CONGRESSIONAL TESTIMONY

STATEMENT BY

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BEFORE

COMMITTEE ON VETERANS' AFFAIRS'

ON

S. 1094 DEPARTMENT OF VETERANS AFFAIRS ACCOUNTABILITY AND WHISTLEBLOWER PROTECTION ACT OF 2017

May 17, 2017

INTRODUCTION

Mr. Chairman, Ranking Member Tester, and Members of this Committee. My name is J. David Cox, and I am the National President of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of the 700,000 federal and District of Columbia employees represented by our union, including over 250,000 at the Department of Veterans Affairs (VA), I thank the Committee for the opportunity to present AFGE's views on the subject of this hearing: the "Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017." In AFGE's view, this bill not only decreases accountability at the VA, it eviscerates the agency it is supposed to improve, and ensures that no employee ever gets a fair shake on any proposed adverse action. Its name should be changed to the "2017 Scapegoating VA Rank and File Employees for Political Expediency Act."

In my nearly five years as president of AFGE, I have never testified at a more important hearing than this one. It is important, not only for the VA and the veterans that the we serve, it is also important for the men and women I am proud to represent. Finally, it is important because passage of this horrible bill would undermine the apolitical American civil service, perhaps the least appreciated and most threatened pillar of our democracy.

At issue is whether the United States, the most advanced country in the world and the leading democracy, will continue to have a merit-based career civil service, selected, promoted and retained on the basis of ability and competence, or whether we will

descend back into 19th century corruption and all the maladministration of government that brought us.

Before I was elected to national office in AFGE, I worked for 22 years at the Salisbury, North Carolina VA Medical Center as a Registered Nurse. I love the VA and the veterans we serve, and the future of the agency means the world to me. I also care deeply about our democracy, and I am appalled at the political cynicism and short-sightedness that this bill represents.

While today we are focusing on the VA, much more than just the VA is at stake. The Veterans Health Administration is somewhat of a microcosm of the many ideas and institutions whose future is being hotly debated in politics today. I will discuss three: The first is health care. The second is the role of the federal government in providing essential services and on what terms these commitments will be met. The final issue is the status of the career civil service, and whether we will continue to administer government programs with apolitical professionals hired by the government, or whether most of what the VA does should be contracted out to favored private-sector firms, or even abandoned altogether.

First, let's deal with the backdrop – the American health care system. The VA operates the country's largest integrated healthcare system. The military veterans it serves are the most deserving group one can imagine. The commitment we have made to veterans is to care for those who have borne the battle. The VA cares for aging

Vietnam-era veterans, veterans from the Korean War era and even some surviving WW II veterans. In the past 15 years we have added many more veterans who have served this country in Iraq and Afghanistan and other more recent conflicts. Almost all of these veterans often have ongoing service connected illnesses and wounds, emotional and physical.

The VA has always been there to serve them. The economic cost of caring for these veterans is high and budget politics have been an ever-present threat to quality and accessibility. It is astounding that while there are reportedly up to 45,000 unfilled positions in VA healthcare, Congress has chosen to focus on attacking the rank and file employees who are have made the choice to spend their careers caring for this cherished group. Rather than addressing the critical need to fill thousands of urgently needed positions at VA in order to better serve veterans, this cynical, ideologically driven bill seeks to fire more VA personnel. Talk about misplaced priorities.

Why punish the VA's rank and file? Why punish the employees of VHA? There is no question that VA healthcare is of the highest quality. And that high quality healthcare is provided by the same VA employees this bill attacks. Every independent study has confirmed that the outcomes of VA provided healthcare are at least as high, and frequently higher than care provided by any other hospital system. Veterans know this and numerous surveys show that they very much like their VA-provided health care. They want more of it, not less.

Ever since the Phoenix waitlist scandal, the future of the VA became fodder for 24 hour cable news, largely fed by the right-wing. The focus of discussion for many politicians has been how to dismantle the VA piece-by-piece and outsource it to the private sector. Well-funded and therefore politically powerful groups have seized the opportunity to cement a narrative that the VA is "broken." Their purpose is to discredit the VA by blaming its problems on its rank and file employees and the fact that it is a government agency. Their real objection is that few are able to make profits on VA care.

I challenge anyone on this Committee to find a major healthcare provider, private or public, that doesn't face significant challenges. Most don't make the news because they are not answerable to the public the way the VA is, and most are able to fire or otherwise silence whistleblowers with ease. But anyone who has gone to a private hospital or even an emergency room can tell you about long waits, enormous bureaucracy, and waste, fraud and abuse. They can tell you about how getting an appointment with a specialist takes at least three months. That is sadly part and parcel of our healthcare system, including private sector providers. Just look at any hospital bill, or talk to any physician or nurse, and they will tell you of the complexities and contradictions of America's healthcare system.

Fortunately veterans have the VA, a system that does not charge them and that covers them extremely well. It is so much more than just a healthcare system. It is also a community that understands the unique needs of those who have served this country. Whatever ails VA healthcare delivery reflects America's overall healthcare system – and

in most cases, the faults are more severe among private hospitals and healthcare facilities. The critics of the VA will never admit this, so I will tell you. There is big money in VA healthcare and the privatizers salivate at the opportunity to gain access to those dollars. They try to hide their avarice with platitudes about "serving veterans," the "broken" VA and the miracles of the market, but the reality is that they hate the idea that a large government agency so successfully provides care to veterans, and they want a "piece of the action."

The VA may not be perfect, but it is better than any other healthcare system at serving veterans with special needs associated with service connected illness, injury, or disability. The VA makes no money off veterans. Its facilities may not be glamorous. Yet every important indicator of quality of care strongly confirms that the VA is a success. The Committee should recall that the Phoenix scandal began with a wait times issue. I will not defend the manipulation of wait time data, but that was not an issue of quality of care. It was an issue of resources, combined with a performance bonus system for executives that incentivized lying and cheating. It is absolutely unconscionable that from those facts has come the deplorable legislation before you today that undermines the foundation of the civil service.

So let's be honest. None of this is really about veterans or the VA or accountability. It's about politics. I do believe that everyone wants the best care for veterans. I wish we were having a debate on how to provide that care and to ensure accountability for all those who are charged within doing so. But that is definitely not what is happening

here.

We are here today because politicians understand that “You’re FIRED!” is popular as a way to address complex issues. “You’re FIRED!” is popular as a way to deflect responsibility from management decision makers and place it on the rank and file. We have before us a bill that wrecks the civil service and is justified only by reference to the false claim that the most extreme examples of misconduct are occurring all over the place. In fact, outrageous instances of misconduct are exceedingly rare. It must also be noted that some authors of this bill have a long track record of denigrating virtually every known government program except those that personally benefit them. No one who values the VA or respects veterans should support this legislation.

I have been specifically asked by this Committee to address the changes to the civil service due process provisions contained in the scapegoat/firing bill, the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017.

Before I address the specifics of these proposals, let me state that AFGE and its members have no use for people who abuse the public trust, who engage in unlawful conduct, who violate government rules, and who are demonstrably poor performers. We want those people out of the VA every bit as much as anyone – maybe more so. Employees who engage in misconduct or who are genuinely poor performers ruin the reputation of the agency and add more work for those who perform well and play by the rules. So you will not hear me or anyone in this union defend a person who steals

drugs or watches pornography while on duty. In fact, AFGE counsels such employees to resign. We certainly will not defend their matters in arbitration.

The bill before you is a regressive piece of legislation. It takes us backward, not forward. Although marketed as a bill to make it easier to fire bad employees, the proposals are designed to kill off and bury the apolitical civil service. It makes it just as easy to fire a good employee, an innocent employee, as it will be to fire a bad employee. No one should pretend otherwise. The VA can and should terminate people whose conduct or performance justifies termination. But it is absolutely not necessary to destroy the foundation of the civil service in order to allow them to do so.

The legislation takes time-tested procedures for civil service removals and turns them on their head in order to accomplish a clearly political agenda. Every single study or report of civil service removal procedures has stated that the principle reasons poor performers are not removed expeditiously are management ignorance and aversion to conflict, i.e. incompetence. It has nothing to do with the underlying laws.

Federal managers, including those at the VA, do not lack adequate authority or tools to discipline those who engage in misconduct or who are poor performers. The Government Accountability Office (GAO), the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) have all issued reports and analyses that have come to the same conclusion: When poor performers are not dealt with it is not because the civil service laws or procedures are too difficult to utilize. It is because

managers do not want to put forward the effort to properly document poor performance so that they can remove or demote these people.

A recent GAO report, “Improved Supervision and Better Use of Probationary Periods Are Needed to Address Substandard Employee Performance,” (GAO-151-191), February 6, 2015, found four main reasons why agencies do not use the already substantial tools they have available to them to remove poor performers. All four reasons related to management failures and/or unwillingness to properly identify and document poor performance. Had this Committee taken GAO’s well thought-out recommendations into consideration, the bill before us would never have been written.

Instead we have a cynical effort to ride the wave of public outrage over some legitimate problems that union whistleblowers and the VA Inspector General have brought forward and use it to destroy yet another union and the civil service. We continue to hear whining from management that civil service due process procedures are just too difficult to follow. They sound just like the President whining that his new job is too hard. S. 1094 accommodates these pitiful managers completely. Firing is too hard for you? Don’t worry, we’ll make it easy. We’ll rig the system so no matter what you do, you’ll be called a huge success. We’ll let you fire the employee right away, and deal with due process in the future, if ever.

To call this a dangerous precedent is an understatement. To anyone who cares about the apolitical and objectively qualified civil service this bill is a disgrace.

The premise that the procedural hurdles for removing poorly performing employees are too high is simply untrue. When an employee invokes his/her rights to a formal adjudicatory hearing before the Merit Systems Protection Board (MSPB), the agency almost always prevails. For example, in 2013 only 3% of employees appealing their dismissal to the MSPB prevailed on the merits. In contrast, agencies were favored at a rate five times that of employees when formal appeals were pursued. The notion that the MSPB makes it impossible to fire a federal employee is simply a myth.

GAO reviews and reports (e.g., GAO-15-191) have consistently found that the underlying reasons for permitting poor performers to remain in federal service are managers' failure or unwillingness to document poor performance in accordance with due process procedures available to them under the Civil Service Reform Act. The bottom line of the GAO report is that lack of performance management by supervisors is the underlying reason why poor performers are not dealt with. Indeed, the preponderance of the evidence points in only one direction: the complaint that "it's too hard to fire a federal employee" is not supported.

Let me address some of the most egregious and shameful aspects of the bill:

EVIDENTIARY STANDARD FOR MISCONDUCT

S. 1094 replaces the current evidentiary standard for misconduct removals (and other adverse actions) from a "preponderance of the evidence" standard (meaning more than 50% of the evidence must support the agency's recommendation) to a "substantial evidence" standard (meaning the agency only needs, among other things, more than "a

mere scintilla of the evidence" to meet its burden of proof). The substantial evidence standard, with strong advance notice safeguards, is currently only used for performance-based firings, suspensions, and demotions. Applying this standard to misconduct cases would mean that even when the majority of the evidence supports the employee, he/she will lose.

With the current preponderance of the evidence standard, agencies win about 80% of all contested cases before the Merit Systems Protection Board (MSPB). Lowering the standard of review would mean that actual misconduct would barely need to be established before an employee could be fired. This upends nearly 140 years of civil service law, and makes VA employees very close to "at will" (which seems to be the real objective of the drafters of this provision).

There is a good reason why Congress has required different evidentiary standards for performance and conduct. When an employee receives a notice of a proposed adverse action related to performance, he or she has the opportunity to repair any performance failures through a Performance Improvement Plan (PIP). In contrast, allegations of misconduct must be validated with a higher standard of evidence because the question is only whether the alleged misconduct occurred.

This lower evidentiary standard is virtually pro forma, not a standard associated with the genuine administration of justice. It is yet another example of the cynicism that underlies this legislation, providing a false notion that due process is being upheld,

when in fact, it is being eviscerated.

MITIGATION OF PROPOSED PENALTY

S. 1094 would prohibit MSPB administrative judges (AJs) from mitigating management's proposed penalty for misconduct. Under current law, MSPB AJs can reduce a proposed penalty for misconduct if the facts of the case warrant a lesser penalty. Removing the ability of MSPB AJs to mitigate a proposed penalty is not only unjust, but will also result in "penalty overcharging," meaning that a proposed penalty need not actually reflect the underlying charge. Combining a lower evidentiary standard of review to sustain a misconduct charge along with no ability to mitigate a proposed penalty means that employee appeal rights will be effectively neutered.

The VA will be able to fire employees with scant evidence and no ability for the reviewing entity to correct these injustices. This provision is the antithesis of justice and undermines not only the rights of the employee, but also the independence of the MSPB.

This provision also jettisons almost four decades of jurisprudence that followed the MSPB's 1981 decision in Douglas vs. Veterans Administration which gave rise to the use of progressive discipline in federal personnel management. The basic principle of justice, that the punishment must fit the offense which was enshrined in the Douglas decision, has served the government well, and if S. 1094 becomes law, the Department of Veterans Affairs will have abandoned this management "best practice" altogether for

an “Apprentice” TV-show type of system (You’re FIRED!).

I ask you to consider these “Douglas Factors” for a moment and decide whether your intention is actually to throw away this eminently reasonable set of considerations. The Douglas Factors allow mitigation of proposed penalty after the following are considered:

1. The nature and seriousness of the offense, and its relation to the employee’s duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2. The employee’s job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3. The employee’s past disciplinary record;
4. The employee’s past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. The effect of the offense upon the employee’s ability to perform at a satisfactory level and its effect upon supervisors’ confidence in the employee’s work ability to perform assigned duties;
6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. Consistency of the penalty with any applicable agency table of penalties;
8. The notoriety of the offense or its impact upon the reputation of the agency;
9. The clarity with which the employee was on notice of any rules that were violated

in committing the offense, or had been warned about the conduct in question;

10. The potential for the employee's rehabilitation;
11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

These factors are designed to ensure that the penalty selected by the agency fits the employee's alleged offense. Why are these controversial? Perhaps it is because those who genuinely wish to see this legislation enacted really don't care about the civil service or due process, and are particularly enraged that a government program such as VA healthcare actually works. Or perhaps, they just see political expediency in not challenging well-funded ideology-based advocacy courtesy of the Koch brothers and their allies.

PENSION FORFEITURE

The proposed legislation authorizes pension forfeitures for certain felony convictions for every VA employee. This would include Wage Grade 2 housekeepers and cemetery workers, virtually all of whom are veterans with service-connected disabilities. Private employer pension plans under the Employee Retirement Security Act of 1974 (ERISA) do not authorize pension forfeitures except for fraud against the pension plan. AFGE recognizes that there is precedent for federal employee pension forfeiture, but these

forfeitures have always involved involve espionage and treason, not drunk driving convictions.

It is curious that people who usually promote following private sector practices for federal government personnel have suddenly abandoned this principle when it comes to taking away earned pensions.

SUPERSEDES COLLECTIVE BARGAINING AGREEMENTS AND IMPOSES UNWORKABLE TIME FRAMES ON THE REMOVAL PROCESS

The proposed legislation supersedes the timeframes specified in current active collective bargaining agreements (CBAs). It also imposes unworkably short time frames on grievance procedures and non-grievance based adverse actions. That Congress would summarily upend collective bargaining agreements in the middle of the term of the agreement is an unprecedented attack on the integrity of the collective bargaining process and union contracts.

The proposed legislation provides that from date of first notice to the employee until actual removal that not more than 15 business days elapse. Employees are given only 7 business days to respond to the notice. Following removal, employee have only 10 business days to appeal the VA's decision to the MSPB.

Contrast these timeframes with the rights given to VA contractors. They have a minimum of 90 days to appeal a contracting officer's adverse decision to the Board of Contract Appeals (BCA), and one year to appeal to the U.S. Court of Federal Claims, if

they decide to forego a BCA appeal. It is absolutely stunning, and a very sad commentary on the state of federal agency priorities that employees are given such short response and appeal times, while favored federal contractors are given months, and even up to a year to appeal VA decisions to the BCAs and a federal court.

A merit-based civil service system is a cornerstone of a democratic society. It ensures that technical expertise is brought to bear on performing government agency work, without the threat of overt partisan agendas driving day-to-day operations. Agency career employees remain accountable to politically-appointed officials, but those appointees, and supervisors who serve under them, may not take actions against career employees for misconduct or poor performance without at least providing some level of due process to the employee, including third-party review by neutral decision-makers. Career employees are only supposed to be fired for good cause, and "good cause" means reasons supported by evidence.

The Civil Service Reform Act (CSRA) of 1978 provides the modern-day basis for both selection of most career civil servants, and their protection from unwarranted personnel actions, including firings motivated by politics, bias, or other non-merit-based reasons. This CSRA protects the public from having their tax dollars used for hiring political partisans for non-political jobs, and helps ensure the efficient and effective governance of federal agencies.

The CSRA provides that employees may be removed for either misconduct or poor

performance. The employee merely needs to be informed of his or her alleged deficiency and the reason that management proposes to take an action against him or her, whether it be firing, demotion, or suspension.

Forty years of case law shows unambiguously that the CSRA does not give unfair advantages to federal employees. Agencies prevail in 80% - 90% of all cases at the MSPB administrative judge (AJ) level, and only about 18% of all AJ decisions are appealed to the full Board. AJs are upheld by the full MSPB in about 90% of all appealed cases.

It is very important to note that following an agency's adverse decision against an employee, the agency's decision is automatically effected. For example, the employee is removed from the agency's rolls the day of issuance of the decision or within several days following the decision. An employee removed by an agency receives no pay during the appeal process.

During the debate on VA firing I have heard several lawmakers and others argue that it takes forever to get rid of a bad VA employee. This is simply untrue. In almost all cases, an employee may be fired within 30 days of the first notice. Even when an arbitration procedure under a collective bargaining agreement is invoked the agency can fire the employee after 30 days, and the employee receives no pay during the entire appeal or arbitration process. They are off the agency's payroll. Attempts to portray removed employees appealing their removals as somehow lounging on the dole while

their appeal is processed are simply untrue, and frankly dishonest. It doesn't matter whether the appeal route chosen is the MSPB or arbitration. The employee receives no pay. Anyone who says otherwise is lying or ignorant or both.

The importance of maintaining a nonpartisan, apolitical civil service in an increasingly partisan environment cannot be overstated. First, most federal jobs require technical skills that cannot simply be obtained through non-merit based appointment. Second, career employees must be free to perform their work in accordance with objective professional standards. Those standards must remain the only basis for evaluating employee performance or misconduct.

Bills like S. 1094 that decrease due process rights are "dog whistles" for politicizing the civil service, subjecting the federal workforce to partisan or personal whims of supervisors and political appointees. Whatever lack of public confidence in government exists today will be magnified a hundredfold if all civil servants become de facto political appointees, serving at the whim of supervisors. And that is exactly what this horrible piece of legislation will do.

Federal managers are already empowered under existing civil service laws to take appropriate action when employees are underperforming or engaged in misconduct. There is no group who objects more to the continuing presence in the workplace of those who are not performing well or who engage in misconduct than fellow federal employees. When someone doesn't perform up to speed, it simply means more work

for the rest of the people who do perform well.

THE REAL ISSUE – AGENCY RELUCTANCE TO DOCUMENT EMPLOYEE PERFORMANCE IN ACCORDANCE WITH DUE PROCESS PROCEDURES

In 1978, Congress enacted the CSRA, which is the modern-day statute governing civil service protections. In considering the law, Congress was specifically concerned about balancing employee rights and maintaining a non-partisan civil service with the need for management to deal with poor performers, or unacceptable conduct.

To help agency managers deal with poor performers, the CSRA included a new section, Chapter 43, specifically addressing performance issues. As previously mentioned, this chapter set a lower standard of review of agency decisions with respect to performance issues among employees, and restricts the MSPB from modifying agency determinations regarding removal of poorly performing personnel.

The GAO report previously mentioned (GAO-15-191) suggests many reasons why managers are sometimes reluctant to address performance issues. It also explores the many myths surrounding removal of poor performers. GAO's report echoed findings of the MSPB in its reported entitled, "Addressing Poor Performers and the Law" (September 2009). The fact is that the laws governing the firing of poor performers, primarily Chapters 43 and 75 of title 5, are straightforward and not unduly burdensome to agencies. However, the due process procedures inherent in these laws require

documentation between the supervisor and the employee that addresses the performance or conduct issues. This can be very difficult for some supervisors. Nevertheless, the law is clear, agency supervisors have many tools available to them to address performance issues, and to fire poor performers.

CONTINUED DENIGRATION OF VA EMPLOYEES

As members of this Committee are undoubtedly aware, continuing partisan attacks on the work of VA employees only fuels a self-reinforcing feedback loop. Employees know they are punching bags. Morale plummets as a continuous stream of anti-federal worker proclamations, almost all false or highly exaggerated, emanate from elected or appointed leaders. Not long ago, the majority leader in the House of Representatives wrote an op-ed in the Wall Street Journal describing the "federal bureaucracy" as the entity that "poses the greatest threat to America's people, economy and Constitution." Such criticism is not only false, but misleads people into thinking that career civil servants create statutes and regulations wholly apart from supervision by elected leaders and political appointees. Anyone who has worked in federal service will tell you that employees follow direction, whether that direction comes from Congress, the President or other politically-appointed officials. In other words, career federal workers respond to and implement duly enacted laws and policies. They do not create these policies.

In all my years as an elected official of AFGE, I have never seen fit to denigrate my own

staff. No leader should do that. There have been situations where employees have been disciplined or dismissed. But taking a battle axe to all employees and describing them in broad terms as "threats" to the American people heralds a new low in misinformation and outright dishonesty. As I told several news outlets at the time, "To call civil servants – one-third of whom are veterans – a 'threat to America's people, economy and Constitution' is an insult to the men and women who dedicate their lives to the programs and services that benefit all Americans."

HOLDING THE VA ACCOUNTABLE

AFGE agrees that VA employees should be held accountable, and we also believe that includes VA managers, supervisors and political appointees. Statements implying that employees cannot be fired for months or years, or that fired employees remain on the government payroll for long periods while pursuing appeals following removal demand accountability every bit as much as an employee who is chronically late to work.

These are dishonest statements and VA leadership should be held to account for this dishonesty. If they can't fire, demote or properly discipline employees under current civil services rules, AFGE questions their competence to manage and lead such a large and complex organization. If they cannot hire for 45,000 health care vacancies, the same is true. They lack the competence to manage and lead the agency. Seeking the easy way out is not leadership. It is a politically-motivated response to fecklessness and incompetence.

Regardless of the outcome of the debate on this legislation, AFGE calls on this Committee to demand from the VA Secretary the following data on the number of employees fired, suspended or demoted ("adverse actions") by the VA under applicable statutory or regulatory authority; more specifically the following:

1. The number of employees proposed for and actually subject to adverse actions;
2. The veterans status of employees subject to adverse actions;
3. Locations, demographics and grades, and reasons for adverse actions; and
4. Periods of time to effect adverse actions from date of first employee notice until final agency decision.

We have yet to see this data, and we believe it will better inform the debate, not only as to whom the VA is disciplining, but also as to the level of competence within the agency in managing its personnel functions. We also believe that the Committee should focus more of its attention on the failure of the agency's leadership to fill the reported 45,000 healthcare vacancies. Firing should not be your only concern. Hiring deserves at least as much attention.

A BETTER WAY FORWARD

History is replete with examples of public service corrupted by unfettered, politically-based employment decisions. That's why we continue to support a merit-based civil service system with appropriate due process, and checks and balances to ensure that

both hiring and firing decisions be merit-based, and subject to meaningful review.

AFGE strongly supports improvements in agency performance management systems, and we look forward to working with lawmakers and other interested stakeholders to see this carried-out. AFGE also supports better training of both VA supervisors and employees so that clear expectations are established, performance is measurable, and appropriate steps are taken to either remedy performance problems, or to remove poor performers from the workplace.

AFGE vehemently opposes S. 1094, one of the worst pieces of legislation of the modern era. This legislation is an affront to hard working VA employees, more than a third of whom are veterans, directly lowers objective standards of review of proposed adverse actions, impinges on the union's ability to defend meritorious cases, and unfairly penalizes employees for what could be trivial offenses. S. 1094 will corrupt and ultimately destroy the professional civil service and return the country to the days of the "spoils system" of government employment.

CONCLUSION

Attacks on government employees and the civil service in general may make for good politics, but they make for bad government. AFGE is aware that dealing with problem employees is essential to sound public administration. But the vast majority of employees at the VA perform well. Agency systems and the laws and regulations

governing employee performance are well-thought-out. The issue is not whether the laws or regulations governing the civil service are adequate, but whether agencies, including VA managers and supervisors have the tools, training and will to effectively implement current rules. The current mindset of the VA and supporters of this legislation in Congress seems to be that fast and easy firing of employees will magically solve the VA's problems. Think again. This will cause far more problems than it will solve.

I urge the Committee to reconsider the very dangerous and ultimately destructive personnel provisions of this firing bill.

Thank you for your time and consideration and I will be happy to answer any questions you may have.