SUBTITLE B—FEDERAL EMPLOYEES PAID PARENTAL LEAVE

SEC.1121. SHORT TITLE.

This subtitle may be cited as the "Federal Employees Paid Parental Leave Act of 2016".

SEC. 1122. PAID PARENTAL LEAVE UNDER TITLE 5.

(a) AMENDMENTS TO TITLE 5.—Chapter 63 of title 5, United States Code, is amended—

(1) in section 6381, by amending paragraph (1)(B) to read as follows:

"(B) has completed at least 12 months of service as an employee (within the meaning of subparagraph (A)), except that no minimum service is required if the employee is invoking the right to leave under this subchapter based on the birth or placement of a son or daughter, as provided in section 6382(a)(1)(A) or (B);";

(2) in section 6382—

(A) in subsection (a)(1)(B), by inserting before the period "and in order to care for such son or daughter";

(B) in subsection (b)(1), by striking the first sentence and inserting the following: "An employing agency shall accommodate an employee's leave schedule request under subparagraph (A) or (B) of subsection (a)(1), including a request to use such leave intermittently or on a reduced leave schedule, to the extent that it does not disrupt unduly agency operations. To the extent that an employee's requested leave schedule is based on medical necessity related to a serious health condition connected to the birth of a son or daughter, the agency

shall handle the scheduling consistent with the treatment of employees who are using leave under subparagraphs (C) or (D) of subsection (a)(1).”; and

(C) by amending subsection (d) to read as follows:

“(d)(1)(A) An employee may elect to substitute for any leave without pay under subparagraph (C), (D), or (E) of subsection (a)(1) any of the employee’s accrued or accumulated annual or sick leave under subchapter I, any advanced annual leave under section 6302(d), any advanced sick leave under section 6307(d), any donated annual leave under subchapter III or IV, or any other paid time off that the employee is authorized to use, for any part of the 12-week period of leave under such subsection, except that an employing agency may not permit substitution of sick leave, advanced sick leave, donated annual leave, or such other paid time off in a situation for which usage of such leave is not normally allowed.

“(B) An employee may elect to substitute for leave without pay under subsection (a)(3)—

“(i) any annual leave accrued or accumulated by such employee, or advanced to such employee, under subchapter I;

“(ii) any sick leave accrued or accumulated by such employee, or advanced to such employee, under subchapter I, notwithstanding the conditions and limitations that normally would apply to an employee using such sick leave under applicable law and regulations; and

“(iii) any other paid time off (including donated annual leave under subchapter III or IV) that the employee is authorized to use, except an employee may not use such time off in a situation for which usage of the time off is not normally allowed.

“(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) 6 administrative workweeks of paid parental leave under this subparagraph in connection with the birth or placement involved to be used during the 12-month period beginning on the date of birth or placement;

“(B) any annual leave accrued or accumulated by such employee, or advanced to such employee, under subchapter I;

“(C) any sick leave accrued or accumulated by such employee, or advanced to such employee, under subchapter I, notwithstanding the conditions and limitations that normally would apply to an employee using such sick leave under applicable law and regulations (such as conditions that would otherwise prevent sick leave from being used by a parent to bond with a newly born or placed child who is healthy); and

“(D) any other paid time off (including donated annual leave under subchapter III or IV) that the employee is authorized to use, except an employee may not use such time off in a situation for which usage of the time off is not normally allowed.

“(4) An employee may not be required to first use all or any portion of the leave described in subparagraph (B), (C), or (D) 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) may not be considered to be annual or vacation leave for purposes of section 5551 or 5552 or for any other purpose;

"(C) if not used by the employee before the end of the 12-month period (as referred to in subsection (a)) to which it relates, may not be available for any subsequent use and may not be converted into a cash payment;

"(D) may be granted only to the extent that the employee does not receive a total of more than 6 weeks of paid parental leave in any 12-month period beginning on the date of a birth or placement;

"(E) may not be granted in excess of a lifetime aggregate total of 30 administrative workweeks based on placements of a foster child for any individual employee, and may not be granted in connection with temporary foster care placements expected to last less than 1 year;

"(F) may not be granted for a child being placed for foster care or adoption if such leave was previously granted to the same employee when the same child was placed with the employee for foster care in the past;

"(G) shall be used in increments of hours (or fractions thereof), with 6 administrative workweeks equal to 240 hours for employees with a regular full-time work schedule and converted to a proportional number of hours for employees with part-time, seasonal, or uncommon tours of duty; and

"(H) may not be used during off-season (nonpay status) periods for employees with seasonal work schedules.

"(6) The Director of the Office of Personnel Management shall prescribe any regulations necessary to carry out this subsection, including—

"(A) 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); and

"(B) the circumstances under which an employee may retroactively change the type of leave an employee is charged.".

(b) FEDERAL AVIATION ADMINISTRATION AND TRANSPORTATION SECURITY ADMINISTRATION.—The Administrator of the Federal Aviation Administration and the Administrator of the Transportation Security Administration shall each prescribe procedures and policies to ensure that the rights under this section apply to the employees of each Administration. Such policies and procedures shall take effect on the effective date specified in subsection (c).

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 1123. 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) of such Act 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 subparagraph (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) 6 administrative workweeks of paid parental leave under this subparagraph in connection with the birth or placement involved to be used during the 12-month period beginning on the date of birth or placement;

"(B) any additional paid vacation leave provided by the employing office to such employee;

"(C) any sick leave available to such employee, notwithstanding the conditions and limitations that normally would apply to an employee using such sick leave; and

"(D) other paid time off that the employee is authorized to use, except an employee may not use such time off in a situation for which usage of the time off is not normally allowed.

"(3) LIMITATION.—An employee may not be required to first use all or any portion of the leave described in subparagraph (B), (C), or (D) of paragraph (2) before being allowed to use the 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;

"(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, may not be available for any subsequent use and may not be converted into a cash payment; and

"(C) shall be subject to the conditions specified in subparagraphs (D) through (H) of section 6382(d)(5) of title 5, United States Code.".

(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 12-month period beginning on the date of the enactment of this Act.

SEC. 1124. CONFORMING AMENDMENT TO FAMILY AND MEDICAL LEAVE ACT FOR GAO AND LIBRARY OF CONGRESS EMPLOYEES.

(a) AMENDMENT TO FAMILY AND MEDICAL LEAVE ACT OF 1993.—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 subparagraph (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 subparagraph (A) is—

"(i) 6 administrative workweeks of paid parental leave under this subparagraph in connection with the birth or placement involved to be used during the 12-month period beginning on the date of birth or placement;

"(ii) any additional paid vacation leave provided by such employer;

"(iii) any sick leave available to such employee, notwithstanding the conditions and limitations that normally would apply to an employee using such sick leave; and

"(iv) other paid time off that the employee is authorized to use, except an employee may not use such time off in a situation for which usage of the time off is not normally allowed.

"(C) LIMITATION.—An employee may not be required to first use all or any portion of the leave described in clause (ii), (iii), or (iv) of subparagraph (B) before being allowed to use the 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 the employer described in section 101(4)(A)(iv); and

"(ii) if not used by the employee of such employer before the end of the 12-month period (as referred to in subsection (a)(1)) to which it relates, may not be available for any subsequent use and may not be converted into a cash payment; and

"(iii) shall be subject to the conditions specified in subparagraphs (D) through (H) of section 6382(d)(5) of title 5, United States Code.".

(b) EFFECTIVE DATE.—The amendment made by this section shall not be effective with respect to any birth or placement occurring before the end of the 12-month period beginning on the date of the enactment of this Act.

SEC. 1125. CLARIFICATION FOR MEMBERS OF THE NATIONAL GUARD AND RESERVES.

(a) EXECUTIVE BRANCH EMPLOYEES.—For purposes of determining the eligibility of an employee who is a member of the National Guard or Reserves to take leave under subparagraph (A) or (B) of section 6382(a)(1) of title 5, United States Code, or to substitute such leave pursuant to paragraph (2) of section 6382(d) of such title (as amended by section 1122(a)(2)(C)), any service by such employee on active duty (as defined in section 6381(7) of such title) shall be counted as service as an employee for purposes of section 6381(1)(B) of such title.

(b) CONGRESSIONAL EMPLOYEES.—For purposes of determining the eligibility of a covered employee (as such term is defined in section 101(3) of the Congressional Accountability

Act) who is a member of the National Guard or Reserves to take leave under subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (pursuant to section 202(a)(1) of the Congressional Accountability Act), or to substitute such leave pursuant to subsection (d) of section 202 of such Act (as added by section 1123(a)(3)), any service by such employee on active duty (as defined in section 101(14) of the Family and Medical Leave Act of 1993) shall be counted as time during which such employee has been employed in an employing office for purposes of section 202(a)(2)(B) of the Congressional Accountability Act.

(c) GAO AND LIBRARY OF CONGRESS EMPLOYEES.—For purposes of determining the eligibility of an employee of the Government Accountability Office or Library of Congress who is a member of the National Guard or Reserves to take leave under subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993, or to substitute such leave pursuant to paragraph (3) of section 102(d) of such Act (as added by section 1124(a)), any service by such employee on active duty (as defined in section 101(14) of such Act) shall be counted as time during which such employee has been employed for purposes of section 101(2)(A) of such Act.

SECTION-BY-SECTION ANALYSIS

Section 1121—This section establishes the title of the legislation as the "Federal Employees Paid Parental Leave Act of 2016".

Section 1122-- Paid Parental Leave under Title 5

(a) *Amendments to Title 5*—This subsection amends sections 6381 and 6382 of title 5, United States Code.

(a)(1) This paragraph amends 5 U.S.C. 6381(1)(B) to change the definition of "employee" that is used in defining eligibility for coverage under the Family and Medical Leave Act (FMLA) provisions in 5 U.S.C. chapter 63, subchapter V. Under the change, the normally applicable

requirement that an individual must have completed at least 12 months of service as an employee (as defined at 5 U.S.C. 6381(1)(A)) would not be applicable to an individual who otherwise meets the definition of an "employee" under 5 U.S.C. 6381(1)(A) and who is invoking FMLA leave based on the birth or placement of a child under section 6382(a)(1)(A) or (B). Thus, new employees (who meet the definition in section 6381(1)(A)) would have immediate right to paid parental leave if otherwise eligible. Individuals who meet the revised version of the definition of "employee" would be covered under FMLA to the same extent as other eligible employees, including eligibility for the FMLA employment and benefit protections provided under section 6384.

(a)(2) This paragraph amends 5 U.S.C. 6382 in three places.

(a)(2)(A) This subparagraph amends 5 U.S.C. 6382(a)(1)(B) to make clear that FMLA leave under subparagraph (B)—granted because of placement of a son or daughter with the employee for adoption or foster care—may be used to care for such son or daughter, consistent with the language regarding FMLA leave under subparagraph (A) that is granted "because of the birth of a son or daughter and in order to care for such son or daughter."

(a)(2)(B) This subparagraph amends 5 U.S.C. 6382(b)(1) to provide that an employing agency may allow FMLA leave based on the birth or placement of a child under section 6382(a)(1)(A) or (B) to be used intermittently or on a reduced work schedule. In existing section 6382(b)(1), there is a general bar on using such FMLA leave intermittently or on a reduced schedule unless the employing agency agrees otherwise. The amended section 6382(b)(1) would require that an employing agency accommodate the employee's schedule requests to the extent that it does not disrupt unduly agency operations. To the extent that the employee's request for use of FMLA leave intermittently or on a reduced schedule is based on a medical necessity related to a serious health condition, the agency would be required to handle the scheduling consistent with the treatment of employees who are using FMLA leave based on a serious health condition under section 6382(a)(1)(C) or (D), as provided in sections 6382(b)(1)-(2) and (e) and 6383. In general, employees are entitled to use FMLA leave intermittently if required based on a medical necessity associated with a serious health condition.

(a)(2)(C) This paragraph amends 5 U.S.C. 6382(d), which deals with the substitution of paid leave for FMLA unpaid leave.

- (d)(1) The existing section 6382(d) is, in effect, redesignated as subsection (d)(1) and amended. References to subparagraphs (A) and (B) in section 6382(a)(1) (dealing with the birth or placement of a child) are removed from the new subsection (d)(1). The new subsection (d)(1) now applies only to use of FMLA related to the care of a family member with a serious health condition (§ 6382(a)(1)(C)), incapacitation of an employee because of a serious health condition (§ 6382(a)(1)(D)), a qualifying exigency arising out of the fact that a qualifying family member is on covered active duty (or has been notified of an impending call or order to such duty) in the Armed Forces (§ 6382(a)(1)(E)), or care of a covered servicemember who is the employee's spouse, son, daughter, parent, or next of kin (§ 6382(a)(3)). The new subsection (d)(1) provides that—in addition to accrued or accumulated annual and sick leave—advanced annual and sick leave, donated annual leave, and any other type of paid time off may be substituted for FMLA unpaid

leave covered by subparagraph (C), (D), or (E) of section 6382(a)(1). Consistent with current rules, sick leave, advanced sick leave, donated annual leave, and such other paid time off may be substituted for FMLA unpaid leave covered by subparagraph (C), (D), or (E) only if used for a purpose that is allowed under the normal rules. (See the new subparagraph (A) in section 6382(d)(1).) The new subsection (d)(1) also provides that any type of paid time off may be substituted for FMLA unpaid leave under section 6382(a)(3) with substitution subject to the normal rules governing each type of paid time off, except that, consistent with current law under 5 U.S.C. 6382(d), accrued or accumulated sick leave and advanced sick leave may be substituted for FMLA unpaid leave under section 6382(a)(3) notwithstanding the conditions and limitations in law and regulation that would normally apply to such sick leave. (See the new subparagraph (B) added in section 6382(d)(1).)

The existing section 6382(d) allows substitution of sick leave "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." The amended language in the new subsection (d)(1)(A) related to substitution for FMLA unpaid leave under subparagraphs (C), (D), and (E) of section 6382(a)(1) more clearly states: "except that an employing agency may not permit substitution of sick leave . . . in a situation for which usage of such leave is not normally allowed." The existing language has the same effect as the amended language, since an express positive authority would be needed to allow an employing agency to provide sick leave for an otherwise non-approved purpose (given that sick leave is governed by statutory requirements) and the existing FMLA subchapter provides no such authority to employing agencies except for employees who are caring for a servicemember under section 6382(a)(3). (See last sentence of existing section 6382(d). See also new subparagraph (B) in proposed amended section 6382(d)(1)(B).) The FMLA legislation for non-Federal employers uses similar language as found in existing section 6382(d): "except that nothing in this title shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave." (See section 102(d)(2)(B) of FMLA or 29 U.S.C. 2612(d)(2)(B).) Such language is appropriate for non-Federal employers whose leave systems are not established by law, but creates confusion in the context of a Federal leave system established by law. The use of normal sick leave rules will have little effect on the ability to substitute sick leave for FMLA leave under the new section 6382(d)(1)(A). Sick leave may be substituted for FMLA leave under section 6382(a)(1)(D) based on the employee's serious health condition without restriction. Generally, sick leave may be substituted for FMLA leave under section 6382(a)(1)(C) based on a family member's serious health condition, except that the normal sick leave rules might limit the number of hours that may be substituted given the leave year limit of 12 workweeks (e.g., 480 hours for a full-time employee) of sick leave to care for a family member with a serious health condition and the overall limit of 12 workweeks of sick leave for all family care and bereavement purposes. (See 5 CFR 630.401(c)-(d).) Since the FMLA unpaid leave entitlement is 12 workweeks in any 12-month period, those sick leave limits should generally not become an issue. Use of FMLA leave under section 6382(a)(1)(E) based on an exigency related

to active duty in the Armed Forces does not involve activities that would be covered by sick leave; thus, sick leave substitution is not applicable.

- (d)(2) This paragraph allows an employee to substitute any paid leave that is "available" in place of FMLA unpaid leave used under section 6382(a)(1)(A) or (B) (dealing with birth or placement of a child).

- (d)(3) This paragraph defines what paid leave is available for substitution under paragraph (2).

- (d)(3)(A) This subparagraph provides entitlement to 6 administrative workweeks of paid parental leave during a period of FMLA leave granted based on the birth or placement of a child. This paid parental leave will be available for use during the 12-month period beginning on the date of birth or placement. Employees may continue to use FMLA leave based on birth or placement of a child *prior* to birth or placement, as provided in 5 CFR 630.1203(d); however, paid parental leave would not be substituted for such FMLA leave. To the extent there is a qualifying need to use FMLA leave under section 6382(a)(1)(A) or (B) before birth or placement, such employees may take unpaid FMLA leave or may substitute for unpaid leave any accrued and advanced annual or sick leave (without regard to the normal conditions and limitations on use of sick leave). (See subsection (d)(3)(C) below.) They may also substitute other paid time off, including donated annual leave under a leave bank or leave transfer program, as long as the use meets any applicable conditions (if any) for the paid time off in question. (See subsection (d)(3)(D) below.) While not addressed in the bill, employees may also be able to telework to address medical needs that present themselves before giving birth (e.g., the need for bed rest), reducing the need to take leave.

- (d)(3)(B) This subparagraph provides that an employee's accrued or accumulated annual leave, as well as advanced annual leave, may be substituted for FMLA leave based on the birth or placement of a child. This is consistent with current law, except that it clarifies that advanced annual leave may be substituted (as provided in OPM's current regulations at 5 CFR 630.1206(b)(2)).

- (d)(3)(C) This subparagraph provides that an employee's accrued or accumulated sick leave, as well as advanced sick leave, may be substituted for FMLA leave based on the birth or placement of a child, notwithstanding the conditions and limitations generally applicable under law and regulations. In other words, this subparagraph provides special authority to use sick leave for non-approved purposes, when substituting for this particular type of FMLA leave. Specifically, under this new provision, an employee may use sick leave to care for his or her newly born child or newly placed adopted or foster child when the child is healthy (e.g., for bonding purposes) or for the purpose of engaging in activities necessary for placement of a foster child with the employee. (Existing sick leave law and regulations already allow sick leave to be used for the purpose of engaging in activities necessary to place a child for adoption. See 5 U.S.C. 6307(c) and 5 CFR 630.401(a)(6). Thus, under current law, sick leave for adoption purposes may be substituted for FMLA unpaid leave granted in connection with the placement of a child for adoption.) All this means that sick leave may be substituted without restriction for

FMLA leave granted in connection with the birth or placement of a child under 5 U.S.C. 6382(a)(1)(A) or (B), since the valid uses of sick leave are expanded to correspond with the conditions under which such FMLA leave is granted. We note that there must first be a valid use of FMLA leave under subparagraph (A) or (B). For example, activities such as spending time with one's family prior to a child's birth or preparing a room for the baby before its birth are not qualifying activities under subparagraph (A). Subparagraph (A) covers leave taken "in order to care for" the child.

- (d)(3)(D) This subparagraph provides that an employee may substitute other types of paid time off that the employee is authorized to use, as long as such use is consistent with the conditions that normally govern use of the particular type of leave in question. For example,donated annual leave may be used to substitute for unpaid FMLA, but only for purposes consistent with use under the leave sharing programs—i.e., for a "medical emergency." Other types of paid time off for which substitution may be possible include time off awards under 5 U.S.C. 4502(e), compensatory time off under 5 U.S.C. 5543, compensatory time off for travel under 5 U.S.C. 5550b, and credit hours under a flexible work schedule under 5 U.S.C. chapter 61, subchapter II. Substitution would not generally be possible for military leave under 5 U.S.C. 6323, since such leave is for performing certain military duties.

- (d)(4) This paragraph provides that an employee may not be required to use any amount of his or her annual leave, sick leave, or other paid time off before being allowed to use paid parental leave under paragraph (3)(A).

- (d)(5) This paragraph addresses various requirements, conditions, and limitations that pertain to paid parental leave.

- (d)(5)(A) This subparagraph provides that paid parental leave under paragraph (3)(A) is to be funded from normal appropriations or funds for employee salaries and expenses.

- (d)(5)(B) This subparagraph provides that paid parental leave is not considered to be annual or vacation leave in applying the lump-sum annual leave payment provisions in 5 U.S.C. 5551-5552 or for any other purpose.

- (d)(5)(C) This subparagraph provides that paid parental leave not used within 12 months of the birth or placement (consistent with FMLA requirements in section 6382(a)) may not be reserved for future use nor may it be converted to a cash payment by any means.

- (d)(5)(D) This subparagraph would limit the amount of paid parental leave that may be granted to any employee to 6 weeks in any 12-month period beginning on the date of birth or placement of child. This would make clear that an employee cannot get multiple entitlements to 6 weeks of paid parental leave when the employee has multiple children born simultaneously (e.g., twins) or multiple children adopted or placed in foster care with employee in close time proximity. For example, if an employee has two foster children placed 6 months apart, there would be two 12-month periods beginning on the date of each placement. In each 12-month period, the amount of paid parental leave would be limited to 6 weeks. This would operate similar to the FMLA limitation that an

employee may be granted no more than 12 weeks of FMLA unpaid leave in any 12-month period, even if there are multiple events that could trigger entitlement to FMLA unpaid leave.

- (d)(5)(E) This subparagraph would establish a lifetime aggregate limit of 30 administrative workweeks of paid parental leave for a given employee based on placement of children for foster care with that employee. This limitation is based on the fact that a person may have many foster children. Also, this subparagraph would provide that paid parental leave may not be provided in the case of a foster child placement that is not expected to last for at least one year (e.g., short-term emergency placements).

- (d)(5)(F) This subparagraph would bar granting paid parental leave based on the placement of a child via adoption or a foster care arrangement if the same employee was previously granted paid parental leave for the same child based on a previous foster care placement.

- (d)(5)(G) This subparagraph would allow paid parental leave to be used in increments of hours (or fractions thereof), consistent with the ability to use FMLA leave intermittently. Also, this subparagraph specifies that 6 administrative workweeks equates to 240 hours for an employee with regular full-time work schedule (40 hours a week or 80 hours biweekly) and that 240 hours must be converted to a proportional number of hours for employees with part-time, seasonal, or uncommon tours of duty. For example, for an employee who has an established 20-hours-per-week part-time work schedule, 240 hours would be converted to 120 hours (which would still cover 6 administrative workweeks). For seasonal workers, the benefit would be prorated by the portion of the year that constitutes the work season. For example, if the work season were 6 months, a full-time employee would get 120 hours, not 240 and a 20-hours-per-week employee would get 60 hours.

- (d)(5)(H) This subparagraph would make clear that an entitlement to paid parental leave would not extend a seasonal employee's work season. Paid parental leave could be used only during the designated work season when the employee would normally be in pay status.

- (d)(6) This paragraph requires the Director of the Office of Personnel Management to prescribe any regulations necessary to carry out subsection (d), including—

    - regulations regarding the manner in which an employee may designate any day or other period as to which such employee wishes to use paid parental leave; and

    - regulations regarding the circumstances under which an employee may retroactively change the type of leave he or she is charged. For example, OPM could regulate that an employee could retroactively redesignate leave taken under section 6382(a)(1)(C) or (D) (based on serious health condition) to leave taken under section 6382(a)(1)(A) (based on birth of a child), if conditions are met, and then allow retroactive substitution of paid parental leave for the unpaid FMLA leave under section 6382(a)(1)(A).

(b) *Effective Date*—This subsection provides that the amendments made by section 1122 shall be effective 1 year after the date of enactment. This provides the Director of the Office of Personnel Management with time to promulgate necessary regulations and guidance. While the bill's provisions would take effect prospectively, a birth or placement of a child before the effective date could trigger paid parental leave as long as the employee has unused FMLA leave available and is within the 12-month period following birth or placement.