SEC. ___. PARENTAL LEAVE FOR MEMBERS OF THE ARMED FORCES.

(a) EXPANDED PARENTAL LEAVE AUTHORITY.—

(1) MEMBERS OF THE ARMED FORCES.—

(A) IN GENERAL.—Chapter 40 of title 10, United States Code, is amended by inserting after section 701 the following new section:

"§ 701a. Parental leave

"(a) LEAVE AUTHORIZED.— A member of the armed forces who is performing active service may be allowed leave under this section for each instance in which the member becomes a parent as a result of the member's spouse giving birth.

"(b) AMOUNT OF LEAVE.—Leave under this section shall be 14 days, under regulations prescribed under this section by the Secretary concerned.

"(c) DURATION OF AVAILABILITY OF LEAVE.—Leave under this section is lost as follows:

"(1) If not used within one year of the date of the birth giving rise to the leave.

"(2) If the member having the leave becomes entitled to leave under this section with respect to a different child.

"(3) If not used before separation from active service.

"(d) COORDINATION WITH OTHER LEAVE AUTHORITIES.—Leave granted under this section is in addition to any other leave and may not be deducted or charged against other leave authorized by this chapter.

"(e) REGULATIONS.—This section shall be carried out under regulations prescribed by the Secretary concerned. Regulations prescribed under this section by the Secretaries of the military departments shall be as uniform as practicable and shall be subject to approval by the Secretary of Defense.".

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 701 the following new item:

"701a. Parental leave.".

(2) CONFORMING AMENDMENT.—Section 701(j) of such title is repealed.

(b) ADOPTIONS BY DUAL-SERVICE COUPLES.—Section 701(i) of such title is amended—

(1) in paragraph (1), by inserting before the period at the end the following: ", except that in the event that two members of the armed forces who are married to each other adopt a child in a qualifying child adoption, one such member shall be allowed up to 21 days of leave and the other shall be allowed up to 14 days of leave";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(c) COVERAGE OF COMMISSIONED OFFICERS OF THE PUBLIC HEALTH SERVICE.—Section 221(a) of the Public Health Service Act (42 U.S.C. 213a(a)) is amended by adding at the end the following new paragraph:

"(19) Section 701(i) and 701a, Adoption Leave and Parental Leave.".

Section-by-Section Analysis

This proposal would establish uniform standards for Parental Leave for members of the Armed Forces. For the purposes of this policy, service members who are parents, but who are not eligible for Maternity Leave, includes only those members who are spouses of birth mothers. These members will be entitled to 14 days of Parental Leave. Adoptive parents will continue to receive 21 days, except that in the case of dual-service couples one member will be allowed 21 days, and the other 14 days.

Parental Leave will be provided in the amount of 14 days, for every birth event. Any unused Parental Leave within one year of a child's birth will be forfeited and parents may use other existing chargeable leave methods, including passes and liberty, at the discretion of their local commands.

Budget Implications: The budget implications of the elements of this proposal are neutral.

Changes to Existing Law: This proposal (1) would add a new section 701a to title 10, United States Code, shown in full above, and (2) would make the following changes to section 701 of title 10, United States Code[, and to the Public Health Service Act]:

TITLE 10, UNITED STATES CODE

§701. Entitlement and accumulation

(a) A member of an armed force is entitled to leave at the rate of 2½ calendar days for each month of active service, excluding periods of—

(1) absence from duty without leave;
(2) absence over leave;
(3) confinement as the result of a sentence of a court-martial; and
(4) leave required to be taken under section 876a of this title.

Full-time training, or other full-time duty for a period of more than 29 days, performed under section 316, 502, 503, 504, or 505 of title 32 by a member of the Army National Guard of the United States or the Air National Guard of the United States in his status as a member of the National Guard, and for which he is entitled to pay, is active service for the purposes of this section.

(b) Except as provided in subsections (d), (f), and (g), a member may not accumulate more than 60 days' leave. However, leave taken during a fiscal year may be charged to leave accumulated during that fiscal year without regard to this limitation.

(c) A member who retired after August 9, 1946, who is continued on, or is recalled to active duty, may have his leave which accumulated during his service before retirement carried over to his period of service after retirement.

(d) Notwithstanding subsection (b), during the period beginning on October 1, 2008, through September 30, 2015, a member may accumulate up to 75 days of leave.

(e) Leave taken before discharge is considered to be active service.

(f)(1)(A) The Secretary concerned, under uniform regulations to be prescribed by the Secretary of Defense, may authorize a member described in subparagraph (B) who, except for this paragraph, would lose at the end of the fiscal year any accumulated leave in excess of the number of days of leave authorized to be accumulated under subsection (b) or (d), to retain an accumulated total of 120 days leave.

(B) This subsection applies to a member who—

(i) serves on active duty for a continuous period of at least 120 days in an area in which the member is entitled to special pay under section 310(a) of title 37;

(ii) is assigned to a deployable ship or mobile unit or to other duty designated for the purpose of this section; or

(iii) on or after August 29, 2005, performs duty designated by the Secretary of Defense as qualifying duty for purposes of this subsection.

(C) Except as provided in paragraph (2), leave in excess of the days of leave authorized to be accumulated under subsection (b) or (d) that are accumulated under this paragraph is lost unless it is used by the member before the end of the third fiscal year (or fourth fiscal year, if accumulated while subsection (d) is in effect) after the fiscal year in which the continuous period of service referred to in subparagraph (B) terminated.

(2) Under the uniform regulations referred to in paragraph (1), a member of an armed force who serves on active duty in a duty assignment in support of a contingency operation during a fiscal year and who, except for this paragraph, would lose at the end of that fiscal year any accumulated leave in excess of the number of days of leave authorized to be accumulated under subsection (b) or (d), shall be permitted to retain such leave until the end of the second fiscal year after the fiscal year in which such service on active duty is terminated.

(g) A member who is in a missing status, as defined in section 551(2) of title 37, accumulates leave without regard to the limitations in subsections (b), (d), and (f). Notwithstanding the death of a member while in a missing status, he continues to earn leave through the date—

(1) the Secretary concerned receives evidence that the member is dead; or

(2) that his death is prescribed or determined under section 555 of title 37.

Leave accumulated while in missing status shall be accounted for separately. It may not be taken, but shall be paid for under section 501(h) of title 37. However, a member whose death is prescribed or determined under section 555 or 556 of title 37 may, in addition to leave accrued before entering a missing status, accrue not more than 150 days' leave during the period he is in a missing status, unless his actual death occurs on a date when, had he lived, he would have accrued leave in excess of 150 days, in which event settlement will be made for the number of days accrued to the actual date of death. Leave so accrued in a missing status shall be accounted for separately and paid for under the provisions of section 501 of title 37.

(h) A member who has taken leave in excess of that authorized by this section and who is being discharged or released from active duty for the purpose of accepting an appointment or a warrant in an armed force, or of entering into an enlistment or an extension of an enlistment in an armed force, may elect to have excess leave of up to 30 days or the maximum number of days of leave that could be earned in the new term of service, whichever is less, carried over to that new term of service to count against leave that will accrue on the new term of service. A member shall be required, at the time of his discharge or release from active duty, to pay for excess leave not carried over under this subsection.

(i)(1) Under regulations prescribed by the Secretary of Defense, a member of the armed forces adopting a child in a qualifying child adoption is allowed up to 21 days of leave in a calendar year to be used in connection with the adoption**, except that in the event that two members of the armed forces who are married to each other adopt a child in a qualifying child adoption, one such member shall be allowed up to 21 days of leave and the other shall be allowed up to 14 days of leave**.

(2) For the purpose of this subsection, an adoption of a child by a member is a qualifying child adoption if the member is eligible for reimbursement of qualified adoption expenses for such adoption under section 1052 of this title.

~~(3) In the event that two members of the armed forces who are married to each other adopt a child in a qualifying child adoption, only one such member shall be allowed leave under this subsection~~.

~~(4)~~ (3) Leave under paragraph (1) is in addition to other leave provided under other provisions of this section.

~~(j)(1) Under regulations prescribed by the Secretary concerned, a married member of the armed forces on active duty whose wife gives birth to a child shall receive 10 days of leave to be used in connection with the birth of the child.~~

~~(2) Leave under paragraph (1) is in addition to other leave authorized under this section.~~

(k) A member of a reserve component who accumulates leave during a period of active service may carry over any leave so accumulated to the member's next period of active service, subject to the accumulation limits in subsections (b), (d), and (f), without regard to separation or release from active service if the separation or release is under honorable conditions. The taking of leave carried over under this subsection shall be subject to the provisions of this section.

Public Health Service Act

RIGHTS, BENEFITS, PRIVILEGES, AND IMMUNITIES FOR COMMISSIONED OFFICERS OR BENEFICIARIES; EXERCISE OF AUTHORITY BY SECRETARY OR DESIGNEE

SEC. 221. **[42 U.S.C. 213a]** (a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following provisions of title 10:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability, except that sections 1201, 1202, and 1203 do not apply to commissioned officers of the Public Health Service who have been ordered to active duty for training for a period of more than 30 days.

(3) Chapter 69, Retired Grade, except sections 1370, 1374,[1] 1375 and 1376(a).[1]

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.[1]

(5) Chapter 73, Retired Serviceman's Family Protection Plan; Survivor Benefit Plan.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 213 of this title.

(9) Section 2603, Acceptance of fellowships, scholarships, or grants.

(10) Section 2634, Motor vehicles: for members on permanent change of station.

(11) Section 1035, Deposits of Savings.

(12) Section 1552, Correction of military records: claims incident thereto.

(13) Section 1553, Review of discharge or dismissal.

(14) Section 1554, Review of retirement or separation without pay for physical disability.

(15) Section 1124, Cash awards for suggestions, inventions, or scientific achievements.

(16) Section 1052, Reimbursement for adoption expenses.

(17) Section 1059, Transitional compensation and commissary and exchange benefits for dependents of members separated for dependent abuse.

(18) Section 1034, Protected Communications; Prohibition of Retaliatory Personnel Actions.

(19) Section 701(i) and 701a, Adoption Leave and Parental Leave.

(b) The authority vested by title 10 in the "military departments", "the Secretary concerned", or "the Secretary of Defense" with respect to the rights, privileges, immunities, and benefits referred to in subsection (a) of this section shall be exercised, with respect to commissioned officers of the Service, by the Secretary of Health and Human Services or his designee. For purposes of paragraph (18) of subsection (a), the term "Inspector General" in section 1034 of such title 10 shall mean the Inspector General of the Department of Health and Human Services.

For the information of reviewers, section 262 of the National Oceanic and Atmospheric Administration Commissioned Officers Corps Act of 2002 (33 U.S.C. 3071) reads as follows:

SEC. 261. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 10, UNITED STATES CODE.

(a) PROVISIONS MADE APPLICABLE TO THE CORPS.—The rules of law that apply to the Armed Forces under the following provisions of title 10, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

(1) Chapter 40, relating to leave.

(2) Section 533(b), relating to constructive service.

(3) Section 716, relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.

(4) Section 1035, relating to deposits of savings.

(5) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.

(6) Section 1052, relating to reimbursement for adoption expenses.

(7) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).

(8) Chapter 61, relating to retirement or separation for physical disability.

(9) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.

(10) Chapter 71, relating to computation of retired pay.

(11) Chapter 73, relating to annuities based on retired or retainer pay.

(12) Subchapter II of chapter 75, relating to death benefits.

(13) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.

(14) Sections 2731 and 2735, relating to property loss incident to service.

(15) Section 2771, relating to final settlement of accounts of deceased members.

(16) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) REFERENCES.—The authority vested by title 10 in the "military departments", "the Secretary concerned", or "the Secretary of Defense" with respect to the provisions of law referred to in subsection (a) of this section shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary's designee.