

AUTHORITY TO INCLUDE JUDICIAL BRANCH EMPLOYEES  
 IN FEDERAL LEAVE TRANSFER PROGRAM FOR DISAS-  
 TERS AND EMERGENCIES

MAY 2, 2006.—Committed to the Committee of the Whole House on the State of the  
 Union and ordered to be printed

Mr. TOM DAVIS of Virginia, from the Committee on Government  
 Reform, submitted the following

R E P O R T

[To accompany S. 1736]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred  
 the bill (S. 1736) to provide for the participation of employees in  
 the judicial branch in the Federal leave transfer program for disas-  
 ters and emergencies, having considered the same, report favorably  
 thereon without amendment and recommend that the bill do pass.

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## COMMITTEE STATEMENT AND VIEWS

## PURPOSE AND SUMMARY

The purpose of S. 1736 is to provide for the participation of judicial branch employees in the emergency leave transfer program for major disasters and emergencies. The legislation requires the Office of Personnel Management, after consultation with the Administrative Office of the U.S. Courts, to allow federal judicial branch employees to participate in an emergency leave transfer program for disasters and emergencies.

## BACKGROUND AND NEED FOR LEGISLATION

Under existing law, 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.

In response to Hurricane Katrina, the Judicial Conference of the United States requested legislative authority to provide the judicial branch with the same flexibility and authority available to the executive branch.

S. 1736 would require the Office of Personnel Management, after consultation with the Administrative Office of the U.S. Courts, to allow federal judicial branch employees to participate in an emergency leave transfer program for disasters and emergencies.

## SECTION-BY-SECTION

S. 1736 would amend 5 U.S.C. 6391, United States Code, by redesignating subsection (f) as subsection (g) and inserting the following new subsection (f):

“(f) After consultation with the Administrative Office of the United States Courts, the Office of Personnel Management shall provide for the participation of employees in the judicial branch in any emergency leave transfer program under this section.”

## EXPLANATION OF AMENDMENTS

There were no amendments offered.

## COMMITTEE CONSIDERATION

On Thursday, March 9, 2006, the Committee met in open session and ordered reported favorably the bill, S. 1736, as amended, by voice vote, a quorum being present.

## ROLLCALL VOTES

No roll call votes were held.

## 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 the terms and conditions of employment or access to public services and accommodations. This bill authorizes employees of the judicial branch to participate in emergency leave transfer programs. Legislative branch employees and their families, to the extent that they are otherwise eligible for the benefits provided by this legislation, have equal access to its benefits.

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.

## 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.

## 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. 4975. 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 MANDATE STATEMENT

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

## 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. 4975. 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. 4975 from the Director of Congressional Budget Office:

*S. 1736—An act to provide for the participation of employees in the judicial branch in the federal leave program for disasters and emergencies*

S. 1736 would provide for the participation of employees of the judicial branch in the federal emergency leave transfer program. CBO estimates that the legislation would have no significant budgetary impact. Enacting S. 1736 would not affect direct spending or revenues. The Legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Under current law, judicial branch employees are allowed to donate annual leave through a leave bank to co-workers who have exhausted their annual and sick leave as a result of a personal or family medical emergency. Any unused donated annual leave is returned to the leave bank. Emergency leave transfer programs within the executive branch also allow employees to donate annual leave to be transferred to employees of their own agency or other agencies in the event of a major disaster or emergency declared by the President. However, unlike the leave bank program, any unused annual leave donated to the emergency leave transfer program is returned to the donor.

S. 1736 would provide the judicial branch with the same emergency leave transfer authority as the executive branch. The cost of expanding this authority to the judicial branch would depend upon the number of times a major disaster or emergency occurs that results in a Presidential request for a special leave program and whether the leave donated would have been donated under current law.

Since 1997, emergency leave transfer authority has been used for the executive branch three times. It was used after the African Embassy bombings in 1998, the terrorist attacks of September 11, 2001, and in the aftermath of Hurricane Katrina in 2005. Most of the leave donations after the first two events were returned to their donors.

According to the administrative Office of the United States Courts, there are now about 200 displaced judicial branch employees currently on paid administrative leave since hurricane Katrina struck. Most of these employees are based at the federal courthouse facility in New Orleans, which is open with limited court operations. CBO expects that any annual leave donations made under S. 1736 would mostly be annual leave that would otherwise be donated for medical emergencies. Thus, we expect that enacting S. 1736 would not have a significant cost.

On September 30, 2005, CBO transmitted a cost estimate for S. 1736, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on September 22, 2005. The two pieces of legislation are identical and the cost estimates are the same.

The CBO staff contacts for this estimate are Matthew Pickford and Gregory Waring. This estimate was approved by Peter H. Fontaine, Deputy 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**

\* \* \* \* \*

**PART III—EMPLOYEES**

\* \* \* \* \*

**Subpart E—Attendance and Leave**

\* \* \* \* \*

**CHAPTER 63—LEAVE**

\* \* \* \* \*

**SUBCHAPTER VI—LEAVE TRANSFER IN DISASTERS AND EMERGENCIES**

\* \* \* \* \*

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

(a) \* \* \*

\* \* \* \* \*

*(f) After consultation with the Administrative Office of the United States Courts, the Office of Personnel Management shall provide for the participation of employees in the judicial branch in any emergency leave transfer program under this section.*

**[(f)] (g)** The Office shall prescribe regulations necessary for the administration of this section.

\* \* \* \* \*