AMENDMENT TO RULES COMMITTEE PRINT 118–10

OFFERED BY MR. BISHOP OF NORTH CAROLINA

Strike sections 525, 526, and 527 and insert the following:

SEC. 5. REMEDIES FOR MEMBERS OF THE ARMED FORCES DISCHARGED OR SUBJECT TO ADVERSE ACTION UNDER THE COVID–19 VACCINE MANDATE.

(a) LIMITATION ON IMPOSITION OF NEW MANDATE.—The Secretary of Defense may not issue any COVID–19 vaccine mandate as a replacement for the mandate rescinded under section 525 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 absent a further Act of Congress expressly authorizing a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 inserting “TO RECEIVE”;

(2) in subsection (a)—
(A) by striking “a lawful order” and inserting “an order”; and

(B) by striking “shall be” and all that follows through the period at the end and inserting “shall be an honorable discharge.”;

(3) by redesignating subsection (b) as subsection (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 members who are not vaccinated against COVID–19 and provide such members with professional development, 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 popu-
lation; or
“(C) sincerely held religious beliefs in con-
flict 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.”.