A BILL

To provide remedies to members of the Armed Forces discharged or subject to adverse action under the COVID–19 vaccine mandate.

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 “Allowing Military Exemptions, Recognizing Individual Concerns About New Shots Act of 2023” or the “AMERICANS Act”.
SEC. 2. REMEDIES FOR MEMBERS OF THE ARMED FORCES

DISCHARGED OR SUBJECT TO ADVERSE A
TION UNDER THE COVID–19 VACCINE MAN

DATE.

(a) LIMITATION ON IMPOSITION OF NEW MAN
DATE.—The Secretary of Defense may not issue any
COVID–19 vaccine mandate as a replacement for the
mandate rescinded under section 525 of the James M.
Inhofe National Defense Authorization Act for Fiscal Year
2023 absent a further act of Congress expressly author
izing a replacement mandate.

(b) REMEDIES.—Section 736 of the National Defense
Authorization Act for Fiscal Year 2022 (Public Law 117–
81; 10 U.S.C. 1161 note prec.) is amended—

(1) in the section heading, by striking “TO
OBEY LAWFUL ORDER TO RECEIVE” and insert
ing “TO RECEIVE”;

(2) in subsection (a)—

(A) by striking “a lawful order” and in
serting “an order”; and

(B) by striking “shall be” and all that fol
lows through the period at the end and insert
ing “shall be an honorable discharge.”;

(3) by redesignating subsection (b) as sub
section (e); and
(4) by inserting after subsection (a) the following new subsections:

“(b) Prohibition on Adverse Action.—The Secretary of Defense may not take any adverse action against a covered member based solely on the refusal of such member to receive a vaccine for COVID–19.

“(c) Remedies Available for a Covered Member Discharged or Subject to Adverse Action Based on COVID–19 Status.—At the election of a covered member discharged or subject to adverse action based on the member’s COVID–19 vaccination status, and upon application through a process established by the Secretary of Defense, the Secretary shall—

“(1) adjust to ‘honorable discharge’ the status of the member if—

“(A) the member was separated from the Armed Forces based solely on the failure of the member to obey an order to receive a vaccine for COVID–19; and

“(B) the discharge status of the member would have been an ‘honorable discharge’ but for the refusal to obtain such vaccine;

“(2) reinstate the member to service at the highest grade held by the member immediately prior to the involuntary separation, allowing, however, for
any reduction in rank that was not related to the member’s COVID–19 vaccination status, with an effective date of reinstatement as of the date of involuntary separation;

“(3) for any member who was subject to any adverse action other than involuntary separation based solely on the member’s COVID–19 vaccination status—

“(A) restore the member to the highest grade held prior to such adverse action, allowing, however, for any reduction in rank that was not related to the member’s COVID–19 vaccination status, with an effective date of reinstatement as of the date of involuntary separation; and

“(B) compensate such member for any pay and benefits lost as a result of such adverse action;

“(4) expunge from the service record of the member any adverse action, to include non-punitive adverse action and involuntary separation, as well as any reference to any such adverse action, based solely on COVID–19 vaccination status; and

“(5) include the time of involuntary separation of the member reinstated under paragraph (2) in the
computation of the retired or retainer pay of the
member.

“(d) Retention and Development of Unvaccinated Members.—The Secretary of Defense shall—

“(1) make every effort to retain covered mem-
bers who are not vaccinated against COVID–19 and
provide such members with professional develop-
ment, promotion and leadership opportunities, and
consideration equal to that of their peers;

“(2) only consider the COVID–19 vaccination
status of a covered member in making deployment,
assignment, and other operational decisions where—

“(A) the law or regulations of a foreign
country require covered members to be vac-
cinated against COVID–19 in order to enter
that country; and

“(B) the covered member’s presence in
that foreign country is necessary in order to
perform their assigned role; and

“(3) for purposes of deployments, assignments,
and operations described in paragraph (2), create a
process to provide COVID–19 vaccination exemp-
tions to covered members with—

“(A) a natural immunity to COVID–19;
“(B) an underlying health condition that would make COVID–19 vaccination a greater risk to that individual than the general population; or

“(C) sincerely held religious beliefs in conflict with receiving the COVID–19 vaccination.

“(e) **Applicability of Remedies Contained in this Section.**—The prohibitions and remedies described in this section shall apply to covered members regardless of whether or not they sought an accommodation to any Department of Defense COVID–19 vaccination policy on any grounds.”.