level review, if requested.

''(C) The recommendations of the performance review board.

''(D) The final summary review.

''(E) The number of initial performance ratings raised as a result of the recommendations of the performance review board.

''(F) The number of initial performance ratings lowered as a result of the recommendations of the performance review board.

''(G) Any adverse action taken against any such individual who receives a performance rating of less than fully successful.

''(2) The review of the Inspector General of the Department of the information described in subparagraphs (A) through (D) of paragraph (1).

''(3) A summary of the documentation provided under paragraph (1).

''(d) DEFINITION OF SENIOR EXECUTIVE POSITION.—In this section, the term 'senior executive position' has the meaning given that term in section 713(g)(3) of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 3, is further amended by inserting after the item relating to section 717 the following new item:

''719. Senior executives: performance appraisal.''.

(3) CONFORMING AMENDMENT.—Section 4312(b) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) that, in the case of the Department of Veterans Affairs, the performance appraisal system meets the requirements of section 719 of title 38.''.

(b) REVIEW OF SES MANAGEMENT TRAINING.—

(1) REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into a contract with a nongovernmental entity to review the management training program for individuals employed in senior executive positions (as such term is defined in section 713(g)(3) of title 38, United States Code) of the Department of Veterans Affairs that is being provided as of the date of the enactment of this Act. Such review shall include a comparison of the training provided by the Department of Veterans Affairs to the management training provided for senior executives of other Federal departments and agencies and to the management training provided to senior executives in the private sector. The contract shall provide that the nongovernmental entity must complete and submit to the Secretary a report containing the findings and conclusions of the review by not later than 180 days after the date on which the Secretary and the nongovernmental entity enter into the contract.

(2) REPORT TO CONGRESS.—Not later than 60 days after the date on which the Secretary receives the report under paragraph (1), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the report together with a plan for carrying out the recommendations contained in the report.

SEC. 6. REDUCTION OF BENEFITS FOR MEMBERS OF THE SENIOR EXECUTIVE SERVICE WITHIN THE DEPARTMENT OF VETERANS AFFAIRS CONVICTED OF CERTAIN CRIMES.

(a) REDUCTION OF BENEFITS.—

(1) IN GENERAL.—Chapter 7 of title 38, United States Code, is further amended by inserting after section 719, as added by section 5, the following new section:

''§ 721. Senior executives: reduction of benefits of individuals convicted of certain crimes

''(a) REDUCTION OF ANNUITY FOR REMOVED EMPLOYEE.—The Secretary shall order that the covered service of an individual removed from a senior executive position under section 713 of this title 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—

''(1) the individual is convicted of a felony that influenced the individual's performance while employed in the senior executive position; and

''(2) before such order is made, the individual is afforded notice and an opportunity for a hearing conducted by another department or agency of the Federal Government.

''(b) REDUCTION OF ANNUITY FOR RETIRED EMPLOYEE.—(1) The Secretary may order that the covered service of an individual who is subject to a removal or transfer action under section 713 of this title 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 individual is convicted of a felony that influenced the individual's performance while employed in the senior executive position; and

''(B) before such order is made, the individual is afforded notice and an opportunity for a hearing conducted by another department or agency of the Federal Government.

''(2) The Secretary shall make such an order not later than seven days after the date of the conclusion of a hearing referred to in paragraph (1)(B) that determines that such order is lawful.

''(c) ADMINISTRATIVE REQUIREMENTS.—(1) Not later than 30 days after the Secretary issues an order under subsection (a) or (b), the Director of the Office of Personnel Management shall recalculate the annuity of the individual.

''(2) A decision regarding whether the covered service of an individual shall be taken into account for purposes of calculating an annuity under subsection (a) or (b) is final and may not be reviewed by any department or agency or any court.

''(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) DEFINITIONS.—In this section:

''(1) The term 'covered service' means, with respect to an individual subject to a removal or transfer action under section 713 of this title, the period of service beginning on the date that the Secretary determines under such section that such individual engaged in activity that gave rise to such action and ending on the date that such individual is removed from the civil service or leaves employment at the Department prior to the issuance of a final decision with respect to such action, as the case may be.

''(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 'senior executive position' has the meaning given such term in section 713(g)(3) of this title.

''(4) 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 of such title is amended by inserting after the item relating to section 719, as added by section 5, the following new item:

''721. Senior executives: reduction of benefits of individuals 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 or transfer under section 713 of title 38, United States Code, commencing on or after the date of the enactment of this Act.

SEC. 7. LIMITATION ON ADMINISTRATIVE LEAVE FOR EMPLOYEES DEPARTMENT OF VETERANS AFFAIRS.

(a) LIMITATION.—

(1) IN GENERAL.—Chapter 7 of title 38, United States Code, is further amended by inserting after section 721, as added by section 6, the following new section:

''§ 723. Limitation on administrative leave

''(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not place any covered individual on administrative leave, or any other type of paid non-duty status without charge to leave, for more than a total of 14 days during any 365-day period.

''(b) WAIVER.—The Secretary may waive the limitation under subsection (a) and extend the administrative leave or other paid non-duty status without charge to leave of a covered individual placed on such leave or status under subsection (a) if the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a detailed explanation of the reasons the individual was placed on administrative leave or other paid non-duty status without charge to leave and the reasons for the extension of such leave or status. Such explanation shall include the name of the covered individual, the location where the individual is employed, and the individual's job title.

''(c) COVERED INDIVIDUAL.—In this subsection, the term 'covered individual' means an employee of the Department—

''(1) who is subject to an investigation for purposes of determining whether such individual should be subject to any disciplinary action under this title or title 5; or

''(2) against whom any disciplinary action is proposed or initiated under this title or title 5.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 6, is further amended by inserting after the item relating to section 721 the following new item:

''723. Limitation on administrative leave.''.

(b) APPLICATION.—Section 723 of title 38, United States Code, as added by subsection (a)(1), shall apply with respect to any 365-day period beginning on or after the date of enactment of this Act.

SEC. 8. TREATMENT OF CONGRESSIONAL TESTIMONY BY DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES AS OFFICIAL DUTY.

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

''§ 725. Congressional testimony by employees: treatment as official duty

''(a) CONGRESSIONAL TESTIMONY.—An employee of the Department is performing official duty during the period with respect to which the employee is testifying in an official capacity in front of either House of Congress, a committee of either House of Congress, or a joint or select committee of Congress.

''(b) TRAVEL EXPENSES.—The Secretary shall provide travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, to any employee of the Department of Veterans Affairs performing official duty described under subsection (a).''.

(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 7, the following new item:

''725. Congressional testimony by employees: treatment as official duty.''.

SEC. 9. LIMITATION ON AWARDS AND BONUSES PAID TO EMPLOYEES OF DEPARTMENT OF VETERANS AFFAIRS.

Section 705 of the Veterans Access, Choice, and Accountability Act of 2014 (Public Law 113–146; 38 U.S.C. 703 note) is amended to read as follows:

''SEC. 705. LIMITATION ON AWARDS AND BONUSES PAID TO EMPLOYEES OF DEPARTMENT OF VETERANS AFFAIRS.

''The Secretary of Veterans Affairs shall ensure that the aggregate amount of awards and bonuses paid by the Secretary in a fiscal year under chapter 45 or 53 of title 5, United States Code, or any other awards or bonuses authorized under such title or title 38, United States Code, does not exceed the following amounts:

''(1) With respect to each of fiscal years 2015 through 2018, $300,000,000.

''(2) With respect to each of fiscal years 2019 through 2024, $360,000,000.''.

SEC. 10. COMPTROLLER GENERAL STUDY OF DEPARTMENT TIME AND SPACE USED FOR LABOR ORGANIZATION ACTIVITY.

(a) STUDY REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study on the amount of time spent by Department of Veterans Affairs employees carrying out organizing activities relating to labor organizations and the amount of space in Department facilities used for such activities. The study shall include a cost-benefit analysis of the use of such time and space for such activities.

(b) REPORT TO CONGRESS.—Not later than 90 days after the completion of the study required under subsection (a), the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study.

The Acting CHAIR. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in House Report 114–234. 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. BENISHEK

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in House Report 114–234.

Mr. BENISHEK. Mr. Chairman, I have an amendment at the desk made in order under the rule.

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. 11. ACCOUNTABILITY OF SECRETARY OF VETERANS AFFAIRS TO INSPECTOR GENERAL OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Chapter 7 of title 38, United States Code, as amended by section 8, is amended by adding at the end the following new section:

''§ 727. Accountability of Secretary to Inspector General

''(a) SUBMISSION OF REPORTS.—(1) At the same time as the Inspector General of the Department submits to the Secretary a covered report, the Inspector General shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of such covered report.

''(2) The Inspector General shall include in each covered report submitted under paragraph (1)—

''(A) an explanation of any changes to the covered report recommended by the Secretary during the period in which the Inspector General was preparing the covered report; and

''(B) a list of the names of each responsible manager.

''(3) The Inspector General may not make public the names of responsible managers submitted under paragraph (2)(B).

''(b) PERFORMANCE OF RESPONSIBLE MANAGERS.—(1) The Secretary shall—

''(A) promptly notify each responsible manager of a covered issue by not later than seven days after the date on which the Inspector General submits a covered report to the Secretary;

''(B) direct such manager to resolve such issue; and

''(C) provide such manager with appropriate counseling and a mitigation plan with respect to resolving such issue.

''(2) The Secretary shall ensure that any performance review of a responsible manager includes an evaluation of whether the manager took appropriate actions during the period covered by the review to respond to a covered issue.

''(3) The Secretary may not pay to a responsible manager any bonus or award under chapter 45 or 53 of title 5 or any other bonus or award authorized under such title or this title if a covered issue is unresolved.

''(c) ROLE OF INSPECTOR GENERAL.—Any authority of the Inspector General provided under this section is in addition to any responsibility or authority provided to the Inspector General in the Inspector General Act of 1978 (5 U.S.C. App.).

''(d) DEFINITIONS.—In this section:

''(1) The term 'covered issue' means, with respect to a responsible manager, an issue described in a covered report for which the manager is or was responsible.

''(2) The term 'covered report' means a report by the Inspector General of the Department of Veterans Affairs that recommends actions to the Secretary of Veterans Affairs (or other official or employee of the Department) to address an issue in the Department with respect to public health or safety relating to misconduct, or alleged misconduct, by an employee of the Department.

''(3) The term 'responsible manager' means an individual who—

''(A) is an employee of the Department;

''(B) is or was responsible for an issue included in a covered report; and

''(C) in being so responsible, is or was employed in a management position, regardless of whether the employee is in the competitive civil service, Senior Executive Service, or other type of civil service.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 8, is amended by inserting after the item relating to section 725 the following new item:

''727. Accountability of Secretary to Inspector General.''.

The Acting CHAIR. Pursuant to House Resolution 388, the gentleman from Michigan (Mr. BENISHEK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan.

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

We have a real opportunity here to inject accountability into the VA's culture of mismanagement. The Benishek-Sinema amendment would help ensure that, when a VA inspector general identifies a problem and offers recommendations to fix it, the changes are made, and the job gets done.

Today, the IG regularly issues reports on problems at the Department, and most of the time, the VA agrees with many of the recommendations and promises to change. The problem is no manager is actually named as being responsible for making those changes. When no one is in charge, nothing gets done, and there is no one to hold responsible. This amendment makes key changes that will give the IG's reports teeth, that will bring to the VA the solutions our veterans deserve.

It increases transparency, and it allows the public to see the IG's report related to alleged employee misconduct. It requires the release of any modifications that the VA has asked the IG to make.

It also requires the IG to identify specific managers who are responsible for fixing the problems identified in the reports. Their names will not be released, but this will allow Congress and the VA to know who is responsible for fixing the problem. Those individuals will not be able to receive a bonus or any performance award until the IG certifies that the problem is resolved.

Finally, it reduces the burden on a supervisor when it is necessary to fire a bad employee. A supervisor cannot effectively manage if his hands are tied.

This amendment has a history of bipartisan support, passing as a standalone bill by voice vote in the last Congress. It has also garnered the support of veterans' service organizations, including the American Legion, the VFW, the Iraq and Afghanistan Veterans of America, and the Paralyzed Veterans of America.

I thank my colleague and friend, Congresswoman SINEMA, for her leadership and for joining me on the issue. I am grateful for Chairman MILLER's support and for that of the entire Veterans' Affairs Committee. Chairman MILLER has been an incredible voice and advocate for our veterans.

I reserve the balance of my time.

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

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

Mr. TAKANO. I thank the gentleman from Michigan, my good friend, for offering his amendment. Reluctantly, I rise in opposition to the amendment offered by the gentleman and Representative SINEMA.

Mr. Chairman, this amendment would require the IG to identify problem employees at the VA, and it would prohibit the VA from giving performance pay to these identified employees.

I believe this amendment could compromise the integrity of the VA inspector general and the ability of the VA IG to investigate whistleblower complaints and bring to light problems at the VA.

The amendment would force the IG to concentrate its efforts on identifying bad managers by name rather than focusing on recommending solutions to problems and conducting thorough and complete investigations.

Requiring the IG to forward anything submitted to the VA would interject Congress into the very manner in which the IG drafts and finalizes reports. This change would call into question the integrity of the investigations that Congress relies on to shape policy and to find solutions.

Finally, I believe that this amendment is vaguely drafted and that it raises more questions than it seeks to answer. Therefore, I urge my colleagues to oppose the amendment.

I reserve the balance of my time.

Mr. BENISHEK. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. MILLER), the chairman of the committee.

Mr. MILLER of Florida. Mr. Chairman, once again, Members who saw this go through regular order last year through the committee and then pass the full House are now in opposition.

I rise in support of Dr. BENISHEK's amendment. He has been the chairman of the Subcommittee on Health since the 113th Congress. It is a position that I offered him based on his dedication to our Nation's veterans. Dr. BENISHEK's amendment to the VA Accountability Act of 2015 contains the text of his bill, the Demanding Accountability for Veterans Act.

The Demanding Accountability for Veterans Act is a bipartisan piece of legislation that is supported by many veterans' service organizations. His amendment would require the inspector general to be transparent with Congress about the reports that are written about VA facilities and programs and the changes that are being made to those reports at the VA's behest.

The amendment would also require the VA to provide the name of the VA employee who is responsible for implementing recommendations issued by the IG, to direct that employee to take action, and to prohibit the VA from paying a bonus or a performance award to that employee if appropriate action is not taken. In the most recent semiannual report to Congress, the VA inspector general reported that 1,150 recommendations were left open by the Department of Veterans Affairs. That is not acceptable.

Mr. TAKANO. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Arizona (Ms. SINEMA).

Ms. SINEMA. I thank Mr. TAKANO, Chairman MILLER, and Chairman BENISHEK for their efforts to improve the quality of care and services delivered to our veterans.

Mr. Chairman, the Benishek-Sinema amendment is a commonsense amendment that will bring accountability to the Department of Veterans Affairs. The amendment, based on a bill that Dr. BENISHEK and I introduced, the Demanding Accountability for Veterans Act, requires the VA to address problems identified by the VA Office of Inspector General, and it ensures that individual managers are held accountable if issues remain unresolved.

Our amendment requires that, in each covered VA inspector general report, the Secretary of the VA assign specific managers who will be responsible for fixing specific problems identified within the IG's report. The Secretary must give the responsible managers appropriate counseling and plans of action to resolve each covered issue. Bonuses cannot be paid if a covered issue remains unresolved, and how a manager responds to the challenge will be included in that individual's performance evaluation.

It is unacceptable that issues raised by the VA inspector general over and over, from wait times to medical staffing, remain unresolved by the VA. This amendment will hold the VA Secretary and senior management accountable for ensuring these warnings are not ignored again.

We have a long way to go to change the system and culture of the VA, and I will continue working with my colleagues on both sides of the aisle to ensure that veterans come first.

Again, I thank Chairman MILLER, Chairman BENISHEK, and Mr. TAKANO for their leadership and for their work on veterans' issues. I especially thank

Chairman BENISHEK for his thoughtful, bipartisan approach to this amendment.

Mr. BENISHEK. Mr. Chairman, how much time is remaining on both sides?

The Acting CHAIR. The gentleman from Michigan has 2 minutes remaining, and the gentleman from California has 2¼ minutes remaining.

Mr. BENISHEK. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. COSTELLO).

Mr. COSTELLO of Pennsylvania. Mr. Chairman, this measure has significant applicability to the ''right here, right now'' problems associated with the VA. Specifically, I am going to cite the oversight efforts involving the Philadelphia VA Regional Office.

It has been nearly a year since the Philadelphia VA problems were first reported. We have an IG report; we have an AIB report; and we have egregious allegations that have been proven true. Yet, as a Member of Congress who represents tens of thousands of veterans who rely on the Philadelphia VA for benefits and services, I still don't have answers. I still don't know who is responsible or know of all of the specific misconduct and behaviors or know of the repercussions for the employees who are responsible.

Our tools for providing oversight over the VA need updating to reflect that there must be transparency when investigating and disciplining bad employees. This amendment and this bill move us in the right direction towards accountability and transparency.

Mr. TAKANO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BENISHEK. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. Mr. Chairman, I rise today in full support of this amendment.

For far too long, the VA has condoned an apathetic culture that encourages its employees to ignore their duties and to cover up serious problems.

Last year, the staff of VISN 16, which includes my home State of Louisiana, admitted to inappropriately denying hundreds of veterans' medical care claims. When my office asked how many veterans' claims were being inappropriately denied, we were met with excuses and obfuscation. That is completely unacceptable.

One important provision of this amendment would prevent bonuses and performance awards for VA employees who fail to fix these problems. This provision is similar to an amendment I offered to the VA appropriations measure this past April. No small business in Louisiana would survive by allowing employees with such poor success rates to earn bonuses. I believe this is one of the most effective ways we can force accountability on this overly bureaucratic agency.

I thank Chairman MILLER and Chairman BENISHEK for their efforts in this cause.

I urge my colleagues to adopt this amendment and hold the VA accountable for their inadequate and unacceptable performance.

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

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

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. TAKANO

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in House Report 114–234.

Mr. TAKANO. Mr. Chairman, I have an amendment in the nature of a substitute at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fair VA Accountability Act''.

SEC. 2. 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 clear and direct threat to public health or safety; and

''(2) remove an employee suspended under paragraph (1) when, after such investigation and review as the Secretary considers necessary, the Secretary determines that removal 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) EFFECTIVE DATE OF BACK PAY PROVISION.—Subsection (d) of section 715 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2015.

(d) 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.

SEC. 3. LIMITATION ON ADMINISTRATIVE LEAVE FOR EMPLOYEES WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Chapter 7 of title 38, United States Code, is further amended by

adding after section 715, as added by section 2, the following new section:

''§ 717. Administrative leave limitation and report

''(a) LIMITATION APPLICABLE TO EMPLOYEES WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.—(1) The Secretary may not place any covered individual on administrative leave, or any other type of paid non-duty status without charge to leave, for more than a total of 14 days during any 365-day period.

''(2) The Secretary may waive the limitation under paragraph (1) and extend the administrative leave or other paid non-duty status without charge to leave of a covered individual placed on such leave or status under paragraph (1) if the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a detailed explanation of the reasons the individual was placed on administrative leave or other paid non-duty status without charge to leave and the reasons for the extension of such leave or status. Such explanation shall include the name of the covered individual, the location where the individual is employed, and the individual's job title.

''(3) In this subsection, the term 'covered individual' means an employee of the Department—

''(A) who is subject to an investigation for purposes of determining whether such individual should be subject to any disciplinary action under this title or title 5; or

''(B) against whom any disciplinary action is proposed or initiated under this title or title 5.

''(b) REPORT ON ADMINISTRATIVE LEAVE.—(1) Not later than 30 days after the end of each quarter of any calendar year, the Secretary shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report listing the name of any employee of the Department (if any) who has been placed on administrative leave, or any other type of paid non-duty status, for a period longer than 7 days during such quarter.

''(2) Any report submitted under subsection (a) shall include, with respect to any employee listed in such report, the position occupied by the employee, the number of days of such leave, and the reason that such employee was placed on such leave.''.

(b) APPLICATION.—

(1) ADMINISTRATIVE LEAVE LIMITATION.—Section 717(a) of title 38, United States Code (as added by subsection (a)), shall apply to any action of removal or transfer under section 713 of such title or title 5, United States Code, commencing on or after the date of enactment of this section.

(2) REPORT.—The report under section 717(b) of such title (as added by subsection (a)) shall begin to apply in the quarter that ends after the date that is 6 months after the date of enactment of this section.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 7 is amended by adding at the end the following new item:

''717. Administrative leave limitation and report.''.

Amend the title so as to read: ''A bill to amend title 38, United States Code, to improve the authority of the Secretary of Veterans Affairs to suspend and remove employees of the Department of Veterans Affairs for performance or misconduct that is a threat to public health or safety.''.

The Acting CHAIR. Pursuant to House Resolution 388, the gentleman from California (Mr. TAKANO) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California.

Mr. TAKANO. Mr. Chairman, in Congress, we can all agree that greater accountability is sorely needed within the Department of Veterans Affairs. We are all outraged that VA employees whose misconduct has harmed veterans have remained in their jobs. Last summer, we were all horrified that the VA medical centers in Phoenix and elsewhere manipulated patient wait times. This spring, in Denver, we were frustrated by the huge cost overruns with no real accountability.

I agree with my Republican colleagues that the VA must do a better job of using its existing authorities to hold bad employees, such as these, accountable. Unfortunately, this lack of accountability has overshadowed the excellent work of the vast majority of VA employees—over a third of them veterans themselves, whose genuine caring and tireless efforts honor veterans' service to our Nation. I believe it is wrong to assume VA employees are guilty until proven innocent, and I believe that H.R. 1994 is the wrong way to achieve greater accountability at the VA.

This afternoon, I am offering an amendment in the nature of a substitute to H.R. 1994. The text of my amendment is based on my bill, H.R. 2999, the Fair VA Accountability Act. I urge all of my colleagues to support it today.

□ 1600

My substitute would provide real accountability at the VA in a manner that preserves the important due process rights of VA employees and protects our veterans, and my substitute would improve the status quo by giving VA an additional accountability mechanism.

It would allow VA to immediately fire, without pay, any VA employee whose misconduct presents a clear and present danger to public health and safety while providing adequate due process on the back end for such employees.

This standard comes from Supreme Court precedent regarding constitutional due process for Federal employees and mirrors a similar Department of Defense provision.

My substitute would mean that, if a VA employee's behavior threatened veterans' health or safety, VA could immediately fire that employee. Current law only allows VA to ask such an employee to leave work while still receiving pay.

My substitute would also cap paid administrative leave at 14 days so VA employees would not sit at home and collect a paycheck while fighting a disciplinary action.

My substitute would shield our bold VA whistleblowers by protecting existing laws and requiring the VA to backpay any whistleblower unjustly fired for reporting wrongdoing.

In sum, my substitute would provide the VA with the tools it needs to remove dangerous employees immediately and protect the health and safety of veterans and others, and my bill does so in a way which preserves important concepts of due process for VA employees.

These employees live in our communities and States. They are our friends and neighbors and sometimes our family members. Ensuring basic American notions of fairness is what my amendment in the nature of a substitute provides and, frankly, what H.R. 1994 does not.

I reserve the balance of my time.

Mr. MILLER of Florida. Mr. Speaker, I claim the time in opposition.

The Acting CHAIR. The gentleman from Florida is recognized for 10 minutes.

Mr. MILLER of Florida. Mr. Chair, I thank the gentleman for his amendment in the nature of a substitute, but at this time I have to oppose it.

I appreciate that Mr. TAKANO does believe that we need to provide real accountability at the Department of Veterans Affairs. But as I said at our committee markup when he offered an almost identical amendment, this substitute fails to achieve true accountability.

I am supportive of section 3 of his amendment, which would limit administrative leave for all employees to 14 days, and I agree with this commonsense policy. But I would note that this limitation language is already included in my bill, H.R. 1994.

My main concern with the substitute lies within section 2, which would dramatically change the standard and the process set up in my bill of removing VA employees.

The substitute would only give the Secretary the authority to remove an employee if they represent a ''clear and direct threat to public health or safety,'' which is almost an unobtainable, if not immeasurable, bar to reach.

This undefined standard would make it almost impossible for the Secretary to remove any employee under this new authority, thereby ensuring that the current stalemate that exists with the civil service rules would continue.

Unfortunately, as I said moments ago, maintaining the status quo is not acceptable. I would submit that the standard of a clear and direct threat to public health and safety would not apply to those employees involved with many of today's ongoing scandals at the VA, including the cost overruns of the Denver hospital; the budget shortfall that we are going to vote to fix later today, a $3 billion budget fix; the manipulation of data at the Philadelphia regional office; the allegations of inappropriate use of government purchase cards to the tune of $6 billion; the allegations of employees at the Los Angeles regional office once again inappropriately shredding veterans' claim information; and the many other egregious actions that continue to come to light at VA almost every single day.

Members, these are the very type of employees that our constituents and

our veterans expect to be held accountable, but the standard proposed in this substitute would not give the Secretary the authority to provide the accountability we all know that VA desperately needs.

I also have some concerns with the procedures that are laid out in the substitute to actually remove these employees.

I believe that, unlike the procedures that I have laid out in my bill, which set definitive timelines to remove someone while maintaining the due process and maintaining appeal rights, the procedures laid out in this substitute could allow an employee to be on indefinite suspension for months, if not years, awaiting a hearing for the Secretary's final decision.

It has been mentioned several times by my colleagues on the other side that passage of H.R. 1994 would return to a spoils or an at-will employment system. Nothing could be further from the truth.

Let me compare a spoils or an at-will system to the protections offered in 1994.

First, a spoils system would allow the party in power to hire anyone, usually partisan supporters, that they want to reward for their political support with a Federal job. In contrast, H.R. 1994 has no effect on the current hiring process.

Second, a spoils or a patronage system makes all employees at will and subject to firing for any or even no reason. Again, that is hardly the case in my bill. H.R. 1994 requires proof in the form of poor performance or misconduct.

Additionally, my bill requires the Secretary to report the reasons for any such removals to Congress within 30 days.

Third, in a spoils system, a fired employee has no right of appeal. In contrast, under H.R. 1994, fired employees still have due process rights, including 45 days to appeal their firing to the Merit Systems Protection Board.

Fourth, in a spoils system, there is no such thing as paid administrative leave. You are fired, gone with no pay.

Under civil service rules, a poor-performing employee can be placed on administrative leave for essentially an unlimited time, as we have seen with several miscreants identified during our investigations.

H.R. 1994, on the other hand, would limit the Secretary's authority to put someone on paid administrative leave to 14 days, at which time the Secretary must bring that person back to Active Duty.

Fifth, in a spoils system, there are no protections for whistleblowers. In an at-will system, employees may or may not be covered by whistleblower protection, employee discrimination, et cetera, type laws, depending on the type of employer.

However, under H.R. 1994, employees are protected by both of these types of laws, plus the procedures and additional protections created under section 4 of my bill.

Employees cannot be removed without OSC approval if an open case exists, and employees cannot be removed or demoted if they have an open case under the new process that is laid out in section 4 until the Office of Accountability review makes a final determination.

So, ultimately, not only does this amendment set a standard for removal that is not relevant to a majority of the issues that we see at the Department, it keeps intact the long and arduous timeline before a final approval is complete. This is not fair to veterans, to the Department, or to the employee in question.

To reemphasize, I also have issues with the whistleblower protections that are laid out in this substitute or the lack of protections in this substitute.

The only mention of whistleblower protections made in this amendment says that a whistleblower may receive backpay if the Merit Systems Protection Board ultimately decides they were removed for blowing the whistle.

Not only does this not provide any protections on the front end, but it would also strip out all of the whistleblower protections I have included in section 4 of my bill.

We all know that the Secretary has a tall task to restore trust and to rebuild the VA. We have to give him every tool possible to complete that mission. This amendment does not come close to giving him the tool that he needs today.

So, once again, I urge Members to support change and stand with veterans, not the bureaucrats and the special interest groups and the status quo. I urge Members to oppose the Takano substitute.

I reserve the balance of my time.

Mr. TAKANO. Mr. Chairman, my good friend and colleague, Chairman MILLER of the Veterans' Affairs Committee, has implied that my clear and present danger standard in the substitute that I have offered is too narrow and does not give the Secretary enough tools to dismiss bad employees. I respectfully disagree.

Particularly in the case of the Phoenix VA, the hospital's director, Sharon Helman, clearly posed a threat to the health and safety of veterans. Under my substitute, she would have been immediately removed.

Similarly, many of the speakers on the other side of the aisle cited a crackhouse case where a VA employee took a veteran to a crackhouse.

Now, my substitute and the clear and present standard, the health and safety standard that we have put forward, would clearly have addressed that employee and would have made that employee immediately dismissible.

Let me remind you again that VA does have current title 5 procedures that they have been using to remove poor-performing employees.

We should encourage the VA to use them better, to use the tools that they have. I remind my colleagues that last year 872 permanent employees were removed, 487 more resigned in lieu of being fired, and 958 probationary employees were terminated.

Now, the fact that the VA wait list scandal emerged out of Phoenix was because we do have protections for whistleblowers. They could be strengthened.

Nevertheless, the current civil service protections, the due process protections, afforded those employees the security to move forward and to come forward as whistleblowers.

Again, my amendment in the form of a substitute fixes the deficiencies of my good friend Chairman MILLER's bill.

I have said before that I believe his bill puts extra barriers in front of whistleblowers in coming forward. It complicates and makes more cumbersome their ability to come forward.

If you are an employee who is under threat of dismissal and immediately losing your livelihood, that is a huge, huge barrier to your coming forward as a whistleblower.

That is exactly what his bill would do. It would make everyone in the VA an at-will employee.

I reserve the balance of my time.

Mr. MILLER of Florida. Mr. Chair, I yield 2 minutes to the gentleman from Pennsylvania (Mr. DENT), the chairman of the subcommittee that has jurisdiction over the VA budget.

Mr. DENT. Mr. Chair, I want to thank Chairman MILLER for his leadership on this.

I rise to oppose the substitute amendment. But I want to express my gratitude to the chairman for the work that he and the Veterans' Affairs Committee have done, all the work they have put into this legislation to prevent another VA catastrophe by making sure that the Choice Act funds we appropriated last year can be used for related veterans' community care expenditures.

This bill will ensure that no veterans hospital or care for any veteran will be jeopardized due to the VA's continuing mismanagement of the influx of patients that followed last year's passage of the Choice Act.

Once again, Congress is providing the VA with all the resources they require to provide timely, quality care to our veterans and their loved ones.

It was only about a month ago that we were informed by the Department that there was a shortfall of the magnitude of almost $3.4 billion, and here we are today remedying this problem.

The bill also proposes something that is sorely needed: the consolidation of the myriad programs VA uses to provide care outside their facilities.

Veterans are confused. VA employees are confused. Doctors are confused. Reimbursement rates are not standardized.

We need to make sure that the non-VA care program is thriving so that patients can get the high-quality care they deserve in their homes, in their

home communities, right where they live.

As chairman of the Subcommittee on Military Construction, Veterans Affairs and Related Agencies, I will continue to devote time and attention to pinpointing the VA's future funding needs and maintaining vigilant oversight of their appropriated taxpayer dollars.

The VA must develop systems that give us accurate and on-time information and engage with Congress in a transparent and timely manner. We cannot and should not continue to lurch from one VA funding crisis to another.

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What we have seen is terrible management and a terrible disservice to our veterans by the VA in many of these cases; we need to fix it. I believe the Secretary is a good and honorable man trying to do his best, but the taxpayers deserve better, and our veterans most assuredly do.

I urge passage of this bill. I thank the chairman and the leadership of the committee.

Mr. TAKANO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. BROWN), the ranking member of the Committee on Veterans' Affairs.

Ms. BROWN of Florida. Let me just be clear. I am just amazed that, on the last day of the session, we are spending the entire afternoon discussing H.R. 1994—a bill that the Senate will not pick up; and if, by some miracle, it passed, the President would veto it—when there are so many other things that we could be discussing.

How about addressing H.R. 3266, which will give the Secretary the authority to run the VA like a business, which is what we keep saying?

I support the substitute amendment. The accountability substitute is offered today because it brings real accountability to the VA while maintaining constitutionality due process protection for civil service employees.

At the Committee on Veterans' Affairs over the past 2 years, we have learned of widespread mismanagement and—let me emphasize—lack of training at the VA. The problems that the VA has have gone back for many years, over 30. Maybe if we had adequately funded VA, they would have fewer problems.

The majority has introduced H.R. 1994, which attempts to increase accountability by allowing VA to immediately fire any employee for misconduct with only limited due process. The substitute increases accountability by allowing VA to immediately suspend, without pay, any employee whose misconduct posed a direct threat to veterans' health and safety.

Unlike H.R. 1994, the substitute provides sufficient due process rights to meet constitutional requirements by providing an accused employee with a fair chance to tell their side of the story.

I urge my colleagues to vote for this substitute and vote against H.R. 1994.

Mr. MILLER of Florida. May I inquire how much time is remaining on my side?

The Acting CHAIR. The gentleman from Florida has 1 minute remaining. The gentleman from California has 1 minute remaining.

Mr. MILLER of Florida. I reserve the balance of my time.

Mr. TAKANO. Mr. Chairman, I encourage all of my colleagues to vote for my amendment in the nature of a substitute.

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

Mr. MILLER of Florida. Mr. Chairman, what this amendment does is basically gut H.R. 1994, which is an accountability bill that provides the Secretary with a desperately needed tool in order to hold people accountable within the Department.

I would like to read for the RECORD the 11 veterans service organizations that support the removal authority: American Legion, Veterans of Foreign Wars, Iraq and Afghanistan Veterans of America, Paralyzed Veterans of America, Vietnam Veterans of America, Student Veterans of America, Military Order of the Purple Heart, Military Officers Association of America, Reserve Officers Association, Concerned Veterans for America, and AMVETS.

I remind Members that VA has only successfully removed three VA employees for reasons related to the wait time manipulation in the VA scandal that was brought to everybody's attention back in April.

Here are those that oppose the accountability bill: the American Federation of Government Employees and the National Treasury Employees Union.

So, again, on opposition are the unions; on support are the veterans service organizations.

I yield back the balance of my time.

The Acting CHAIR (Mr. RODNEY DAVIS of Illinois). 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. 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 California will be postponed.

Mr. MILLER of Florida. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HULTGREN) having assumed the chair, Mr. RODNEY DAVIS of Illinois, 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. 1994) 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, had come to no resolution thereon.

SURFACE TRANSPORTATION AND VETERANS HEALTH CARE CHOICE IMPROVEMENT ACT OF 2015

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 3236.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SHUSTER. Mr. Speaker, pursuant to House Resolution 388, I call up the bill (H.R. 3236) to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund, to provide resource flexibility to the Department of Veterans Affairs for health care services, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The bill contains an emergency designation pursuant to section 4(g)(1) of the Statutory Pay-As-You-Go Act of 2010. Accordingly, the Chair must put the question of consideration under section 4(g)(2) of the Statutory Pay-As-You-Go Act of 2010.

The question is, Will the House now consider the bill?

The question of consideration was decided in the affirmative.

The SPEAKER pro tempore. Pursuant to House Resolution 388, the bill is considered read.

The text of the bill is as follows:

H.R. 3236

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

SECTION 1. SHORT TITLE; RECONCILIATION OF FUNDS; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Surface Transportation and Veterans Health Care Choice Improvement Act of 2015''.

(b) RECONCILIATION OF FUNDS.—The Secretary of Transportation shall reduce the amount apportioned or allocated for a program, project, or activity under this Act in fiscal year 2015 by amounts apportioned or allocated pursuant to the Highway and Transportation Funding Act of 2014 and the Highway and Transportation Funding Act of 2015, including the amendments made by such Acts, for the period beginning on October 1, 2014, and ending on July 31, 2015.

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

Sec. 1. Short title; reconciliation of funds; table of contents.

TITLE I—SURFACE TRANSPORTATION PROGRAM EXTENSION

Subtitle A—Federal-Aid Highways

Sec. 1001. Extension of Federal-aid highway programs.

Sec. 1002. Administrative expenses.