AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

110TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 110–624
Part 1

FEDERAL EMPLOYEES PAID PARENTAL LEAVE ACT OF 2008

MAY 8, 2008.—Ordered to be printed

Mr. WAXMAN, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 5781]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 5781) to provide that 8 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

69–006

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Paid Parental Leave Act of 2008".

SEC. 2. PAID PARENTAL LEAVE UNDER TITLE 5.

(a) AMENDMENT TO TITLE 5.—Subsection (d) of section 6382 of title 5, United States Code, is amended—

(1) by redesignating such subsection as subsection (d)(1);

(2) by striking "subparagraph (A), (B), (C), or" and inserting "subparagraph (C) or"; and

(3) by adding at the end the following:

"(2) An employee may elect to substitute for any leave without pay under subparagraph (A) or (B) of subsection (a)(1) any paid leave which is available to such employee for that purpose.

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

"(A) subject to paragraph (6), 4 administrative workweeks of paid parental leave under this subparagraph in connection with the birth or placement involved; and

"(B) any annual or sick leave accrued or accumulated by such employee under subchapter I.

"(4) Nothing in this subchapter shall be considered to require—

"(A) that an employing agency provide paid sick leave in any situation in which such employing agency would not normally be required to provide such leave; or

"(B) that an employee first use all or any portion of the leave described in subparagraph (B) of paragraph (3) before being allowed to use the paid parental leave described in subparagraph (A) of paragraph (3).

"(5) Paid parental leave under paragraph (3)(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 vacation 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.

"(6) The Director of the Office of Personnel Management—

"(A) may promulgate regulations to increase the amount of paid parental leave available to an employee under paragraph (3)(A), to a total of not more than 8 administrative workweeks, based on the consideration of the following factors:

"(i) the benefits provided to the Federal government of offering paid parental leave, including enhanced recruitment and retention of employees;

"(ii) the cost to the Federal government of increasing the amount of paid parental leave that is available to employees;

"(iii) trends in the private sector and in State and local governments with respect to offering paid parental leave;

"(iv) the Federal government's role as a model employer; and

"(v) such other factors as the Director considers necessary; and

"(B) shall prescribe any regulations necessary to carry out this subsection, including, subject to paragraph (4)(B), the manner in which an employee may designate any day or other period as to which such employee wishes to use paid parental leave described in paragraph (3)(A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall not be effective with respect to any birth or placement occurring before the end of the 6-month period beginning on the date of the enactment of this Act.

SEC. 3. PAID PARENTAL LEAVE FOR CONGRESSIONAL EMPLOYEES.

(a) AMENDMENT 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)(A) and (B) 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 PARENTAL LEAVE FOR CONGRESSIONAL EMPLOYEES.—

"(1) SUBSTITUTION OF PAID LEAVE.—A covered employee taking leave without pay under subparagraphs (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) may elect to substitute for any such leave any paid leave which is available to such employee for that purpose.

"(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 parental leave in connection with the birth or placement involved that correspond to the number of administrative workweeks of paid parental 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) LIMITATION.—Nothing in this section shall be considered to require—

"(A) that an employing office provide paid sick leave in any situation in which such employing office would not normally be required to provide such leave; or

"(B) that a covered employee first use all or any portion of the leave described in subparagraph (B) of paragraph (2) before being allowed to use paid parental leave described in subparagraph (A) of paragraph (2).

"(4) ADDITIONAL RULES.—Paid parental leave under paragraph (2)(A)—

"(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 referred 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 amendments made by this section shall not be effective with respect to any birth or placement occurring before the end of the 6-month period beginning on the date of the enactment of this Act.

SEC. 4. CONFORMING AMENDMENT TO FAMILY AND MEDICAL LEAVE ACT FOR GAO AND LIBRARY OF CONGRESS EMPLOYEES.

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 AND LIBRARY OF CONGRESS EMPLOYEES.—

"(A) SUBSTITUTION OF PAID LEAVE.—An employee of an employer described in section 101(4)(A)(iv) taking leave under subparagraphs (A) or (B) of subsection (a)(1) may elect to substitute for any such leave any paid leave which is available to such employee for that purpose.

"(B) AMOUNT OF PAID LEAVE.—The paid leave that is available to an employee of an employer described in section 101(4)(A)(iv) for purposes of paragraph (1) is—

"(i) the number of weeks of paid parental leave in connection with the birth or placement involved that correspond to the number of administrative workweeks of paid parental 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) LIMITATION.—Nothing in this paragraph shall be considered to require—

"(i) that an employer described in section 101(4)(A)(iv) provide paid sick leave in any situation in which such employer would not normally be required to provide such leave; or

"(ii) that an employee of such an employer first use all or any portion of the leave described in clause (ii) of subparagraph (B) before being allowed to use paid parental leave described in clause (i) of such subparagraph.

"(D) ADDITIONAL RULES.—Paid parental leave under subparagraph (B)(i)—

"(i) shall be payable from any appropriation or fund available for salaries or expenses for positions with employers described in section 101(4)(A)(iv); and

"(ii) if not used by the employee of such employers 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.".

SEC. 5. STUDY.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Government Accountability Office shall study and submit to Congress a written report on the feasibility and desirability of providing an insurance benefit to Federal employees which affords partial or total wage replacement with respect to periods of qualified leave.

(b) PERIOD OF QUALIFIED LEAVE.—For purposes of this section, the term "period of qualified leave", as used with respect to a Federal employee, means any period

of leave under section 6382 of title 5, United States Code, which would otherwise be leave without pay, and which is available by reason of—

(1) the need to care for the spouse or a son, daughter, or parent of the employee having a serious health condition; or

(2) a serious health condition affecting the employee that renders such employee unable to perform the functions of the employee's position.

(c) MATTERS FOR INCLUSION.—The report shall include, at a minimum, the following:

(1) A brief description of any plans or arrangements under which similar benefits are currently provided to employees in this country (within the private sector or State or local government) or in other countries.

(2) With respect to any plans or arrangements under which such benefits are currently provided to private or public sector employees in this country—

(A) the portion or percentage of wages typically replaced;

(B) how those benefits are generally funded, including in terms of the employer and employee shares;

(C) whether employee coverage is optional or automatic; and

(D) any waiting period or other conditions which may apply.

(3) Identification and assessment of any plans or arrangements described under the preceding provisions of this subsection (or any aspects thereof) which might be particularly relevant to designing the insurance benefit (described in subsection (a)) for Federal employees, including how such benefit might be coordinated with annual leave, sick leave, or any other paid leave available to an employee for the purpose involved.

PURPOSE AND SUMMARY

H.R. 5781, the "Federal Employees Paid Parental Leave Act of 2008," was introduced on April 14, 2008 by Reps. Carolyn B. Maloney, Danny Davis, Tom Davis, George Miller, Steny Hoyer, Howard Berman, Elijah Cummings, Rosa Delauro, Keith Ellison, Chaka Fattah, Bob Filner, Kirsten Gillibrand, Al Green, Dennis Kucinich, John Lewis, Betty McCollum, James Moran, John Sarbanes, Janice Schakowsky, Jose Serrano, Chris Van Hollen and Lynn Woolsey. The Federal Employees Paid Parental Leave Act (FEPPLA) would amend section 6382 of title 5, U.S.C., the Congressional Accountability Act (CAA), and the Family and Medical Leave Act (FMLA), to provide 4 weeks of paid parental leave to federal and congressional employees for the birth or adoption of a child, out of the 12 weeks of unpaid leave that are currently available to them under the Family and Medical Leave Act.

BACKGROUND AND NEED FOR LEGISLATION

Under existing law, most federal and congressional employees are entitled to a total of 12 workweeks of unpaid leave during any 12-month period due to the birth or adoption of a child. Federal employees must currently use accrued annual or sick leave, if available, if they want to receive pay for any of the time that they are out on parental leave. This policy is particularly difficult for newer employees who have not accrued much leave or employees who have used up their leave. Many employees cannot afford to take unpaid leave, and are forced to choose between spending more time with their new child or maintaining an income to support their family.

H.R. 5781, as amended, will help families by providing four weeks of paid parental leave to federal and congressional employees. In addition to the four weeks, employees will also be allowed to use any accrued annual or sick leave for parental leave. Unlike current law, employees using their sick leave for parental leave will not need to demonstrate a medical need for the leave. The bill

also authorizes the Office of Personnel Management (OPM) to extend the parental leave period to up to eight weeks. Enactment of this measure will ensure that the federal government, as an employer, is providing the type of benefits offered to government workers in other industrialized countries. This family friendly measure will also have a positive impact on the ability of the federal government to attract and retain a highly qualified workforce.

LEGISLATIVE HISTORY

H.R. 5781 was introduced on April 14, 2008, and referred to the Committees on Oversight and Government Reform and House Administration.

The Subcommittee on Federal Workforce, Postal Service, and the District of Columbia considered H.R. 5781 on April 15, 2008, and approved the bill by voice vote. During Subcommittee consideration an amendment offered by Chairman Waxman to provide four weeks of paid parental leave, instead of the eight weeks in the original bill, was adopted by voice vote.

The Committee considered H.R. 5781 on April 16, 2008, and ordered H.R. 5781, to be reported, as amended by a rollcall vote of 21–10.

SECTION-BY-SECTION

Sec. 1. Short title

The short title of the bill is the Federal Employees Paid Parental Leave Act of 2008.

Sec. 2. Paid parental leave under Title 5

This section amends section 6382 of title 5, U.S.C., to provide paid parental leave to most federal employees.

Under this section, covered employees would be permitted to substitute up to four workweeks of paid parental leave for any of the unpaid leave currently available for the birth or placement of a child. OPM would be allowed to promulgate regulations to increase the amount of paid parental leave to eight administrative workweeks. OPM would have to analyze the benefits and costs to the federal government and trends in the private sector, before doing so. Employees would also be permitted to use any accrued sick leave for parental leave without demonstrating medical necessity.

Sec. 3. Paid parental leave For Congressional employees

This section amends section 202 of the Congressional Accountability Act to provide paid parental leave, as described in section 2, to congressional employees.

Sec. 4. Conforming amendment to Family and Medical Leave Act for GAO and Library of Congress employees

This section amends the FMLA to make paid parental leave benefits available to Government Accountability Office (GAO) and Library of Congress employees who are not otherwise covered by section 6382 of 5 U.S.C. and section 202 of the CAA.

Sec. 5. Study

This section directs the GAO to study and submit to Congress a written report of the "feasibility and desirability" of offering an insurance benefit to federal employees (not to include parental leave) that would provide wage replacement during periods related to a serious health conditions.

EXPLANATION OF AMENDMENTS

Two amendments were offered during the Committee's consideration of the bill. The first, offered by Rep. Issa, would have declared it the sense of Congress that any funding for parental leave should be payable from an agency's existing appropriation. It was defeated on a rollcall vote 17 to 11. The second amendment, also offered by Rep. Issa, would have eliminated the provision to allow four administrative workweeks of paid leave following the birth or adoption of a child. It was defeated on a rollcall vote 20 to10.

COMMITTEE CONSIDERATION

On Wednesday, April 16, 2008, the Committee met in open session and favorably ordered H.R. 5781, as amended, to be reported to the House by a rollcall vote.

ROLLCALL VOTES

H.R. 5781 was reported favorably by the Committee on Oversight and Government Reform on a rollcall vote of 21–10.

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
110TH CONGRESS
ROLL CALL

No. ROLL CALL DATE: APRIL 16, 2008

Description: ISSA AMENDMENT TO H.R. 5781 - #1

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MR. WAXMAN *(Chairman)*		X		MR. DAVIS (VA) *(Ranking)*	X		
MR. TOWNS		X		MR. BURTON			
MR. KANJORSKI				MR. SHAYS			
MS. MALONEY		X		MR. McHUGH			
MR. CUMMINGS				MR. MICA			
MR. KUCINICH		X		MR. SOUDER	X		
MR. DAVIS (IL)		X		MR. PLATTS	X		
MR. TIERNEY		X		MR. CANNON			
MR. CLAY		X		MR. DUNCAN	X		
MS. WATSON		X		MR. TURNER			
MR. LYNCH		X		MR. ISSA	X		
MR. HIGGINS		X		MR. MARCHANT	X		
MR. YARMUTH				MR. WESTMORELAND	X		
MR. BRALEY				MR. McHENRY	X		
MS. NORTON		X		MS. FOXX	X		
MS. McCOLLUM				MR. BILBRAY			
MR. COOPER		X		MR. SALI	X		
MR. Van HOLLEN		X		MR. JORDAN	X		
MR. HODES		X					
MR. MURPHY (CT)		X					
MR. SARBANES		X					
MR. WELCH		X					

Roll Call Totals: Ayes 11 Nays 17 Present

Voice Vote: Passed Failed X Unanimous consent: Passed Failed

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
110TH CONGRESS
ROLL CALL

NO. ROLL CALL DATE: APRIL 16, 2008

Description: ISSA AMENDMENT TO H.R. 5781 - #2

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MR. WAXMAN *(Chairman)*		X		MR. DAVIS (VA) *(Ranking)*			X
MR. TOWNS		X		MR. BURTON		X	
MR. KANJORSKI				MR. SHAYS			
MS. MALONEY		X		MR. McHUGH			
MR. CUMMINGS				MR. MICA			
MR. KUCINICH		X		MR. SOUDER		X	
MR. DAVIS (IL)		X		MR. PLATTS			X
MR. TIERNEY		X		MR. CANNON			
MR. CLAY		X		MR. DUNCAN		X	
MS. WATSON		X		MR. TURNER			
MR. LYNCH		X		MR. ISSA		X	
MR. HIGGINS		X		MR. MARCHANT		X	
MR. YARMUTH		X		MR. WESTMORELAND		X	
MR. BRALEY				MR. McHENRY		X	
MS. NORTON		X		MS. FOXX		X	
MS. McCOLLUM		X		MR. BILBRAY			
MR. COOPER		X		MR. SALI		X	
MR. Van HOLLEN				MR. JORDAN		X	
MR. HODES		X					
MR. MURPHY (CT)		X					
MR. SARBANES		X					
MR. WELCH		X					

Roll Call Totals: Ayes 10 Nays 20 Present

Voice Vote: Passed Failed X Unanimous consent: Passed Failed

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
110TH CONGRESS
ROLL CALL

No. ROLL CALL DATE: APRIL 16, 2008

Description: FINAL PASSAGE AS AMENDED

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MR. WAXMAN *(Chairman)*	X			MR. DAVIS (VA) *(Ranking)*	X		
MR. TOWNS	X			MR. BURTON		X	
MR. KANJORSKI				MR. SHAYS			
MS. MALONEY	X			MR. McHUGH			
MR. CUMMINGS				MR. MICA			
MR. KUCINICH	X			MR. SOUDER		X	
MR. DAVIS (IL)	X			MR. PLATTS	X		
MR. TIERNEY	X			MR. CANNON			
MR. CLAY	X			MR. DUNCAN		X	
MS. WATSON	X			MR. TURNER			
MR. LYNCH	X			MR. ISSA		X	
MR. HIGGINS	X			MR. MARCHANT		X	
MR. YARMUTH	X			MR. WESTMORELAND		X	
MR. BRALEY				MR. McHENRY		X	
MS. NORTON	X			MS. FOXX		X	
MS. McCOLLUM	X			MR. BILBRAY			
MR. COOPER	X			MR. SALI		X	
MR. Van HOLLEN	X			MR. JORDAN		X	
MR. HODES	X						
MR. MURPHY (CT)	X						
MR. SARBANES	X						
MR. WELCH	X						

Roll Call Totals: Ayes 21 Nays 10 Present

Voice Vote: Passed Failed X Unanimous consent: Passed Failed

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations.

Sections 3 and 4 of H.R. 5781 would apply to congressional and legislative branch employees by providing paid parental leave to the aforementioned employees. Further, section 5 of H.R 5781 would require that GAO submit a report to Congress analyzing the "feasibility and desirability" of offering an insurance benefit to federal employees that would provide wage replacement during periods related to serious health conditions.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report, including the need to provide federal and congressional employees with paid parental leave for the birth or adoption of a child.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including requiring executive and legislative branch agencies to provide employees with paid parental leave for the birth or adoption of a child.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 5781. Article I, section 8, clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., section 5(b).

UNFUNDED MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 5781 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 5781. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5781 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 5, 2008.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5781, the Federal Employees Paid Parental Leave Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Barry Blom.

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure

H.R. 5781—Federal Employees Paid Parental Leave Act of 2008

Summary: H.R. 5781 would amend title 5 of the United States Code, the Congressional Accountability Act, and the Family and Medical Leave Act of 1993 (FMLA) by creating a new category of leave under FMLA. This new category would provide four weeks of paid leave to federal employees following the birth, adoption, or fostering of a child. In addition, the legislation would permit the Office of Personnel Management (OPM) to increase the amount of paid leave provided to a total of eight weeks, based on the consideration of several factors such as the cost to the federal government and enhanced recruitment and retention of employees.

Under current law, federal employees who have completed at least 12 months of service are entitled to up to 12 weeks of leave without pay after the birth, adoption, or fostering of a child. Upon return from such FMLA leave, an employee must be returned to the same position or to an "equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment." Employees may get paid during that 12-week period if they use annual or sick leave that they have accrued. The leave provided by this bill would be available only within the 12-week FMLA leave period.

CBO estimates that implementing H.R. 5781 would cost $60 million in 2009, $190 million in 2010, and a total of $850 million over the 2009–2013 period, subject to the appropriation of the necessary funds. Enacting H.R. 5781 would not affect direct spending or receipts.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5781 is shown in the following table. The costs of this legislation would fall in all budget functions (except functions 900 and 950).

	By fiscal year, in millions of dollars				
	2009	2010	2011	2012	2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	60	190	195	200	205
Estimated Outlays	55	190	195	200	205

Basis of estimate: For this estimate, CBO assumes that H.R. 5781 will be enacted by October 1, 2008, and that the necessary amounts for implementing it will be appropriated each year. Under the legislation, the new category of leave would become available six months after enactment (that is, around April 2009). As a result, the cost of the legislation in 2009 reflects implementation for only half of the year. After 2009, CBO has included in its estimate a 50 percent probability that OPM will use its authority to increase the amount of paid leave available from four weeks to eight weeks. Costs in future years are projected to grow with inflation.

CBO assumes that the potential users of the new leave would be primarily the nearly 690,000 civilian employees who are between the ages of 20 and 44 and have been employed at least 12 months. (This figure excludes employees of the Postal Service because H.R. 5781 amends title 5 of the United States Code, which does not apply to them.)

Estimating an adoption rate based on data from the Department of Health and Human Services and applying birth rate information for the relevant age cohorts from the National Center on Health Statistics to the roughly 305,000 women eligible for the new leave yields about 17,700 women who might give birth or adopt in a given year. Based on average salary information for 2008 from OPM, CBO estimates that four weeks of paid leave—the maximum amount guaranteed by the bill—for female employees would cost

between $2,600 (for those in the youngest age cohort) and $5,100 (for those in the 40–44 age cohort).

Assuming that nearly all of those women took the maximum amount of leave, CBO estimates the value of the leave to be about $70 million in the first year (if it were available for the entire 12-month period).

Applying those same calculations to the 380,000 men in the affected age groups, CBO estimates that roughly 23,000 men would be eligible for the four weeks of paid leave, at an average cost of between $2,800 and $5,800 per employee. Assuming that eligible men would take the leave on average at about one-half the rate of women, CBO estimates that men would use another $50 million worth of leave in the first year (if it were available for the entire 12-month period), bringing the total to $120 million in the first year.

Since CBO assumes that the new leave would not be available until half-way through fiscal year 2009, the estimated cost of leave taken in the first year totals $60 million. Beyond 2009, CBO assumes a full year of availability and has included a 50 percent probability that OPM will increase the amount of paid leave available to employees. As a result, anticipated costs increase to $190 million in 2010. (The 2010 costs would be $125 million if the benefit were kept at a maximum of four weeks.)

The effects of this bill on the budget derive from the provision of a new form of paid leave. To the extent that such a new benefit enables people to take advantage of paid leave rather than taking leave without pay, the costs are clear. However, employees who would currently use annual or sick leave upon the birth, adoption, or fostering of a child might choose to use this new form of paid leave and save their accrued leave for a later date. CBO has no basis for estimating the magnitude of such substitution, but the deferral of annual and sick leave also represents a cost either in terms of increased availability of paid leave or cash payments upon separation.

In addition, providing a more generous benefit to employees may enhance the federal government's ability to retain employees after the birth or adoption of a child and thereby lower recruitment and training costs. CBO estimates that such potential savings are likely to be relatively small over the next five years.

Finally, the legislation would require the Government Accountability Office to prepare a report within one year of enactment on the feasibility and desirability of providing an insurance benefit to federal employees that provides partial or total wage replacement for periods of family leave. Based on the cost of similar reports, CBO estimates that preparing and distributing the report would cost about $500,000 over the 2008–2009 period.

Intergovernmental and private-sector impact: H.R. 5781 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: Barry Blom; Impact on state, local, and tribal governments: Elizabeth Cove; Impact on private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART E—ATTENDANCE AND LEAVE

* * * * * * *

CHAPTER 63—LEAVE

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SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

* * * * * * *

§ 6382. Leave requirement

(a) * * *

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(d)*(1)* An employee may elect to substitute for leave under [subparagraph (A), (B), (C), or] *subparagraph (C) or* (D) of subsection (a)(1) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 12-week period of leave under such subsection, except that nothing in this subchapter shall require an employing agency to provide paid sick leave in any situation in which such employing agency would not normally provide any such paid leave. An employee may elect to substitute for leave under subsection (a)(3) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 26-week period of leave under such subsection.

(2) An employee may elect to substitute for any leave without pay under subparagraph (A) or (B) of subsection (a)(1) any paid leave which is available to such employee for that purpose.

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

(A) subject to paragraph (6), 4 administrative workweeks of paid parental leave under this subparagraph in connection with the birth or placement involved; and

(B) any annual or sick leave accrued or accumulated by such employee under subchapter I.

(4) Nothing in this subchapter shall be considered to require—

(A) that an employing agency provide paid sick leave in any situation in which such employing agency would not normally be required to provide such leave; or

(B) that an employee first use all or any portion of the leave described in subparagraph (B) of paragraph (3) before being allowed to use the paid parental leave described in subparagraph (A) of paragraph (3).

(5) Paid parental leave under paragraph (3)(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 vacation 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.

(6) The Director of the Office of Personnel Management—

(A) may promulgate regulations to increase the amount of paid parental leave available to an employee under paragraph (3)(A), to a total of not more than 8 administrative workweeks, based on the consideration of the following factors:

(i) the benefits provided to the Federal government of offering paid parental leave, including enhanced recruitment and retention of employees;

(ii) the cost to the Federal government of increasing the amount of paid parental leave that is available to employees;

(iii) trends in the private sector and in State and local governments with respect to offering paid parental leave;

(iv) the Federal government's role as a model employer; and

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

(B) shall prescribe any regulations necessary to carry out this subsection, including, subject to paragraph (4)(B), the manner in which an employee may designate any day or other period as to which such employee wishes to use paid parental leave described in paragraph (3)(A).

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CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

* * * * * * *

TITLE II—EXTENSION OF RIGHTS AND PROTECTIONS

PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

* * * * * * *

SEC. 202. RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PROTECTIONS PROVIDED.—

(1) IN GENERAL.—The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 through 2615) shall apply to covered employees. *In applying section 102(a)(1)(A) and (B) to covered employees, subsection (d) shall apply.*

* * * * * * *

(d) SPECIAL RULE FOR PAID PARENTAL LEAVE FOR CONGRESSIONAL EMPLOYEES.—

(1) SUBSTITUTION OF PAID LEAVE.—A covered employee taking leave without pay under subparagraphs (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) may elect to substitute for any such leave any paid leave which is available to such employee for that purpose.

(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 parental leave in connection with the birth or placement involved that correspond to the number of administrative workweeks of paid parental 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) LIMITATION.—Nothing in this section shall be considered to require—

(A) that an employing office provide paid sick leave in any situation in which such employing office would not normally be required to provide such leave; or

(B) that a covered employee first use all or any portion of the leave described in subparagraph (B) of paragraph (2) before being allowed to use paid parental leave described in subparagraph (A) of paragraph (2).

(4) ADDITIONAL RULES.—Paid parental leave under paragraph (2)(A)—

(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 referred 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.

[(d)**]** *(e)* REGULATIONS.—

(1) * * *

* * * * * * *

[(e)**]** *(f)* EFFECTIVE DATE.—

(1) * * *

* * * * * * *

FAMILY AND MEDICAL LEAVE ACT OF 1993

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

* * * * * * *

SEC. 102. LEAVE REQUIREMENT.

(a) * * *

* * * * * * *

(d) RELATIONSHIP TO PAID LEAVE.—

(1) * * *

* * * * * * *

(3) SPECIAL RULE FOR GAO AND LIBRARY OF CONGRESS EMPLOYEES.—

(A) SUBSTITUTION OF PAID LEAVE.—An employee of an employer described in section 101(4)(A)(iv) taking leave under subparagraphs (A) or (B) of subsection (a)(1) may elect to substitute for any such leave any paid leave which is available to such employee for that purpose.

(B) AMOUNT OF PAID LEAVE.—The paid leave that is available to an employee of an employer described in section 101(4)(A)(iv) for purposes of paragraph (1) is—

(i) the number of weeks of paid parental leave in connection with the birth or placement involved that correspond to the number of administrative workweeks of paid parental 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) LIMITATION.—Nothing in this paragraph shall be considered to require—

(i) that an employer described in section 101(4)(A)(iv) provide paid sick leave in any situation in which such employer would not normally be required to provide such leave; or

(ii) that an employee of such an employer first use all or any portion of the leave described in clause (ii) of subparagraph (B) before being allowed to use paid parental leave described in clause (i) of such subparagraph.

(D) ADDITIONAL RULES.—Paid parental leave under subparagraph (B)(i)—

(i) shall be payable from any appropriation or fund available for salaries or expenses for positions with employers described in section 101(4)(A)(iv); and

(ii) if not used by the employee of such employers 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.

* * * * * * *

EXCHANGE OF LETTERS

ROBERT A. BRADY, PENNSYLVANIA
CHAIRMAN

VERNON J. EHLERS, MICHIGAN
RANKING MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
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May 7, 2008

Honorable Henry Waxman
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Waxman:

I am writing to confirm our mutual understanding with respect to the consideration of H.R. 5781, the Federal Employees Paid Parental Leave Act of 2008. As you know, H.R. 5781 contains matter within the jurisdiction of Committee on House Administration.

Given the importance of moving this bill forward promptly, I do not intend to object to its consideration in the House. However, I do so only with the understanding that this procedure should not be construed to prejudice this Committee's jurisdictional interest and prerogative in H.R. 5781, or any other similar legislation, and should not be considered as precedent for consideration of matters of jurisdictional interest to this Committee in the future. The Committee asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference.

Sincerely,

Robert A. Brady
Chairman

cc: The Honorable Nancy Pelosi, Speaker
The Honorable John Sullivan, Parliamentarian

HENRY A. WAXMAN, CALIFORNIA,
CHAIRMAN

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ONE HUNDRED TENTH CONGRESS

Congress of the United States
House of Representatives

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JIM JORDAN, OHIO

May 7, 2008

The Honorable Robert A. Brady
Chairman
Committee on House Administration
1309 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 5781, the Federal Employees Paid Parental Leave Act of 2008, which the Committee on Oversight and Government Reform passed, as amended, on April 16, 2008.

I appreciate your willingness to work cooperatively on this legislation and I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on House Administration. I agree that your inaction with respect to this bill does not prejudice the House Administration Committee's interests and prerogatives regarding this bill or similar legislation.

I will ensure that our exchange of letters is included in my Committee's report on the bill and in the *Congressional Record* during consideration on the House floor of H.R. 5781.

Sincerely,

Henry A. Waxman
Chairman

cc: Tom Davis
Ranking Minority Member

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