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SENATE

{ REPORT
104-151**FEDERAL EMPLOYEES EMERGENCY LEAVE
TRANSFER ACT OF 1995**

R E P O R T

OF THE

**COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

TO ACCOMPANY

S. 868**TO PROVIDE AUTHORITY FOR LEAVE TRANSFER FOR FEDERAL
EMPLOYEES WHO ARE ADVERSELY AFFECTED BY DISASTERS OR
EMERGENCIES, AND FOR OTHER PURPOSES****SEPTEMBER 29 (legislative day, SEPTEMBER 25), 1995.—Ordered to be
printed**

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**S. 868, FEDERAL EMPLOYEES EMERGENCY LEAVE
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SEPTEMBER 29 (legislative day, SEPTEMBER 25), 1995.—Ordered to be printed

Mr. STEVENS, from the Committee on Governmental Affairs,
submitted the following

REPORT

The Committee on Governmental Affairs, to which was referred the bill (S. 868) to establish a Federal employees emergency leave transfer program, reports favorably thereon and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 868 provides the authority for the President to direct the Office of Personnel Management to establish an emergency leave transfer program when a substantial number of Federal employees are adversely affected by a disaster or emergency, including natural disasters and emergency situations such as that created by the Oklahoma City bombing.

Under the emergency leave transfer program, employees in any agency could donate leave for transfer to employees in the same agency or any other agency, and the recipients would be allowed to use donated leave without having to first exhaust their own leave. Further, leave recipients could include employees who do not face a medical emergency, but need leave because of other adverse

effects from the emergency, such as employees whose homes were destroyed by a flood or other natural disasters. In addition, current agency leave banks would be allowed to donate leave to the emergency leave program. The Office of Personnel Management would establish appropriate requirements for the operation of the program.

II. BACKGROUND AND NEED FOR LEGISLATION

In 1988, Congress authorized a five-year test of voluntary leave transfer and leave bank programs within Federal agencies (Public Law 100-566). These programs were designed to help employees faced with a medical or family emergency who had already exhausted all available leave. This five-year experiment was very successful and both programs were made permanent in 1994 (Public Law 103-103).

In 1991, Congress created a special leave bank under which Federal employees could donate leave for use by their fellow employees who, as members of the Armed Forces reserves, had been called to active duty during the Persian Gulf conflict and who would now be able to use the donated leave to ease their reentry into civilian life (Public Law 102-25). The leave donated by many Federal employees for this special program significantly assisted these Persian Gulf veterans. This experience has shown that special leave transfer programs which operate outside of the normal programs can be appropriate.

In the wake of the Oklahoma City bombing, affected employees were excused from duty without charge to leave or loss of pay. Further, the Office of Personnel Management coordinated the use of agencies' current leave transfer programs, and these measures were effective in assisting the affected employees. However, the Committee believes that it would be appropriate to establish in law the necessary authority for special leave transfer programs to address needs created by declared disasters and emergencies.

III. LEGISLATIVE HISTORY

S. 868 was introduced by Senator Ted Stevens on June 21, 1995 at the request of the Office of Personnel Management and was referred to the Committee on Governmental Affairs. The Subcommittee on Post Office and Civil Service unanimously approved the bill on June 29, 1995.

The Committee on Governmental Affairs met on August 10, 1995 to consider S. 868. The bill was ordered reported without amendment by a voice vote.

The text of S. 868, as reported, is as follows:

A BILL To provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees Emergency Leave Transfer Act of 1995".

SEC. 2. (a) Chapter 63 of title 5, United States Code, is amended by adding after subchapter V the following new subchapter:

“SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND
EMERGENCIES

“§ 6391. Authority for leave transfer program in disasters and emergencies

“(a) For the purpose of this section—

“(1) ‘employee’ means an employee as defined in section 6331(1); and

“(2) ‘agency’ means an Executive agency.

“(b) In the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management to establish an emergency leave transfer program under which any employee in any agency may donate unused annual leave for transfer to employees of the same or other agencies who are adversely affected by such disaster or emergency.

“(c) The Office of Personnel Management shall establish appropriate requirements for the operation of the emergency leave transfer program under subsection (b), including appropriate limitations on the donation and use of annual leave under the program. An employee may receive and use leave under the program without regard to any requirement that any annual leave and sick leave to a leave recipient’s credit must be exhausted before any transferred annual leave may be used.

“(d) A leave bank established under subchapter IV may, to the extent provided in regulations prescribed by the Office of Personnel Management, donate annual leave to the emergency leave transfer program established under subsection (b).

“(e) Except to the extent that the Office of Personnel Management may prescribe by regulation, nothing in section 7351 shall apply to any solicitation, donation, or acceptance of leave under this section.

“(f) The Office of Personnel Management shall prescribe regulations necessary for the administration of this section.”.

(b) The analysis for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

“SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES
“6391. Authority for leave transfer program in disasters and emergencies”.

SEC. 3. The amendments made by section 2 of this Act shall take effect on the date of enactment of this Act.

IV. SUMMARY OF THE LEGISLATION

In the event of a major disaster or emergency, the President would have the authority to direct the Office of Personnel Management to create a special leave transfer program for Federal employees affected by the disaster or emergency.

Under this Act, the emergency leave transfer program would extend to employees who do not face a medical emergency but need extra leave because of other effects of the disaster or emergency.

It would allow agency-approved recipients to use donated leave without having to first exhaust their own accumulated leave.

It would allow employees in any Executive agency to donate leave for transfer to affected employees in the same agency or other agencies.

It would allow current agency leave banks to donate leave to an emergency leave transfer program established under this Act.

OPM would have the authority to establish appropriate operating requirements for an emergency leave transfer program, including appropriate limits on amounts of leave that may be donated and used under the program.

This leave transfer program permits employees to help other employees, at no cost to the taxpayer (other than incidental administrative costs), since no additional leave is provided beyond what would already be credited.

This Act shall become effective upon the date of enactment.

V. ESTIMATED COST OF LEGISLATION

A copy of the cost estimate by the Congressional Budget Office follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 30, 1995.

Hon. WILLIAM V. ROTH,
*Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 868, a bill to provide authority for leave transfer for federal employees who are adversely affected by disasters or emergencies, and for other purposes, as ordered reported by the Senate Committee on Governmental Affairs on August 10, 1995. CBO estimates that enacting S. 868 would have no significant budgetary impact. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 868 also would have no cost to state or local governments.

Under current law, federal employees are allowed to donate annual leave to co-workers who have exhausted their annual leave and sick leave as a result of a prolonged illness. Leave transfer programs allow employees to donate their annual leave directly to other federal employees. Leave bank programs allow employees to donate their annual leave to a leave bank, for use by any member of the bank stricken by a medical emergency. In addition, when disasters have occurred in the past, the President has granted paid administrative leave to federal employees affected by the disaster or working in direct disaster relief. This bill would provide a means for distributing additional leave to these employees.

The program provided for under S. 868 would differ from the existing program in several respects. In particular, the bill would allow:

The extension of salary and benefits to employees who face no medical emergency, but require extra leave, provided that the President declares a national disaster and requests that the Office of Personnel Management (OPM) establish a special fund for employees affected by the disaster;

Disaster recipients to use transferred annual leave before exhausting any existing annual or sick leave;

Employees currently not able to transfer annual leave, such as employees of the Federal Bureau of Investigation and the Central Intelligence Agency, to participate under this program;

Existing leave banks within agencies to donate credits to an emergency transfer leave program; and

transferred leave credits not used under a special emergency leave program to be returned to the original donors.

The use of donated leave results in salary payments that could not have been made without the donation of leave. While S. 868 would allow employees to use transferred leave before exhausting their own leave credits, it is likely that any remaining leave would be used later in the year or carried over and used in another year. In this case, additional salary payments would be made that could not have been made without the donation of leave.

Currently, the net impact on the government of transferring annual leave depends on how the donor would otherwise have used the transferred leave. If a donor would have accumulated and cashed in the accrued leave upon departing from government service, the government incurs additional costs for the recipient's salary and benefits and experiences reduced costs from lower payments when the donor departs. The net effect of a leave transfer of this type depends on whether the donor's rate of pay was higher or lower than that of the recipient. If the donor would have used the leave, the government incurs additional costs for the recipient's salary and benefits, but gains additional work days from the donor. Finally, if the donor would have forfeited the leave, the government incurs additional costs, but receives no benefit from additional work or reduced future costs. In the last two cases, the government incurs net costs from leave sharing.

Under S. 868, the net impact on the federal government would depend on the number of times a major disaster or emergency occurs that results in a presidential request for a special leave program, and whether the credits donated would otherwise not have been donated under current law. CBO has no way of determining the likelihood of such disasters occurring, nor the response by employees to a special leave program. Past experience, however, shows that donations rise dramatically at the end of a leave year, when most employees otherwise forfeit leave in excess of 240 hours. We expect, then, that any donations made under S. 868 largely would represent a redistribution of credits otherwise donated to the leave program for medical emergencies. Hence, we expect that the new leave transfers would not result in any significant budgetary effect. Any additional costs that might result from a special leave program would be paid from appropriated funds and would not affect direct spending or receipts.

CBO estimates that the administrative costs for implementing S. 868 also would be minimal and subject to appropriations. These costs would include the cost to OPM for establishing new regulations and administering any temporary programs, upon presidential request, and agency costs related to notifying employees of the special leave program and transferring any donated credits.

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

Sincerely,

ROSEMARY MARCUSS
(For June E. O'Neill, Director).

VI. REGULATORY IMPACT OF LEGISLATION

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory and paperwork impact of S. 868. The Office of Personnel Management has advised that the provisions of this Act can be implemented with minimal paperwork requirements.

Therefore, the Committee directs OPM to develop implementing regulations that minimize any paperwork requirements placed on agencies, leave donors, and leave recipients.

VII. CHANGES IN EXISTING LAW

Paragraph 12 of rule XXVI of the Standing Rules of the Senate requires that changes in existing law made by the bill be detailed in the Committee Report. Because S. 868 creates a new subchapter of chapter 63 of title 5, United States Code, there is no existing law to be omitted.