

116TH CONGRESS
1ST SESSION

S. 1174

To provide that 12 weeks of leave made available to a Federal employee shall be paid leave, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Mr. SCHATZ (for himself, Mr. BROWN, Mr. VAN HOLLEN, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide that 12 weeks of leave made available to a Federal employee shall be paid leave, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. PAID LEAVE FOR FEDERAL EMPLOYEES COVERED**

7 **BY TITLE 5.**

8 (a) IN GENERAL.—Section 6382 of title 5, United
9 States Code, is amended by striking subsections (c) and
10 (d) and inserting the following:

1 “(c)(1) Subject to paragraph (2), leave taken by an
2 employee under subsection (a) shall be paid leave.

3 “(2) The paid leave that is available to an employee
4 for purposes of paragraph (1) is—

5 “(A) 12 administrative workweeks of paid leave,
6 in connection with the birth, placement, or other
7 event involved for which leave may be taken under
8 subsection (a), in the 12-month period referred to in
9 subsection (a); or

10 “(B) if regulations are promulgated under sub-
11 section (d), the number of administrative workweeks
12 specified in the regulations.

13 “(3)(A) An employee may elect to substitute for any
14 leave under subsection (a)(3) any other paid leave which
15 is available to such employee for the purpose described in
16 that subsection.

17 “(B) Subparagraph (A) shall not be construed to re-
18 quire that an employee first use all or any portion of the
19 other paid leave described in such subparagraph before
20 being allowed to use the paid leave described in paragraph
21 (1).

22 “(4) Paid leave described in paragraph (1)—

23 “(A) shall be payable from any appropriation or
24 fund available for salaries or expenses for positions
25 within the employing agency;

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

4 “(C) if not used by the employee before the end
5 of the 12-month period (referred to in subsection
6 (a)) to which it relates, shall not accumulate for any
7 subsequent use.

8 “(5) The Director of the Office of Personnel Manage-
9 ment shall prescribe any regulations necessary to carry out
10 this subsection, including regulations specifying the man-
11 ner in which an employee may designate any day or other
12 period as to which such employee wishes to use paid leave
13 described in paragraph (1) under subsection (a).

14 “(d) The Director of the Office of Personnel Manage-
15 ment may promulgate regulations to increase the amount
16 of paid leave available to an employee under subsection
17 (a) to a total of not more than 16 administrative work-
18 weeks, based on the consideration of—

19 “(1) the benefits provided to the Federal Gov-
20 ernment of increasing such leave, including enhanced
21 recruitment and retention of employees;

22 “(2) the cost to the Federal Government of in-
23 creasing the amount of such leave;

1 “(3) trends in the private sector and in State
2 and local governments with respect to offering an in-
3 creased amount of paid leave;

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

6 “(5) the impact of increased paid leave under
7 subsection (a) on lower-income and economically dis-
8 advantaged employees and their children; and

9 “(6) such other factors as the Director con-
10 siders necessary.”.

11 (b) APPLICATION.—The amendment made by this
12 section shall not apply with respect to any event that—

13 (1) is a birth, placement, or other event for
14 which leave may be taken under section 6382(a) of
15 title 5, United States Code; and

16 (2) occurs before the end of the 6-month period
17 beginning on the date of the enactment of this Act.

18 **SEC. 3. PAID LEAVE FOR CONGRESSIONAL EMPLOYEES.**

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

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

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

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

5 “(d) SPECIAL RULE FOR PAID LEAVE FOR CONGRES-
6 SIONAL EMPLOYEES.—

7 “(1) IN GENERAL.—Subject to paragraph (2),
8 leave taken by a covered employee under section
9 102(a) of the Family and Medical Leave Act of
10 1993 (29 U.S.C. 2612(a)) shall be paid leave.

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

14 “(A) the number of weeks of paid leave, in
15 connection with the birth, placement, or other
16 event involved for which leave may be taken
17 under section 6382(a) of title 5, United States
18 Code, that corresponds to the number of admin-
19 istrative workweeks of paid leave available to
20 Federal employees under section 6382(a) of
21 title 5, United States Code (taking into account
22 any increase under section 6382(d) of that
23 title); and

24 “(B) any additional paid vacation leave,
25 personal leave, family leave, or sick or medical

1 leave provided by the employing office to such
2 employee.

3 “(3) SUBSTITUTION.—

4 “(A) IN GENERAL.—A covered employee
5 may elect to substitute for any leave under
6 paragraph (3) of such section 102(a) any other
7 paid leave which is available to such covered
8 employee for the purpose described in that
9 paragraph. Section 102(d)(2) of the Family and
10 Medical Leave Act of 1993 (29 U.S.C.
11 2612(d)(2)) shall not apply to covered employ-
12 ees.

13 “(B) CONSTRUCTION.—Subparagraph (A)
14 shall not be construed to require that a covered
15 employee first use all or any portion of the
16 other paid leave described in such subparagraph
17 before being allowed to use the paid leave de-
18 scribed in paragraph (2)(A).

19 “(4) ADDITIONAL RULES.—Paid leave described
20 in paragraph (1)—

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 (referred

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

5 (b) APPLICATION.—The amendment made by this
6 section shall not apply with respect to any event that—

7 (1) is a birth, placement, or other event for
8 which leave may be taken under section 102(a) of
9 the Family and Medical Leave Act of 1993 (29
10 U.S.C. 2612(a)); and

11 (2) occurs before the end of the 6-month period
12 beginning on the date of the enactment of this Act.

13 **SEC. 4. CONFORMING AMENDMENT TO FAMILY AND MED-**
14 **ICAL LEAVE ACT FOR GAO EMPLOYEES.**

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

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

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B), any leave taken by an employee of
22 the Government Accountability Office under
23 subsection (a) shall be paid leave.

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

4 “(i) the number of weeks of paid
5 leave, in connection with the birth, place-
6 ment, or other event involved for which
7 leave may be taken under section 6382(a)
8 of title 5, United States Code, that cor-
9 responds to the number of administrative
10 workweeks of paid leave available to Fed-
11 eral employees under section 6382(a) of
12 title 5, United States Code (taking into ac-
13 count any increase under section 6382(d)
14 of that title); and

15 “(ii) any additional paid vacation
16 leave, personal leave, family leave, or sick
17 or medical leave provided by such employer
18 to such employee.

19 “(C) SUBSTITUTION.—

20 “(i) IN GENERAL.—An employee of
21 the Government Accountability Office may
22 elect to substitute for any leave under sub-
23 section (a)(3) any other paid leave which is
24 available to such employee for the purpose
25 described in that subsection. Paragraph

1 (2) shall not apply to employees of the
2 Government Accountability Office.

3 “(ii) CONSTRUCTION.—Clause (i)
4 shall not be construed to require that an
5 employee first use all or any portion of the
6 other paid leave described in such clause
7 before being allowed to use the paid leave
8 described in subparagraph (B)(i).

9 “(D) ADDITIONAL RULES.—Paid leave de-
10 scribed in subparagraph (A)—

11 “(i) shall be payable from any appro-
12 priation or fund available for salaries or
13 expenses for positions with the Government
14 Accountability Office; and

15 “(ii) if not used by the employee of
16 such employer before the end of the 12-
17 month period (referred to in subsection
18 (a)(1)) to which it relates, shall not accu-
19 mulate for any subsequent use.”.

20 (b) APPLICATION.—The amendment made by this
21 section shall not apply with respect to any event that—

22 (1) is a birth, placement, or other event for
23 which leave may be taken under section 102(a) of
24 the Family and Medical Leave Act of 1993 (29
25 U.S.C. 2612(a)); and

1 (2) occurs before the end of the 6-month period
2 beginning on the date of the enactment of this Act.

3 **SEC. 5. CLARIFICATION FOR MEMBERS OF THE NATIONAL**
4 **GUARD AND RESERVES.**

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

14 (b) CONGRESSIONAL EMPLOYEES.—For purposes of
15 determining the eligibility of a covered employee (meaning
16 an employee defined as or considered to be a covered em-
17 ployee under section 101 of the Congressional Account-
18 ability Act of 1995 (2 U.S.C. 1301)) who is a member
19 of the National Guard or Reserves to take leave under sec-
20 tion 102(a)(1) of the Family and Medical Leave Act of
21 1993 (29 U.S.C. 2612(a)(1)) (pursuant to section
22 202(a)(1) of the Congressional Accountability Act of 1995
23 (2 U.S.C. 1312(a)(1))), any service by such covered em-
24 ployee on covered active duty (as defined in section
25 101(14) of the Family and Medical Leave Act of 1993

1 (29 U.S.C. 2611(14))) shall be counted as time during
2 which such employee has been employed in an employing
3 office for purposes of section 202(a)(2)(B) of the Congres-
4 sional Accountability Act of 1995 (2 U.S.C.
5 1312(a)(2)(B)).

6 (c) GAO EMPLOYEES.—For purposes of determining
7 the eligibility of an employee of the Government Account-
8 ability Office who is a member of the National Guard or
9 Reserves to take leave under section 102(a)(1) of the
10 Family and Medical Leave Act of 1993 (29 U.S.C.
11 2612(a)(1)), any service by such employee on covered ac-
12 tive duty (as defined in section 101(14) of such Act (29
13 U.S.C. 2611(14))) shall be counted as time during which
14 such employee has been employed for purposes of section
15 101(2)(A) of such Act (29 U.S.C. 2611(2)(A)).

16 **SEC. 6. CONFORMING AMENDMENT FOR CERTAIN TSA EM-**
17 **PLOYEES.**

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) of title 5, United States Code, and sub-
5 sections (c) and (d) of such section shall apply
6 to any individual appointed under paragraph
7 (1).”.

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