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**Key Conservative Concerns**

*Take-Away Points*

- **Cost:** CBO estimates that in order to provide federal employees with an addition benefit, it will cost American taxpayers nearly \$1 billion over five years.
- **Lack of Necessity:** Federal employee benefits are much more generous than the private sector. In most circumstances, federal employees can use accrued sick and vacation paid leave to care for a child after birth. This can amount to four weeks of annual leave and two and a half weeks of sick leave every year for federal employees with 3 to 15 years tenure.
- **Fairness:** Since June of 2008, the private sector has shed roughly 4.4 million jobs while the federal government workforce has grown by 37,000 employees during the same period. Government employees gain additional benefits while Americans in the private sector are losing theirs.
- **Dangerous Precedent:** Many employers are concerned that H.R. 626 sets a precedent for future discussions over expansion of FMLA and will eventually lead to new paid leave mandates on small businesses.
- **Double Dip:** The underlying bill would provide paid benefits and leave for the mother and father for each birth or adoption if the are both federal employees.

*For more details on these concerns, see below.*

**H.R. 626—Federal Employees Paid Parental Leave Act of 2008  
(Maloney, D-NY)**

**Order of Business:** The bill is scheduled to be considered on Thursday, June 4, under a structured rule ([H.Res.501](#)). The rule waives all points of order against consideration of the bill, except for clause 9 (earmarks) and clause 10 (“pay-go” violations) of rule XXI. The rule allows one hour of debate, provides one motion to recommit with or without instructions, and makes in order three amendments.

**Major Changes Since the Last Time This Legislation Was Before the House:** There are no significant changes since the legislation was considered in the 110<sup>th</sup> Congress (H.R. 5781) and agreed to by a vote of [278-146](#).

**Summary:** H.R. 626 would amend the Family Medical Leave Act of 2003 (FMLA) to provide federal employees (mother *and* father) with four weeks of paid parental leave in connection with the birth of a child or the placement of an adopted or foster child. Under current law, FMLA requires private employers with 50 employees or more and all federal employers to provide employees with up to 12 weeks of unpaid medical leave from work in connection with the birth or placement of a child. H.R. 626 would provide federal employees that had been in their job for at least one full year with four weeks of paid FMLA parental leave during a 12 month period. The bill would not provide paid FMLA leave for employees taking care of family members with serious health problems.

Under the bill, federal employees would be paid their full salary for the first four work weeks of their FMLA leave. The bill would allow a federal employee to receive paid vacation or sick leave as income during the additional eight weeks of leave authorized under FMLA. The four weeks of paid parental leave would be paid through funds appropriated for federal employee salaries. Paid parental leave would not be considered against annual vacation leave and would not accumulate or roll over if it is not used by the end of a calendar year.

The bill would also allow the Director of the Office of Personnel Management (OPM) to unilaterally increase the amount of paid parental leave to federal employees to a total of eight weeks. The bill would require the Director of OPM to take the following circumstances into consideration before extending paid parental leave benefits to a total of eight weeks:

- The benefits of providing increased paid parental leave, including enhanced recruitment and retention of employees.
- The cost to the federal government of increasing paid parental leave to eight weeks.
- Trends in the private sector and state and local governments.
- The “federal government’s role as a model employer.”
- Any other factors as the Director of OPM considers necessary.

H.R. 5781 would provide four weeks of paid parental leave to employees of all federal agencies, Congress, the Government Accountability Office (GAO), and the Library of Congress. The bill would not, however, apply to military service members.

The legislation would require GAO to submit a report to Congress on the feasibility of providing federal employees with a short-term disability insurance benefit to allow an employee to receive partial or total wage replacement during FMLA leave that an employee takes to care for themselves or a family member suffering from serious health condition.

**Additional Background on FMLA:** The Family Medical Leave Act of 1993 mandated that private sector employers with at least 50 employees, or public sector employers of any size, must provide employees with at least 12 weeks of job-protected, unpaid leave every 12 months for certain medical reasons. To be eligible for FMLA leave, an employee must have worked for the same employer for at least 12 months prior to the leave. Under the law, employees are eligible to take unpaid leave in order to care for a child, parent, or spouse with a serious health condition, or in connection with the birth, adoption, or placement of a foster child. According to the Congressional Research Service (CRS), about two-thirds of employees who take time off for FMLA reasons received some form of compensation during their leave by applying accrued sick

leave or vacation time. The majority of FMLA leave-takers (72% according to CRS) received full paychecks during their absence.

**Possible Conservative Concerns:** Some conservatives may be concerned that H.R. 626 would provide four weeks of paid parental leave to federal employees at a cost of \$850 million over five years. Federal employees are already able to roll over accrued sick and vacation days from year to year, and some conservatives may be concerned that federal employees are able to use their accrued sick and vacation days to receive full pay for up to 12 weeks of parental leave in connection with a birth or adoption under current law. Some conservatives may believe that providing four weeks of paid parental leave in addition to sick leave and vacation time is an unnecessary increase in government spending that will ultimately be paid for by the nation's taxpayers.

Some conservatives may also be concerned that H.R. 626 would allow the Director of the Office of Personnel Management (OPM) to increase the paid parental leave period from four weeks to eight weeks (thus doubling the cost of the bill) for a variety of reasons, including upholding the "federal government's role as a model employer," and "enhancing recruitment." Some conservatives may be concerned that the Director of OPM would be granted the power to double the cost of the legislation without approval from Congress.

Click [here](#) for a YouTube video summary of conservative concerns.

**RSC Bonus Facts & Background on Private vs. Federal Employees:** According to statistics from the OPM and the Census Bureau, the average federal employee earned \$64,659 in 2006. In contrast, the average individual wage for all American was only \$30,353 in the same year. When benefits are taken into consideration, federal employees continue to earn more than twice as much as private sector employees. According to the Cato Institute's Director of Tax Policy Studies, Chris Edwards, "the new data for 2006 shows that 1.8 million federal civilian workers earned an average \$111,180 in total compensation (wages plus benefits). That is more than double the \$55,470 average earned by U.S. workers in the private sector."

When retirement, medical, and vacation benefits are taken into consideration, the average federal worker out-earns the average private sector employee in virtually every measurable category. Federal employees also receive generous retirement benefits. Retiring federal employees take advantage of one of the only remaining retirement plans that include a guaranteed pension. In addition to the pension, the federal government pays into an employee's 401K style account. These benefits do not take into account that federal job security is second to none. The following is a brief list of examples:

- According to the Bureau of Labor Statistics (BLS), 61% of workers in the private sector have access to an employer sponsored retirement plan, as compared to 90% of government employees.
- USA Today reports that only 21% of private sector employees have a *defined benefit* pension—a retirement plan that guarantees a certain level of benefits—while 80% of federal, state, and local government employees have access to defined benefit plans.
- All federal retirees with defined benefit pension plans receive annual cost-of-living adjustments (COLAs). On the other hand, only 7% of defined benefit pension plans for private sector employees offer an annual COLA, according to CRS.

- While most private sector pension plans base average income on the employees' top five earning years, government retirement benefits are generally based on the top three earning years, increasing the benefits provided to government workers.
- According to CRS, federal employees in the Basic Federal Employee Health Benefit Program pay an average of \$198 in monthly premiums for family health plans in 2008, while private employees pay an average of \$215 per month.
- The Federal Employee Health Benefit Program provides federal employees with medical coverage after retirement, while most new private sector health coverage plans do not extend to employees after their retirement. General Motors, for instance, has not provided employer-assisted health care after retirement for newly hired employees since 1993.

***Democrat Inconsistency Alert!***

**Necessity:** The bill's sponsor, Rep. Carolyn Maloney, has stated that "the Federal Government is actually lagging behind the private sector when it comes to paid leave for the birth or adoption of a child. Federal workers must rely on accrued vacation or sick leave if they want a paycheck during their parental leave." In fact, the Bureau of Labor Statistics (BLS) reported that only 8% of private sector employees were provided paid FMLA leave in connection with birth or adoption in 2007. Furthermore, in 2008, the private sector experienced a turnover rate of 20.2% while the turnover rate in the federal workforce was 3.9% - a decade low. Since June 2008 the private sector has shed roughly 4.4 million jobs while the federal government workforce has grown by 37,000 employees during the same period.

**Playing Favorites:** At the very exact same time Americans in the private sector are being asked to tighten their belts and are sacrificing benefits in order to keep their jobs, House Democrats are providing an expensive new benefit for government workers during a time of economic recession funded by the taxpayer. Federal employee benefits are already much more generous than the private sector and now is not the time to ask taxpayers to provide nearly a billion dollars to provide an unnecessary benefit.

**Committee Action:** H.R. 626 was introduced on January 22, 2009, and referred to the Committee on Oversight and Government Reform and the Committee on House Administration. On May 6, 2009, the Committee on Oversight and Government reform held a mark-up and reported the bill by a voice vote. On May 18, 2009, the Committee on House Administration discharged the bill without taking any official action.

**Administration Position:** While the Administration supports the goals of H.R. 626, the Statement of Administration Policy ([SAP](#)) does not specifically endorse the legislation and the administration is "currently reviewing existing Federal leave policies to determine the extent of their gaps and limitations."

**Cost to Taxpayers:** According to CBO, H.R. 626 would cost \$67 million in 2010 and authorize a total of \$947 million over the 2010-2014 period, subject to appropriation of the necessary funds. Based on average salary information from OPM, "CBO estimates that four weeks of paid leave—

the maximum amount guaranteed by the bill—for female employees would cost between \$2,800 (for those in the youngest age cohort) and \$5,400 (for those in the 40-44 age cohort).”

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes, the bill creates a new category of leave for federal employees under the Family Medical Leave Act of 1993. The new category provides four weeks of paid parental leave for federal employees who take FMLA leave in connection with birth or adoption.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** According to Committee Report [111-116](#), “H.R. 626 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(t) of rule XXI.”

**Constitutional Authority:** The committee, in Committee Report 111-116 cites Article I, Section 8 of the Constitution, but fails to cite a specific clause. House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution”

**Outside Organizations Opposed:**

- National Federation of Independent Businesses (NFIB)
- U.S. Chamber of Commerce
- Americans For Tax Reform
- Citizens Against Government Waste
- National Taxpayers Union
- Alliance for Worker Freedom
- Eagle Forum

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