

AMENDMENT TO
RULES COMMITTEE PRINT 116–19
OFFERED BY Mr. Smith

At the end of subtitle A of title VI, add the following:

1 SEC. 606. INCREASE IN BASIC PAY.

2 Effective on January 1, 2020, the rates of monthly
3 basic pay for members of the uniformed services are in-
4 creased by 3.1 percent.

At the end of subtitle C of title VI, add the following:

5 SEC. 630a. REPEAL OF REQUIREMENT OF REDUCTION OF
6 SURVIVOR BENEFIT PLAN SURVIVOR ANNU-
7 ITIES BY AMOUNT OF DEPENDENCY AND IN-
8 DEMNITY COMPENSATION.

9 (a) REPEAL.—

10 (1) REPEAL.—Subchapter II of chapter 73 of
11 title 10, United States Code, is amended as follows:

12 (A) In section 1450, by striking subsection

13 (c).

14 (B) In section 1451(c)—

15 (i) by striking paragraph (2); and

1 (ii) by redesignating paragraphs (3)
2 and (4) as paragraphs (2) and (3), respec-
3 tively.

4 (2) CONFORMING AMENDMENTS.—Such sub-
5 chapter is further amended as follows:

6 (A) In section 1450—

7 (i) by striking subsection (e); and

8 (ii) by striking subsection (k).

9 (B) In section 1451(g)(1), by striking sub-
10 paragraph (C).

11 (C) In section 1452—

12 (i) in subsection (f)(2), by striking
13 “does not apply—” and all that follows
14 and inserting “does not apply in the case
15 of a deduction made through administra-
16 tive error.”; and

17 (ii) by striking subsection (g).

18 (D) In section 1455(c), by striking “,
19 1450(k)(2),”.

20 (b) PROHIBITION ON RETROACTIVE BENEFITS.—No
21 benefits may be paid to any person for any period before
22 the effective date provided under subsection (f) by reason
23 of the amendments made by subsection (a).

24 (c) PROHIBITION ON RECOUPMENT OF CERTAIN
25 AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPI-

1 ENTS.—A surviving spouse who is or has been in receipt
2 of an annuity under the Survivor Benefit Plan under sub-
3 chapter II of chapter 73 of title 10, United States Code,
4 that is in effect before the effective date provided under
5 subsection (f) and that is adjusted by reason of the
6 amendments made by subsection (a) and who has received
7 a refund of retired pay under section 1450(e) of title 10,
8 United States Code, shall not be required to repay such
9 refund to the United States.

10 (d) REPEAL OF AUTHORITY FOR OPTIONAL ANNUITY
11 FOR DEPENDENT CHILDREN.—Section 1448(d)(2) of
12 such title is amended—

13 (1) by striking “DEPENDENT CHILDREN.—”
14 and all that follows through “In the case of a mem-
15 ber described in paragraph (1),” and inserting “DE-
16 PENDENT CHILDREN.—In the case of a member de-
17 scribed in paragraph (1),”; and

18 (2) by striking subparagraph (B).

19 (e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY
20 ELIGIBLE SPOUSES.—The Secretary of the military de-
21 partment concerned shall restore annuity eligibility to any
22 eligible surviving spouse who, in consultation with the Sec-
23 retary, previously elected to transfer payment of such an-
24 nuity to a surviving child or children under the provisions
25 of section 1448(d)(2)(B) of title 10, United States Code,

1 as in effect on the day before the effective date provided
2 under subsection (f). Such eligibility shall be restored
3 whether or not payment to such child or children subse-
4 quently was terminated due to loss of dependent status
5 or death. For the purposes of this subsection, an eligible
6 spouse includes a spouse who was previously eligible for
7 payment of such annuity and is not remarried, or remar-
8 ried after having attained age 55, or whose second or sub-
9 sequent marriage has been terminated by death, divorce
10 or annulment.

11 (f) EFFECTIVE DATE.—This section and the amend-
12 ments made by this section shall take effect on the later
13 of—

14 (1) October 1, 2019; and

15 (2) the first day of the first month that begins
16 after the date of the enactment of this Act.

At the end of subtitle C of title VII, add the fol-
lowing new section:

17 **SEC. 729. ALLOWING CLAIMS AGAINST THE UNITED STATES**
18 **FOR INJURY AND DEATH OF MEMBERS OF**
19 **THE ARMED FORCES CAUSED BY IMPROPER**
20 **MEDICAL CARE.**

21 (a) IN GENERAL.—Chapter 171 of title 28, United
22 States Code, is amended by adding at the end the fol-
23 lowing:

1 **“§ 2681. Claims against the United States for injury**
2 **and death of members of the Armed**
3 **Forces of the United States**

4 “(a) A claim may be brought against the United
5 States under this chapter for damages relating to the per-
6 sonal injury or death of a member of the Armed Forces
7 of the United States arising out of a negligent or wrongful
8 act or omission in the performance of medical, dental, or
9 related health care functions (including clinical studies
10 and investigations) that is provided at a covered military
11 medical treatment facility by a person acting within the
12 scope of the office or employment of that person by or
13 at the direction of the Government of the United States.

14 “(b) A claim under this section shall not be reduced
15 by the amount of any benefit received under subchapter
16 III (relating to Servicemembers’ Group Life Insurance) of
17 chapter 19 of title 38.

18 “(c) Notwithstanding section 2401(b), a claim
19 brought under this section shall have a three-year statute
20 of limitations beginning on the date the claimant discov-
21 ered or by reasonable diligence should have discovered the
22 injury and the cause of the injury.

23 “(d) For purposes of claims brought under this sec-
24 tion—

25 “(1) subsections (j) and (k) of section 2680 do
26 not apply; and

1 “(2) in the case of an act or omission occurring
2 outside the United States, the law of the place where
3 the act or omission occurred shall be deemed to be
4 the law of the State of domicile of the claimant.

5 “(e) In this section, the term ‘covered military med-
6 ical treatment facility’ means the facilities described in
7 subsections (b), (c), and (d) of section 1073d of title 10,
8 regardless of whether the facility is located in or outside
9 the United States. The term does not include battalion
10 aid stations or other medical treatment locations deployed
11 in an area of armed conflict.

12 “(f) Not later than two years after the date of the
13 enactment of this section, and every two years thereafter,
14 the Secretary of Defense shall submit to Congress a report
15 on the number of claims filed under this section.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 171 of title 28, United States Code, is amend-
18 ed by adding at the end the following:

 “2681. Claims against the United States for injury and death of members of
 the Armed Forces of the United States.”.

19 (c) EFFECTIVE DATE.—This Act and the amend-
20 ments made by this Act shall apply to—

21 (1) a claim filed on or after the date of the en-
22 actment of this Act; and

23 (2) a claim that—

1 (A) is pending as of the date of the enact-
2 ment of this Act; and

3 (B) arises from an incident occurring not
4 more than two years before the claim was filed.

5 (d) **RULE OF CONSTRUCTION.**—Nothing in this Act
6 or the amendments made by this Act shall be construed
7 to limit the application of the administrative process and
8 procedures of chapter 171 of title 28, United States Code,
9 to claims permitted under section 2681 of such chapter,
10 as amended by this section.

Page 411, line 18, strike the dollar amount and in-
sert “\$14,420,000”.

Before section 1101, insert the following:

11 **Subtitle A—Personnel Management**

At the end of title XI, add the following:

12 **Subtitle B—Paid Family Leave for** 13 **Federal Personnel**

14 **SEC. 1121. SHORT TITLE.**

15 This subtitle may be cited as the “Federal Employee
16 Paid Leave Act”.

17 **SEC. 1122. PAID FAMILY LEAVE FOR FEDERAL EMPLOYEES** 18 **COVERED BY TITLE 5.**

19 (a) **IN GENERAL.**—Subsection (c) of section 6382 of
20 title 5, United States Code, is amended to read as follows:

1 “(c)(1) Leave granted under subsection (a) shall be
2 paid leave.

3 “(2)(A) An employee may elect to substitute for any
4 leave under such subsection any other paid leave which
5 is available to such employee for that purpose.

6 “(B) Subparagraph (A) shall not be construed to re-
7 quire that an employee first use all or any portion of the
8 other paid leave described in such subparagraph before
9 being allowed to use leave under subsection (a).

10 “(3) Leave under subsection (a)—

11 “(A) shall be payable from any appropriation or
12 fund available for salaries or expenses for positions
13 within the employing agency;

14 “(B) shall not be considered to be annual or va-
15 cation leave for purposes of section 5551 or 5552 or
16 for any other purpose; and

17 “(C) if not used by the employee before the end
18 of the 12-month period (as referred to in subsection
19 (a)(1)) to which it relates, shall not accumulate for
20 any subsequent use.

21 “(4) The Director of the Office of Personnel Manage-
22 ment—

23 “(A) may promulgate regulations to increase
24 the amount of leave available to an employee under

1 subsection (a) to a total of not more than 16 admin-
2 istrative workweeks, based on the consideration of—

3 “(i) the benefits provided to the Federal
4 Government of increasing such leave, including
5 enhanced recruitment and retention of employ-
6 ees;

7 “(ii) the cost to the Federal Government of
8 increasing the amount of such leave that is
9 available to employees;

10 “(iii) trends in the private sector and in
11 State and local governments with respect to of-
12 fering such leave;

13 “(iv) the Federal Government’s role as a
14 model employer;

15 “(v) the impact of increased leave under
16 subsection (a) on lower-income and economi-
17 cally disadvantaged employees and their chil-
18 dren; and

19 “(vi) such other factors as the Director
20 considers necessary; and

21 “(B) shall prescribe any regulations necessary
22 to carry out this subsection, including the manner in
23 which an employee may designate any day or other
24 period as to which such employee wishes to use leave
25 under subsection (a).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall not be effective with respect to any birth
3 or placement occurring before October 1, 2020.

4 **SEC. 1123. PAID FAMILY LEAVE FOR CONGRESSIONAL EM-**
5 **PLOYEES.**

6 (a) AMENDMENTS TO CONGRESSIONAL ACCOUNT-
7 ABILITY ACT.—Section 202 of the Congressional Account-
8 ability Act of 1995 (2 U.S.C. 1312) is amended—

9 (1) in subsection (a)(1), by adding at the end
10 the following: “In applying section 102(a)(1) of such
11 Act to covered employees, subsection (d) shall
12 apply.”;

13 (2) by redesignating subsections (d) and (e) as
14 subsections (e) and (f), respectively; and

15 (3) by inserting after subsection (c) the fol-
16 lowing:

17 “(d) SPECIAL RULE FOR PAID FAMILY LEAVE FOR
18 CONGRESSIONAL EMPLOYEES.—

19 “(1) IN GENERAL.—Any leave taken by a cov-
20 ered employee under section 102(a)(1) of the Family
21 and Medical Leave Act of 1993 (29 U.S.C.
22 2612(a)(1)) shall be paid leave.

23 “(2) AMOUNT OF PAID LEAVE.—The paid leave
24 that is available to a covered employee for purposes
25 of paragraph (1) is—

1 “(A) the number of weeks of paid family
2 leave in connection with the birth or placement
3 involved that correspond to the number of ad-
4 ministrative workweeks of paid family leave
5 available to Federal employees under section
6 6382(d)(3)(A) of title 5, United States Code;
7 and

8 “(B) any additional paid vacation or sick
9 leave provided by the employing office to such
10 employee.

11 “(3) SUBSTITUTION.—An employee may elect
12 to substitute for any leave under such section
13 102(a)(1) any other paid leave which is available to
14 such employee for that purpose. The previous sen-
15 tence shall not be construed to require that an em-
16 ployee first use all or any portion of the other paid
17 leave before being allowed to use the paid family
18 leave described in this subsection.

19 “(4) ADDITIONAL RULES.—Paid family leave
20 under this subsection—

21 “(A) shall be payable from any appropria-
22 tion or fund available for salaries or expenses
23 for positions within the employing office; and

24 “(B) if not used by the covered employee
25 before the end of the 12-month period (as re-

1 ferred to in section 102(a)(1) of the Family and
2 Medical Leave Act of 1993 (29 U.S.C.
3 2612(a)(1))) to which it relates, shall not accu-
4 mulate for any subsequent use.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall not be effective with respect to any birth
7 or placement occurring before October 1, 2020.

8 **SEC. 1124. CONFORMING AMENDMENT TO FAMILY AND**
9 **MEDICAL LEAVE ACT FOR GAO EMPLOYEES.**

10 (a) AMENDMENT TO FAMILY AND MEDICAL LEAVE
11 ACT OF 1993.—Section 102(d) of the Family and Medical
12 Leave Act of 1993 (29 U.S.C. 2612(d)) is amended by
13 adding at the end the following:

14 “(3) SPECIAL RULE FOR GAO EMPLOYEES.—

15 “(A) IN GENERAL.—Any leave under sub-
16 section (a)(1) taken by an employee of the Gov-
17 ernment Accountability Office shall be paid
18 leave.

19 “(B) AMOUNT OF PAID LEAVE.—The paid
20 leave that is available to such an employee for
21 purposes of subparagraph (A) is—

22 “(i) the number of weeks of paid fam-
23 ily leave in connection with the birth or
24 placement involved that correspond to the
25 number of administrative workweeks of

1 paid family leave available to Federal em-
2 ployees under section 6382(d)(3)(A) of
3 title 5, United States Code; and

4 “(ii) any additional paid vacation or
5 sick leave provided by such employer.

6 “(C) SUBSTITUTION.—An employee may
7 elect to substitute for any leave under sub-
8 section (a)(1) any other paid leave which is
9 available to such employee for that purpose.
10 The previous sentence shall not be construed to
11 require that an employee first use all or any
12 portion of the other paid leave before being al-
13 lowed to use the paid family leave described in
14 this subsection.

15 “(D) ADDITIONAL RULES.—Paid family
16 leave under subsection (a)(1)—

17 “(i) shall be payable from any appro-
18 priation or fund available for salaries or
19 expenses for positions with the Government
20 Accountability Office; and

21 “(ii) if not used by the employee of
22 such employer before the end of the 12-
23 month period (as referred to in subsection
24 (a)(1)) to which it relates, shall not accu-
25 mulate for any subsequent use.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall not be effective with respect to any birth
3 or placement occurring before October 1, 2020.

4 **SEC. 1125. CLARIFICATION FOR MEMBERS OF THE NA-**
5 **TIONAL GUARD AND RESERVES.**

6 (a) EXECUTIVE BRANCH EMPLOYEES.—For pur-
7 poses of determining the eligibility of an employee who is
8 a member of the National Guard or Reserves to take leave
9 under section 6382(a) of title 5, United States Code, or
10 to substitute such leave pursuant to paragraph (2) of such
11 section (as added by section 1122), any service by such
12 employee on active duty (as defined in section 6381(7) of
13 such title) shall be counted as service as an employee for
14 purposes of section 6381(1)(B) of such title.

15 (b) CONGRESSIONAL EMPLOYEES.—For purposes of
16 determining the eligibility of a covered employee (as such
17 term is defined in section 101(3) of the Congressional Ac-
18 countability Act) who is a member of the National Guard
19 or Reserves to take leave under section 102(a)(1) of the
20 Family and Medical Leave Act of 1993 (pursuant to sec-
21 tion 202(a)(1) of the Congressional Accountability Act),
22 or to substitute such leave pursuant to subsection (d) of
23 section 202 of such Act (as added by section 1123), any
24 service by such employee on active duty (as defined in sec-
25 tion 101(14) of the Family and Medical Leave Act of

1 1993) shall be counted as time during which such em-
2 ployee has been employed in an employing office for pur-
3 poses of section 202(a)(2)(B) of the Congressional Ac-
4 countability Act.

5 (c) GAO EMPLOYEES.—For purposes of determining
6 the eligibility of an employee of the Government Account-
7 ability Office who is a member of the National Guard or
8 Reserves to take leave under section 102(a)(1) of the
9 Family and Medical Leave Act of 1993, or to substitute
10 such leave pursuant to paragraph (3) of section 102(d)
11 of such Act (as added by section 1124), any service by
12 such employee on active duty (as defined in section
13 101(14) of such Act) shall be counted as time during
14 which such employee has been employed for purposes of
15 section 101(2)(A) of such Act.

16 **SEC. 1126. CONFORMING AMENDMENT FOR CERTAIN TSA**
17 **EMPLOYEES.**

18 Section 111(d)(2) of the Aviation and Transportation
19 Security Act (49 U.S.C. 44935 note) is amended to read
20 as follows

21 “(2) EXCEPTIONS.—

22 “(A) REEMPLOYMENT.—In carrying out
23 the functions authorized under paragraph (1),
24 the Under Secretary shall be subject to the pro-

1 visions set forth in chapter 43 of title 38,
2 United States Code.

3 “(B) LEAVE.—The provisions of section
4 6382(a)(1) of title 5, United States Code, and
5 subsection (c) of such section shall apply to any
6 individual appointed under paragraph (1).”.

Page 761, line 2, strike “18,800” and insert
“18,870”.

