

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 472**  
**OFFERED BY MR. BOST OF ILLINOIS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Restore Department  
3 of Veterans Affairs Accountability Act of 2025” or the  
4 “Restore VA Accountability Act of 2025”.

**5 SEC. 2. SUPERVISORS: REMOVAL, DEMOTION, OR SUSPEN-**  
**6                   SION BASED ON PERFORMANCE OR MIS-**  
**7                   CONDUCT.**

8       (a) DISCIPLINE OF SUPERVISORS.—

9           (1) IN GENERAL.—Title 38, United States  
10       Code, is amended by inserting after section 711 the  
11       following:

**12 “§ 712. Supervisors: removal, demotion, or suspension**  
**13                   based on performance or misconduct**

14       “(a) IN GENERAL.—The Secretary may remove from  
15 civil service, demote, or suspend a covered individual who  
16 is an employee of the Department if the Secretary deter-  
17 mines by substantial evidence that the performance or  
18 misconduct of the covered individual warrants such action.

1       “(b) RIGHTS AND PROCEDURES.—(1)(A) When mak-  
2 ing an initial decision under subsection (a) with respect  
3 to determining whether a covered individual should be re-  
4 moved, demoted, or suspended, the deciding employee of  
5 the Department shall consider only the following factors:

6               “(i) The nature and seriousness of the of-  
7 fense, and its relation to the covered individ-  
8 ual’s duties, position, and responsibilities, in-  
9 cluding whether the offense was intentional or  
10 technical or inadvertent, or was committed ma-  
11 liciously or for gain, or was frequently repeated.

12              “(ii) The covered individual’s job level and  
13 type of employment, including supervisory or fi-  
14 duciary role, and prominence of the position.

15              “(iii) Whether such removal, demotion, or  
16 suspension is consistent with the treatment of  
17 other covered individuals—

18                      “(I) for the same or similar offenses;

19                      and

20                      “(II) by the same supervisor.

21       “(B) The Secretary shall review the initial decision  
22 and make a final decision. Such final decision shall—

23              “(i) be in writing;

24              “(ii) include the specific reasons for the final  
25 decision; and

1           “(iii) uphold the initial decision if the Secretary  
2           determines the initial decision is supported by sub-  
3           stantial evidence.

4           “(2) A covered individual subject to an action under  
5           subsection (a) is entitled to—

6           “(A) advance notice of the action and a file  
7           containing all evidence in support of the proposed  
8           action;

9           “(B) be represented by an attorney or other  
10          representative of the covered individual’s choice; and

11          “(C) grieve the action in accordance with an in-  
12          ternal grievance process—

13               “(i) established by the Secretary, in con-  
14               sultation with the Assistant Secretary for  
15               Human Resources and Administration, for pur-  
16               poses of this subsection; and

17               “(ii) pursuant to which the removal, demo-  
18               tion, or suspension may be reduced to a suspen-  
19               sion of 14 days or fewer.

20          “(3) A final decision by the Secretary under para-  
21          graph (1)(B) that is not grieved, and a grievance decision  
22          under paragraph (2)(C), shall be final and conclusive.

23          “(4) The procedures under chapter 43 of title 5 shall  
24          not apply to a removal, demotion, or suspension under this  
25          section, and the Secretary may carry out such a removal,

1 demotion, or suspension without first placing a covered in-  
2 dividual on a performance improvement plan.

3 “(c) TIMING.—(1) The aggregate period for notice,  
4 response, and final decision by the Secretary of an action  
5 under this section may not exceed 15 business days. Fail-  
6 ure to meet such deadline shall not be grounds to invali-  
7 date an action taken under this section.

8 “(2) The period for the response of a covered indi-  
9 vidual to a notice under subsection (b)(2)(A) shall be 7  
10 business days.

11 “(3) The Secretary shall ensure that the grievance  
12 process established under subsection (b)(2)(C) takes fewer  
13 than 21 business days after the final decision.

14 “(d) JUDICIAL REVIEW.—(1) A covered individual  
15 adversely affected by a final decision under this section  
16 that is not grieved, or by a grievance decision under sub-  
17 section (b)(2)(C), may obtain judicial review of such deci-  
18 sion.

19 “(2) Any removal, demotion, or suspension under this  
20 section is not appealable to the Merit Systems Protection  
21 Board, or to any administrative judge or other person ap-  
22 pointed by the Merit Systems Protection Board.

23 “(3) In any case in which judicial review is sought  
24 under paragraph (1), the court shall review the record and  
25 may set aside any Department action found to be—

1           “(A) arbitrary, capricious, an abuse of discre-  
2           tion, or otherwise not in accordance with a provision  
3           of law;

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

6           “(C) unsupported by substantial evidence.

7           “(4) Except to the extent that an appeal under this  
8           subsection presents a constitutional issue, such court may  
9           not review a challenge to the penalty imposed against the  
10          covered individual or mitigate such penalty.

11          “(e) DEMOTED INDIVIDUALS.—(1) A demotion under  
12          subsection (a) shall be carried out as a reduction in grade  
13          for which the covered individual is qualified, that the Sec-  
14          retary determines is appropriate, and that reduces the an-  
15          nual rate of pay of the covered individual.

16          “(2) Notwithstanding any other provision of law, any  
17          covered individual so demoted—

18               “(A) shall, beginning on the date of such demo-  
19               tion, receive the annual rate of pay applicable to  
20               such grade;

21               “(B) may not be placed on administrative leave  
22               during the period during which an appeal (if any)  
23               under this section is ongoing, and may only receive  
24               pay if the covered individual reports for duty or is

1 approved to use accrued unused annual, sick, family  
2 medical, military, or court leave; and

3 “(C) who does not report for duty or receive ap-  
4 proval to use accrued unused leave shall not receive  
5 pay or other benefits.

6 “(f) WHISTLEBLOWER PROTECTION.—(1) In the  
7 case of a covered individual seeking corrective action (or  
8 on behalf of whom corrective action is sought) from the  
9 Office of Special Counsel based on an alleged prohibited  
10 personnel practice described in section 2302(b) of title 5,  
11 the Secretary may not remove, demote, or suspend such  
12 covered individual under subsection (a) without the ap-  
13 proval of the Special Counsel.

14 “(2) In the case of a covered individual who has made  
15 a whistleblower disclosure to the Assistant Secretary for  
16 Accountability and Whistleblower Protection, the Sec-  
17 retary may not remove, demote, or suspend such covered  
18 individual under subsection (a) until—

19 “(A) in the case in which the Assistant Sec-  
20 retary determines to refer the whistleblower disclo-  
21 sure under section 323(c)(1)(D) of this title to an  
22 office or other investigative entity, a final decision  
23 with respect to the whistleblower disclosure has been  
24 made by such office or other investigative entity;

1           “(B) in the case in which the Assistant Sec-  
2       retary determines not to refer the whistleblower dis-  
3       closure under such section, the Assistant Secretary  
4       makes such determination; or

5           “(C) the Assistant Secretary otherwise deter-  
6       mines the removal, demotion, or suspension may  
7       proceed.

8       “(g) TERMINATION OF INVESTIGATIONS BY OFFICE  
9       OF SPECIAL COUNSEL.—(1) Notwithstanding any other  
10      provision of law, the Special Counsel (established by sec-  
11      tion 1211 of title 5) may terminate an investigation of  
12      a prohibited personnel practice alleged by an employee or  
13      former employee of the Department after the Special  
14      Counsel provides to the employee or former employee a  
15      written statement of the reasons for the termination of  
16      the investigation.

17       “(2) Such statement may not be admissible as evi-  
18      dence in any judicial or administrative proceeding without  
19      the consent of such employee or former employee.

20       “(h) APPLICATION.—This section shall apply to any  
21      performance or misconduct of a covered individual begin-  
22      ning on the date of enactment of the Department of Vet-  
23      erans Affairs Accountability and Whistleblower Protection  
24      Act of 2017 (Public Law 115–41).

25       “(i) DEFINITIONS.—In this section:

1           “(1) The term ‘civil service’ has the meaning  
2           given such term in section 2101 of title 5.

3           “(2) The term ‘covered individual’ means an  
4           employee of the Department who is a supervisor or  
5           management official as defined in section 7103(a) of  
6           title 5 occupying a position at the Department, in-  
7           cluding individuals appointed pursuant to this title,  
8           title 5, and employees appointed pursuant to section  
9           7401 or 7405 of this title, but does not include—

10           “(A) an individual occupying a senior execu-  
11           utive position (as defined in section 713(d) of  
12           this title);

13           “(B) an individual appointed pursuant to  
14           section 7306, 7401(1), 7401(4), 7405(a)(1)(A),  
15           7405(a)(1)(C), 7405(a)(1)(D), or 7405(b) of  
16           this title;

17           “(C) an individual who has not completed  
18           a probationary or trial period; or

19           “(D) a political appointee.

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

22           “(4) The term ‘misconduct’ includes neglect of  
23           duty, malfeasance, or failure to accept a directed re-  
24           assignment or to accompany a position in a transfer  
25           of function.



1           “(5) The term ‘political appointee’ means an in-  
2       dividual who is—

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

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

11          “(C) employed in a position of a confiden-  
12      tial or policy-determining character under  
13      schedule C of subpart C of part 213 of title 5,  
14      Code of Federal Regulations, or successor regu-  
15      lation.

16          “(6) The term ‘substantial evidence’ means the  
17      amount of relevant evidence that a reasonable per-  
18      son might accept as adequate to support a conclu-  
19      sion, even though other reasonable persons might  
20      disagree.

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

1 “(8) The term ‘whistleblower disclosure’ has the  
2 meaning given such term in section 323(g) of this  
3 title.”.

4 (2) CLERICAL AMENDMENT.—The table of con-  
5 tents for title 38, United States Code, is amended  
6 by inserting after the item relating to section 711  
7 the following:

“712. Supervisors: removal, demotion, or suspension based on performance or  
misconduct.”.

8 **SEC. 3. SENIOR EXECUTIVES: MODIFICATION OF PROCE-**  
9 **DURES TO REMOVE, DEMOTE, OR SUSPEND**  
10 **BASED ON PERFORMANCE OR MISCONDUCT.**

11 Section 713 of title 38, United States Code, is  
12 amended—

13 (1) in subsection (a)—

14 (A) after “determines”, insert “by sub-  
15 stantial evidence”; and

16 (B) by adding at the end the following:

17 “(3) When making an initial decision under this sub-  
18 section with respect to determining whether a covered in-  
19 dividual should be reprimanded or suspended, involun-  
20 tarily reassigned, demoted, or removed, the deciding em-  
21 ployee of the Department shall consider only the following  
22 factors:

23 “(A) The nature and seriousness of the offense,  
24 and its relation to the covered individual’s duties,

1 position, and responsibilities, including whether the  
2 offense was intentional or technical or inadvertent,  
3 or was committed maliciously or for gain, or was fre-  
4 quently repeated.

5 “(B) The covered individual’s job level and type  
6 of employment, including supervisory or fiduciary  
7 role, and prominence of the position.

8 “(C) Whether such action is consistent with the  
9 treatment of other covered individuals—

10 “(i) for the same or similar offenses; and

11 “(ii) by the same supervisor.

12 “(4) The Secretary shall review the initial decision  
13 and uphold such decision if it is supported by substantial  
14 evidence.”;

15 (2) in subsection (b)—

16 (A) in paragraph (1)(C), by striking “Ac-  
17 countability and Whistleblower Protection” and  
18 inserting “Human Resources and Administra-  
19 tion”

20 (B) in paragraph (3), by striking “21  
21 days” and inserting “21 business days after the  
22 final decision”; and

23 (C) by adding at the end the following:

24 “(7) Except to the extent that an appeal under this  
25 subsection presents a constitutional issue, such court may

1 not review a challenge to the penalty imposed against the  
2 covered individual or mitigate such penalty.”;

3 (3) in subsection (d), by adding at the end the  
4 following new paragraph:

5 “(4) The term ‘substantial evidence’ has the  
6 meaning given such term in section 712 of this  
7 title.”.

8 (4) by inserting after subsection (c) the fol-  
9 lowing (and redesignate subsection (d) as subsection  
10 (e)):

11 “(d) APPLICATION.—This section shall apply to any  
12 misconduct or performance of a covered individual begin-  
13 ning on the date of enactment of the Department of Vet-  
14 erans Affairs Accountability and Whistleblower Protection  
15 Act of 2017 (Public Law 115–41).”.

16 **SEC. 4. MODIFICATION OF DISCIPLINARY PROCEDURES**  
17 **FOR EMPLOYEES OF THE DEPARTMENT OF**  
18 **VETERANS AFFAIRS.**

19 (a) DEPARTMENT OF VETERANS AFFAIRS EM-  
20 PLOYEE DISCIPLINE MODIFICATIONS.—Section 714 of  
21 title 38, United States Code, is amended—

22 (1) in subsection (a),

23 (A) in paragraph (1), by inserting “by sub-  
24 stantial evidence” after “the Secretary deter-  
25 mines”; and

1 (B) by adding at the end the following:

2 “(3)(A) When making an initial decision under this  
3 subsection with respect to determining whether a covered  
4 individual should be removed, demoted, or suspended, the  
5 deciding employee of the Department shall consider only  
6 the following factors:

7 “(i) The nature and seriousness of the offense,  
8 and its relation to the covered individual’s duties,  
9 position, and responsibilities, including whether the  
10 offense was intentional or technical or inadvertent,  
11 or was committed maliciously or for gain, or was fre-  
12 quently repeated.

13 “(ii) The covered individual’s job level and type  
14 of employment, including supervisory or fiduciary  
15 role, and prominence of the position.

16 “(iii) The covered individual’s past disciplinary  
17 record.

18 “(iv) The covered individual’s past work record,  
19 including length of service, performance on the job,  
20 ability to get along with fellow workers, and depend-  
21 ability.

22 “(v) Mitigating circumstances surrounding the  
23 offense such as unusual job tensions, personality  
24 problems, mental impairment, harassment, or bad

1 faith, malice, or provocation on the part of others in-  
2 volved in the matter.

3 “(vi) Whether such action is consistent with the  
4 treatment of other covered individuals—

5 “(I) for the same or similar offenses; and

6 “(II) by the same supervisor.

7 “(B) The Secretary shall review the initial decision  
8 and uphold such decision if it is supported by substantial  
9 evidence.”.

10 (2) in subsection (c)—

11 (A) by striking paragraph (1)(D); and

12 (B) in paragraph (3), by inserting before  
13 the period the following: “, and the Secretary  
14 may carry out such a removal, demotion, or  
15 suspension without first placing a covered indi-  
16 vidual on a performance improvement plan”;

17 (3) in subsection (d)—

18 (A) in paragraph (2), by adding at the end  
19 the following:

20 “(C) Except to the extent that an appeal under this  
21 subsection presents a constitutional issue, the administra-  
22 tive judge may not review a challenge to the penalty im-  
23 posed against the covered individual.”;

24 (B) in paragraph (3), by adding at the end  
25 the following:

1 “(D) Except to the extent that an appeal under this  
2 subsection presents a constitutional issue, the Merit Sys-  
3 tems Protection Board may not review a challenge to the  
4 penalty imposed against the covered individual.”;

5 (C) in paragraph (5), by adding at the end  
6 the following:

7 “(C) Except to the extent that an appeal under this  
8 subsection presents a constitutional issue, such Court may  
9 not review a challenge to the penalty imposed against the  
10 covered individual or mitigate such penalty.”; and

11 (D) by striking paragraph (10);

12 (4) by redesignating subsection (h) as sub-  
13 section (j);

14 (5) by inserting after subsection (g) the fol-  
15 lowing:

16 “(h) COLLECTIVE BARGAINING AGREEMENTS.—This  
17 section shall supersede any collective bargaining agree-  
18 ment and shall be implemented notwithstanding any other  
19 provision of law.

20 “(i) APPLICATION.—This section shall apply to any  
21 performance or misconduct of a covered individual begin-  
22 ning on the date of enactment of the Department of Vet-  
23 erans Affairs Accountability and Whistleblower Protection  
24 Act of 2017 (Public Law 115–41).”; and

1 (6) in subsection (j), as redesignated by para-  
2 graph (4)—

3 (A) in paragraph (1)—

4 (i) by inserting “including individuals  
5 appointed pursuant to this title, title 5,  
6 and hybrid employees appointed pursuant  
7 to section 7401 or 7405 of this title” after  
8 “Department”;

9 (ii) in subparagraph (B), by striking  
10 “or 7405” and inserting “7405(a)(1)(A),  
11 7405(a)(1)(C), 7405(a)(1)(D), or  
12 7405(b)”;

13 (iii) in subparagraph (D), by striking  
14 the period and inserting “; or”; and

15 (iv) by adding after subparagraph (D)  
16 the following:

17 “(E) a supervisor or management official  
18 as defined in section 7103(a) of title 5.”;

19 (B) by adding at the end the following new  
20 paragraph:

21 “(6) The term ‘substantial evidence’ has the  
22 meaning given such term in section 712 of this  
23 title”.

24 (b) VHA EMPLOYEE DISCIPLINE MODIFICATIONS.—

25 Section 7403(f)(3) of such title is amended—



1           (1) by striking “Notwithstanding any other pro-  
2       vision of this title or other law,” and inserting “(A)  
3       Notwithstanding any other provision of this title or  
4       other law, and consistent with subparagraph (B),”;  
5       and

6           (2) by adding at the end the following:

7       “(B) With respect to any covered individual (as that  
8       term is defined in section 712 or 714) appointed to such  
9       positions, such matters shall be resolved, at the Sec-  
10      retary’s sole discretion, under—

11           “(i) section 712;

12           “(ii) section 714; or

13           “(iii) title 5 as though such individuals had  
14      been appointed under that title.”.

