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

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

SEC. 606. INCREASE IN BASIC PAY.

Effective on January 1, 2020, the rates of monthly basic pay for members of the uniformed services are increased by 3.1 percent.

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

SEC. 630a. REPEAL OF REQUIREMENT OF REDUCTION OF SURVIVOR BENEFIT PLAN SURVIVOR ANNUITIES BY AMOUNT OF DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—

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

(A) In section 1450, by striking subsection (c).

(B) In section 1451(c)—

(i) by striking paragraph (2); and
(ii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) CONFORMING AMENDMENTS.—Such subchapter is further amended as follows:

(A) In section 1450—

(i) by striking subsection (e); and

(ii) by striking subsection (k).

(B) In section 1451(g)(1), by striking sub-

paragraph (C).

(C) In section 1452—

(i) in subsection (f)(2), by striking

“does not apply—” and all that follows
and inserting “does not apply in the case
of a deduction made through administra-

ative error.”; and

(ii) by striking subsection (g).

(D) In section 1455(e), by striking “,

1450(k)(2),”.

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

(c) PROHIBITION ON RECOUPMENT OF CERTAIN
AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPI-
ENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (f) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) **Repeal of Authority for Optional Annuity for Dependent Children.**—Section 1448(d)(2) of such title is amended—

(1) by striking “DEPENDENT CHILDREN.—” and all that follows through “In the case of a member described in paragraph (1),” and inserting “DEPENDENT CHILDREN.—In the case of a member described in paragraph (1),”; and

(2) by striking subparagraph (B).

(e) **Restoration of Eligibility for Previously Eligible Spouses.**—The Secretary of the military department concerned shall restore annuity eligibility to any eligible surviving spouse who, in consultation with the Secretary, previously elected to transfer payment of such annuity to a surviving child or children under the provisions of section 1448(d)(2)(B) of title 10, United States Code,
as in effect on the day before the effective date provided under subsection (f). Such eligibility shall be restored whether or not payment to such child or children subsequently was terminated due to loss of dependent status or death. For the purposes of this subsection, an eligible spouse includes a spouse who was previously eligible for payment of such annuity and is not remarried, or remarried after having attained age 55, or whose second or subsequent marriage has been terminated by death, divorce or annulment.

(f) Effective Date.—This section and the amendments made by this section shall take effect on the later of—

(1) October 1, 2019; and

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

At the end of subtitle C of title VII, add the following new section:

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

(a) In General.—Chapter 171 of title 28, United States Code, is amended 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

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

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

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

“(d) For purposes of claims brought under this section—

“(1) subsections (j) and (k) of section 2680 do not apply; and
“(2) in the case of an act or omission occurring outside the United States, the law of the place where the act or omission occurred shall be deemed to be the law of the State of domicile of the claimant.

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

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

(b) CLERICAL AMENDMENT.—The table of sections for chapter 171 of title 28, United States Code, is amended 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.”.

(c) EFFECTIVE DATE.—This Act and the amendments made by this Act shall apply to—

(1) a claim filed on or after the date of the enactment of this Act; and

(2) a claim that—
(A) is pending as of the date of the enactment of this Act; and

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

(d) Rule of Construction.—Nothing in this Act or the amendments made by this Act shall be construed to limit the application of the administrative process and procedures of chapter 171 of title 28, United States Code, to claims permitted under section 2681 of such chapter, as amended by this section.

Page 411, line 18, strike the dollar amount and insert "$14,420,000".

Before section 1101, insert the following:

Subtitle A—Personnel Management

At the end of title XI, add the following:

Subtitle B—Paid Family Leave for Federal Personnel

SEC. 1121. SHORT TITLE.

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

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

(a) In General.—Subsection (c) of section 6382 of title 5, United States Code, is amended to read as follows:
“(c)(1) Leave granted under subsection (a) shall be
paid leave.
“(2)(A) An employee may elect to substitute for any
leave under such subsection any other paid leave which
is available to such employee for that purpose.
“(B) Subparagraph (A) shall not be construed to re-
quire that an employee first use all or any portion of the
other paid leave described in such subparagraph before
being allowed to use leave under subsection (a).
“(3) Leave under subsection (a)—
“(A) shall be payable from any appropriation or
fund available for salaries or expenses for positions
within the employing agency;
“(B) shall not be considered to be annual or va-
cation leave for purposes of section 5551 or 5552 or
for any other purpose; and
“(C) if not used by the employee before the end
of the 12-month period (as referred to in subsection
(a)(1)) to which it relates, shall not accumulate for
any subsequent use.
“(4) The Director of the Office of Personnel Manage-
ment—
“(A) may promulgate regulations to increase
the amount of leave available to an employee under

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

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

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

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

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

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

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

“(B) shall prescribe any regulations necessary
to carry out this subsection, including the manner in
which an employee may designate any day or other
period as to which such employee wishes to use leave
under subsection (a).”).
(b) Effective Date.—The amendment made by this section shall not be effective with respect to any birth or placement occurring before October 1, 2020.

SEC. 1123. PAID FAMILY LEAVE FOR CONGRESSIONAL EMPLOYEES.

(a) Amendments to Congressional Accountability Act.—Section 202 of the Congressional Accountability Act of 1995 (2 U.S.C. 1312) is amended—

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

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

(3) by inserting after subsection (c) the following:

“(d) Special Rule for Paid Family Leave for Congressional Employees.—

“(1) In general.—Any leave taken by a covered employee under section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) shall be paid leave.

“(2) Amount of paid leave.—The paid leave that is available to a covered employee for purposes of paragraph (1) is—
“(A) the number of weeks of paid family leave in connection with the birth or placement involved that correspond to the number of administrative workweeks of paid family leave available to Federal employees under section 6382(d)(3)(A) of title 5, United States Code; and

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

“(3) SUBSTITUTION.—An employee may elect to substitute for any leave under such section 102(a)(1) any other paid leave which is available to such employee for that purpose. The previous sentence shall not be construed to require that an employee first use all or any portion of the other paid leave before being allowed to use the paid family leave described in this subsection.

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

“(A) shall be payable from any appropriation or fund available for salaries or expenses for positions within the employing office; and

“(B) if not used by the covered employee before the end of the 12-month period (as re-
ferred to in section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1))) to which it relates, shall not accumulate for any subsequent use.”.

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

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

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

“(3) SPECIAL RULE FOR GAO EMPLOYEES.—

“(A) IN GENERAL.—Any leave under subsection (a)(1) taken by an employee of the Government Accountability Office shall be paid leave.

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

“(i) the number of weeks of paid family leave in connection with the birth or placement involved that correspond to the number of administrative workweeks of
paid family leave available to Federal employees under section 6382(d)(3)(A) of title 5, United States Code; and

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

“(C) SUBSTITUTION.—An employee may elect to substitute for any leave under subsection (a)(1) any other paid leave which is available to such employee for that purpose.

The previous sentence shall not be construed to require that an employee first use all or any portion of the other paid leave before being allowed to use the paid family leave described in this subsection.

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

“(i) shall be payable from any appropriation or fund available for salaries or expenses for positions with the Government Accountability Office; and

“(ii) if not used by the employee of such employer before the end of the 12-month period (as referred to in subsection (a)(1)) to which it relates, shall not accumulate for any subsequent use.”.
(b) **EFFECTIVE DATE.**—The amendment made by this section shall not be effective with respect to any birth or placement occurring before October 1, 2020.

**SEC. 1125. CLARIFICATION FOR MEMBERS OF THE NATIONAL GUARD AND RESERVES.**

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

(b) **CONGRESSIONAL EMPLOYEES.**—For purposes of determining the eligibility of a covered employee (as such term is defined in section 101(3) of the Congressional Accountability Act) who is a member of the National Guard or Reserves to take leave under section 102(a)(1) of the Family and Medical Leave Act of 1993 (pursuant to section 202(a)(1) of the Congressional Accountability Act), or to substitute such leave pursuant to subsection (d) of section 202 of such Act (as added by section 1123), any service by such employee on active duty (as defined in section 101(14) of the Family and Medical Leave Act of
1993) shall be counted as time during which such em-
ployee has been employed in an employing office for pur-
poses of section 202(a)(2)(B) of the Congressional Ac-
countability Act.

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

SEC. 1126. CONFORMING AMENDMENT FOR CERTAIN TSA
EMPLOYEES.

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

“(2) EXCEPTIONS.—

“(A) REEMPLOYMENT.—In carrying out
the functions authorized under paragraph (1),
the Under Secretary shall be subject to the pro-
visions set forth in chapter 43 of title 38, United States Code.

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

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

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