

118TH CONGRESS  
1ST SESSION

# S. 1714

To provide paid family and medical leave benefits to certain individuals,  
and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 18, 2023

Mrs. GILLIBRAND (for herself, Mr. SCHUMER, Mr. BOOKER, Mr. BLUMENTHAL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Ms. DUCKWORTH, Mr. FETTERMAN, Ms. HASSAN, Mr. LUJÁN, Mr. MENENDEZ, Mrs. MURRAY, Mr. PADILLA, Mr. REED, Mr. SANDERS, Mr. SCHATZ, Mrs. SHAHEEN, Ms. STABENOW, Mr. VAN HOLLEN, Ms. WARREN, Mr. WELCH, Mr. WHITEHOUSE, Mr. BENNET, Mr. DURBIN, Mrs. FEINSTEIN, Mr. HEINRICH, Ms. KLOBUCHAR, Mr. MERKLEY, Ms. SMITH, and Ms. ROSEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide paid family and medical leave benefits to certain  
individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family and Medical  
5 Insurance Leave Act” or the “FAMILY Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions apply:

1 (1) CAREGIVING DAY.—

2 (A) IN GENERAL.—The term “caregiving  
3 day” means, with respect to an individual, a  
4 calendar day in which the individual engaged in  
5 qualified caregiving.

6 (B) LIMITATIONS.—An individual may not  
7 exceed—

8 (i) with respect to any month, 20  
9 caregiving days; or

10 (ii) with respect to any benefit period,  
11 60 caregiving days.

12 (2) COMMISSIONER.—The term “Commis-  
13 sioner” means the Commissioner of Social Security.

14 (3) DEPUTY COMMISSIONER.—The term “Dep-  
15 uty Commissioner” means the Deputy Commissioner  
16 who heads the Office of Paid Family and Medical  
17 Leave established under section 3(a).

18 (4) ELIGIBLE INDIVIDUAL.—The term “eligible  
19 individual” means an individual who is entitled to a  
20 benefit under section 4 for a particular month, upon  
21 filing an application for such benefit for such month.

22 (5) QUALIFIED CAREGIVING.—

23 (A) IN GENERAL.—The term “qualified  
24 caregiving” means any activity engaged in by

1 an individual, other than regular employment,  
2 for a qualifying reason.

3 (B) QUALIFYING REASON.—

4 (i) IN GENERAL.—For purposes of  
5 subparagraph (A), the term “qualifying  
6 reason” means any of the following rea-  
7 sons for taking leave:

8 (I) Any reason for which an eligi-  
9 ble employee would be entitled to  
10 leave under subparagraph (A), (B), or  
11 (E) of paragraph (1) of section 102(a)  
12 of the Family and Medical Leave Act  
13 of 1993 (29 U.S.C. 2612(a)).

14 (II) In order to care for a quali-  
15 fied family member of the individual,  
16 if such qualified family member has a  
17 serious health condition.

18 (III) Because of a serious health  
19 condition that makes the individual  
20 unable to perform the services re-  
21 quired under the terms of their reg-  
22 ular employment.

23 (IV) In order to, as a result of  
24 domestic violence, sexual assault, or  
25 stalking—

1 (aa) seek medical attention  
2 for the employee or the employ-  
3 ee's child, parent, spouse, domes-  
4 tic partner, or any other indi-  
5 vidual related by blood or affinity  
6 whose close association with the  
7 employee is the equivalent of a  
8 family relationship, to recover  
9 from physical or psychological in-  
10 jury or disability caused by do-  
11 mestic violence, sexual assault, or  
12 stalking;

13 (bb) obtain or assist a re-  
14 lated person described in item  
15 (aa) in obtaining services from a  
16 victim services organization;

17 (cc) obtain or assist a re-  
18 lated person described in item  
19 (aa) in obtaining psychological or  
20 other counseling;

21 (dd) seek relocation; or

22 (ee) take legal action, in-  
23 cluding preparing for or partici-  
24 pating in any civil or criminal  
25 legal proceeding related to or re-

1 sulting from domestic violence,  
2 sexual assault, or stalking.

3 (ii) QUALIFIED FAMILY MEMBER; SE-  
4 RIOUS HEALTH CONDITION.—In this sub-  
5 paragraph:

6 (I) QUALIFIED FAMILY MEM-  
7 BER.—The term “qualified family  
8 member” means, with respect to an  
9 individual—

10 (aa) a spouse (including a  
11 domestic partner in a civil union  
12 or other registered domestic part-  
13 nership recognized by a State) or  
14 a parent of such spouse;

15 (bb) a child (regardless of  
16 age) or a child’s spouse;

17 (cc) a parent or a parent’s  
18 spouse;

19 (dd) a sibling or a sibling’s  
20 spouse;

21 (ee) a grandparent, a grand-  
22 child, or a spouse of a grand-  
23 parent or grandchild; and

24 (ff) any other individual who  
25 is related by blood or affinity and

1                   whose association with the em-  
2                   ployee is equivalent of a family  
3                   relationship.

4                   (II) SERIOUS HEALTH CONDI-  
5                   TION.—The term “serious health con-  
6                   dition” has the meaning given such  
7                   term in section 101(11) of the Family  
8                   and Medical Leave Act of 1993 (29  
9                   U.S.C. 2611(11)).

10                  (iii) OTHER DEFINITIONS.—For pur-  
11                  poses of clause (i)(IV):

12                   (I) CHILD.—The term “child”  
13                   means, regardless of age, a biological,  
14                   foster, or adopted child, a stepchild, a  
15                   child of a domestic partner, a legal  
16                   ward, or a child of a person standing  
17                   in loco parentis.

18                   (II) DOMESTIC PARTNER.—

19                   (aa) IN GENERAL.—The  
20                   term “domestic partner”, with  
21                   respect to an individual, means  
22                   another individual with whom the  
23                   individual is in a committed rela-  
24                   tionship.

1 (bb) COMMITTED RELATION-  
2 SHIP DEFINED.—The term “com-  
3 mitted relationship” means a re-  
4 lationship between 2 individuals,  
5 each at least 18 years of age, in  
6 which each individual is the other  
7 individual’s sole domestic partner  
8 and both individuals share re-  
9 sponsibility for a significant  
10 measure of each other’s common  
11 welfare. The term includes any  
12 such relationship between 2 indi-  
13 viduals, including individuals of  
14 the same sex, that is granted  
15 legal recognition by a State or  
16 political subdivision of a State as  
17 a marriage or analogous relation-  
18 ship, including a civil union or  
19 domestic partnership.

20 (III) DOMESTIC VIOLENCE.—The  
21 term “domestic violence” has the  
22 meaning given the term in section  
23 40002(a) of the Violence Against  
24 Women Act of 1994 (34 U.S.C.  
25 12291(a)), except that the reference

1 in such section to the term “jurisdic-  
2 tion receiving grant monies” shall be  
3 deemed to mean the jurisdiction in  
4 which the victim lives or the jurisdic-  
5 tion in which the employer involved is  
6 located. Such term also includes “dat-  
7 ing violence”, as that term is defined  
8 in such section.

9 (IV) PARENT.—The term “par-  
10 ent” means a biological, foster, or  
11 adoptive parent of an employee, a  
12 stepparent of an employee, parent-in-  
13 law, parent of a domestic partner, or  
14 a legal guardian or other person who  
15 stood in loco parentis to an employee  
16 when the employee was a child.

17 (V) SEXUAL ASSAULT.—The  
18 term “sexual assault” has the mean-  
19 ing given the term in section 40002(a)  
20 of the Violence Against Women Act of  
21 1994 (34 U.S.C. 12291(a)).

22 (VI) SPOUSE.—The term  
23 “spouse”, with respect to an em-  
24 ployee, has the meaning given such  
25 term by the marriage laws of the



1 State in which the marriage was cele-  
2 brated.

3 (VII) STALKING.—The term  
4 “stalking” has the meaning given the  
5 term in section 40002(a) of the Vio-  
6 lence Against Women Act of 1994 (34  
7 U.S.C. 12291(a)).

8 (VIII) VICTIM SERVICES ORGANI-  
9 ZATION.—The term “victim services  
10 organization” means a nonprofit, non-  
11 governmental organization that pro-  
12 vides assistance to victims of domestic  
13 violence, sexual assault, or stalking or  
14 advocates for such victims, including a  
15 rape crisis center, an organization  
16 carrying out a domestic violence, sex-  
17 ual assault, or stalking prevention or  
18 treatment program, an organization  
19 operating a shelter or providing coun-  
20 seling services, or a legal services or-  
21 ganization or other organization pro-  
22 viding assistance through the legal  
23 process.

1 (C) TREATMENT OF INDIVIDUALS COV-  
2 ERED BY LEGACY STATE COMPREHENSIVE PAID  
3 LEAVE PROGRAM.—

4 (i) IN GENERAL.—For purposes of  
5 subparagraph (A), an activity engaged in  
6 by an individual shall not be considered as  
7 other than regular employment if, for the  
8 time during which the individual was so  
9 engaged, the individual is taking leave  
10 from covered employment under the law of  
11 a legacy State (as defined in section 4(c)).

12 (ii) UNEMPLOYED.—In the case of an  
13 individual who is no longer employed, such  
14 individual shall be treated, for purposes of  
15 clause (i), as taking leave from covered  
16 employment under the law of a legacy  
17 State (as so defined) with respect to the  
18 portion of the time during which the indi-  
19 vidual was engaged in an activity for a  
20 qualifying reason corresponding to the  
21 share of the individual's workweek that  
22 was in covered employment under the law  
23 of a legacy State (as so defined).

24 (6) NATIONAL AVERAGE WAGE INDEX.—The  
25 term “national average wage index” has the mean-

1       ing given such term in section 209(k)(1) of the So-  
2       cial Security Act (42 U.S.C. 409(k)(1)).

3           (7) SELF-EMPLOYMENT INCOME.—The term  
4       “self-employment income” has the same meaning as  
5       such term in section 211(b) of such Act (42 U.S.C.  
6       411(b)).

7           (8) STATE.—The term “State” means any  
8       State of the United States or the District of Colum-  
9       bia or any territory or possession of the United  
10      States.

11          (9) WAGES.—The term “wages” has the mean-  
12      ing given such term in section 3121(a) of the Inter-  
13      nal Revenue Code of 1986 for purposes of the taxes  
14      imposed by sections 3101(b) and 3111(b) of such  
15      Code (without regard to section 3121(u)(2)(C) of  
16      such Code), except that such term also includes—

17           (A) compensation, as defined in section  
18           3231(e) of such Code for purposes of the Rail-  
19           road Retirement Tax Act; and

20           (B) unemployment compensation, as de-  
21           fined in section 85(b) of such Code.

22   **SEC. 3. OFFICE OF PAID FAMILY AND MEDICAL LEAVE.**

23          (a) ESTABLISHMENT OF OFFICE.—There is estab-  
24      lished within the Social Security Administration an office  
25      to be known as the Office of Paid Family and Medical

1 Leave. The Office shall be headed by a Deputy Commis-  
2 sioner who shall be appointed by the Commissioner.

3 (b) RESPONSIBILITIES OF DEPUTY COMMIS-  
4 SIONER.—The Commissioner, acting through the Deputy  
5 Commissioner, shall be responsible for—

6 (1) hiring personnel and making employment  
7 decisions with regard to such personnel;

8 (2) issuing such regulations as may be nec-  
9 essary to carry out the purposes of this Act;

10 (3) entering into cooperative agreements with  
11 other agencies and departments to ensure the effi-  
12 ciency of the administration of the program;

13 (4) determining eligibility for family and med-  
14 ical leave insurance benefits under section 4;

15 (5) determining benefit amounts for each  
16 month of such eligibility and making timely pay-  
17 ments of such benefits to entitled individuals in ac-  
18 cordance with such section;

19 (6) establishing and maintaining a system of  
20 records relating to the administration of such sec-  
21 tion;

22 (7) preventing fraud and abuse relating to such  
23 benefits;

24 (8) providing information on request regarding  
25 eligibility requirements, the claims process, benefit

1 amounts, maximum benefits payable, notice require-  
2 ments, nondiscrimination rights, confidentiality, co-  
3 ordination of leave under this Act and other laws,  
4 collective bargaining agreements, and employer poli-  
5 cies;

6 (9) annually providing employers a notice in-  
7 forming employees of the availability of such bene-  
8 fits;

9 (10) annually making available to the public a  
10 report that includes the number of individuals who  
11 received such benefits, the purposes for which such  
12 benefits were received, and an analysis of utilization  
13 rates of such benefits by gender, race, ethnicity, and  
14 income levels; and

15 (11) tailoring culturally and linguistically com-  
16 petent education and outreach toward increasing uti-  
17 lization rates of benefits under such section.

18 (c) AVAILABILITY OF DATA.—Notwithstanding any  
19 other provision of law, the Commissioner shall make avail-  
20 able to the Deputy Commissioner such data as the Com-  
21 missioner determines necessary to enable the Deputy  
22 Commissioner to effectively carry out the responsibilities  
23 described in subsection (b).

1 **SEC. 4. FAMILY AND MEDICAL LEAVE INSURANCE BENEFIT**

2 **PAYMENTS.**

3 (a) IN GENERAL.—

4 (1) REQUIREMENTS.—Every individual who—

5 (A) has filed an application for a family  
6 and medical leave insurance benefit in accord-  
7 ance with subsection (d);

8 (B) was engaged in qualified caregiving, or  
9 anticipates being so engaged, during the period  
10 that begins 90 days before the date on which  
11 such application is filed or within 30 days after  
12 such date;

13 (C) has wages or self-employment income  
14 at any time during the period—

15 (i) beginning with the most recent cal-  
16 endar quarter that ends at least 4 months  
17 prior to the beginning of the individual's  
18 benefit period specified in subsection (c);  
19 and

20 (ii) ending with the month before the  
21 month in which such benefit period begins;  
22 and

23 (D) has at least the specified amount of  
24 wages and self-employment income during the  
25 most recent 8-calendar quarter period that ends  
26 at least 4 months prior to the beginning of the

1 individual's benefit period specified in sub-  
2 section (c),  
3 shall be entitled to such a benefit for each month in  
4 such benefit period.

5 (2) SPECIFIED AMOUNT.—For purposes of  
6 paragraph (1)(D), the specified amount shall be—

7 (A) if the benefit period begins in calendar  
8 year 2024, \$2,000; and

9 (B) if the benefit period begins in any cal-  
10 endar year after 2024, an amount equal to the  
11 greater of—

12 (i) the specified amount applicable for  
13 the preceding calendar year; or

14 (ii) an amount equal to the product  
15 of—

16 (I) \$2,000; multiplied by

17 (II) an amount equal to the  
18 quotient of—

19 (aa) the national average  
20 wage index for the second cal-  
21 endar year preceding such cal-  
22 endar year; divided by

23 (bb) the national average  
24 wage index for 2022.

25 (b) BENEFIT AMOUNT.—

1           (1) IN GENERAL.—Except as otherwise pro-  
2           vided in this subsection, the benefit amount to which  
3           an individual is entitled under this section for a  
4           month shall be an amount equal to the greater of—

5                   (A) the lesser of—

6                           (i) an amount equal to the monthly  
7                           benefit rate determined under paragraph  
8                           (2); and

9                           (ii) the maximum benefit amount de-  
10                          termined under paragraph (3); and

11                   (B) the minimum benefit amount deter-  
12                   mined under paragraph (3),  
13           multiplied by the quotient (not greater than 1) ob-  
14           tained by dividing the number of caregiving days of  
15           the individual in such month by 20.

16           (2) MONTHLY BENEFIT RATE.—

17                   (A) IN GENERAL.—For purposes of this  
18                   subsection, the monthly benefit rate of an indi-  
19                   vidual shall be an amount equal to the sum  
20                   of—

21                           (i) 85 percent of the individual's aver-  
22                           age monthly earnings to the extent that  
23                           such earnings do not exceed the amount  
24                           established for purposes of this clause by  
25                           subparagraph (B);



1 (ii) 69 percent of the individual's av-  
2 erage monthly earnings to the extent that  
3 such earnings exceed the amount estab-  
4 lished for purposes of clause (i) but do not  
5 exceed the amount established for purposes  
6 of this clause by subparagraph (B); and

7 (iii) 50 percent of the individual's av-  
8 erage monthly earnings to the extent that  
9 such earnings exceed the amount estab-  
10 lished for purposes of clause (ii) but do not  
11 exceed the amount established for purposes  
12 of this clause by subparagraph (B).

13 (B) AMOUNTS ESTABLISHED.—

14 (i) INITIAL AMOUNTS.—For individ-  
15 uals whose benefit period begins in cal-  
16 endar year 2024, the amount established  
17 for purposes of clauses (i), (ii), and (iii) of  
18 subparagraph (A) shall be \$1,257, \$3,500,  
19 and \$6,200, respectively.

20 (ii) WAGE INDEXING.—For individ-  
21 uals whose benefit period begins in any  
22 calendar year after 2024, each of the  
23 amounts so established shall equal the cor-  
24 responding amount established for the cal-  
25 endar year preceding such calendar year,

1 or, if larger, the product of the cor-  
2 responding amount established with re-  
3 spect to the calendar year 2024 and the  
4 quotient obtained by dividing—

5 (I) the national average wage  
6 index for the second calendar year  
7 preceding such calendar year, by

8 (II) the national average wage  
9 index for calendar year 2022.

10 (iii) ROUNDING.—Each amount estab-  
11 lished under clause (ii) for any calendar  
12 year shall be rounded to the nearest \$1,  
13 except that any amount so established  
14 which is a multiple of \$0.50 but not of \$1  
15 shall be rounded to the next higher \$1.

16 (C) AVERAGE MONTHLY EARNINGS.—For  
17 purposes of this subsection, the average month-  
18 ly earnings of an individual shall be an amount  
19 equal to  $\frac{1}{12}$  of the wages and self-employment  
20 income of the individual for the calendar year  
21 in which such wages and self-employment in-  
22 come are the highest among the most recent 3  
23 calendar years.

24 (3) MAXIMUM AND MINIMUM BENEFIT  
25 AMOUNTS.—

1 (A) IN GENERAL.—For individuals who  
2 initially become eligible for family and medical  
3 leave insurance benefits in the first full cal-  
4 endar year after the date of enactment of this  
5 Act, the maximum monthly benefit amount and  
6 the minimum monthly benefit amount shall be  
7 \$4,000 and \$580, respectively.

8 (B) WAGE INDEXING.—For individuals  
9 who initially become eligible for family and  
10 medical leave insurance benefits in any calendar  
11 year after such first full calendar year the max-  
12 imum benefit amount and the minimum benefit  
13 amount shall be, respectively, the product of the  
14 corresponding amount determined with respect  
15 to the first calendar year under subparagraph  
16 (A) and the quotient obtained by dividing—

17 (i) the national average wage index  
18 for the second calendar year preceding the  
19 calendar year for which the determination  
20 is made, by

21 (ii) the national average wage index  
22 for the second calendar year preceding the  
23 first full calendar year after the date of en-  
24 actment of this Act.

1           (4) REDUCTION IN BENEFIT AMOUNT ON AC-  
2           COUNT OF RECEIPT OF CERTAIN BENEFITS.—A ben-  
3           efit under this section for a month shall be reduced  
4           by the amount, if any, in certain benefits (as deter-  
5           mined under regulations issued by the Commis-  
6           sioner) as may be otherwise received by an indi-  
7           vidual. For purposes of the preceding sentence, cer-  
8           tain benefits include—

9                   (A) periodic benefits on account of such in-  
10                  dividual's total or partial disability under a  
11                  workmen's compensation law or plan of the  
12                  United States or a State; and

13                  (B) periodic benefits on account of an indi-  
14                  vidual's employment status under an unemploy-  
15                  ment law or plan of the United States or a  
16                  State.

17           (5) COORDINATION OF BENEFIT AMOUNT WITH  
18           CERTAIN STATE BENEFITS.—A benefit received  
19           under this section shall be coordinated, in a manner  
20           determined by regulations issued by the Commis-  
21           sioner, with the periodic benefits received from tem-  
22           porary disability insurance or family leave insurance  
23           programs under any law or plan of a State, a polit-  
24           ical subdivision (as that term is used in section  
25           218(b)(2) of the Social Security Act (42 U.S.C.

1 418(b)(2))), or an instrumentality of two or more  
2 States (as that term is used in section 218(g) of  
3 such Act (42 U.S.C. 418(g))).

4 (c) BENEFIT PERIOD.—

5 (1) IN GENERAL.—Except as provided in para-  
6 graph (2), the benefit period specified in this sub-  
7 section is the 12-month period that begins on the  
8 1st day of the 1st month in which the individual—

9 (A) meets the criteria specified in subpara-  
10 graphs (A) and (B) of subsection (a)(1); and

11 (B) would meet the criteria specified in  
12 subparagraphs (C) and (D) of such subsection  
13 if such subparagraphs were applied by sub-  
14 stituting such 12-month period for each ref-  
15 erence to the individual's benefit period.

16 (2) RETROACTIVE BENEFITS.—In the case of  
17 an application for benefits under this section for  
18 qualified caregiving in which the individual was en-  
19 gaged at any time during the 90-day period pre-  
20 ceding the date on which such application is sub-  
21 mitted, the benefit period specified in this subsection  
22 shall begin on the later of—

23 (A) the 1st day of the 1st month in which  
24 the individual engaged in such qualified  
25 caregiving; or

1 (B) the 1st day of the 1st month that be-  
2 gins during such 90-day period,  
3 and shall end on the date that is 365 days after the  
4 1st day of the benefit period.

5 (d) APPLICATION.—An application for a family and  
6 medical leave insurance benefit shall include—

7 (1) a statement that the individual was engaged  
8 in qualified caregiving, or anticipates being so en-  
9 gaged, during the period that begins 90 days before  
10 the date on which the application is submitted or  
11 within 30 days after such date;

12 (2) if the qualified caregiving described in the  
13 statement in paragraph (1) is engaged in by the in-  
14 dividual because of a serious health condition (as de-  
15 fined in subclause (II) of section 2(5)(B)(ii)) of the  
16 individual or a qualified family member (as defined  
17 in subclause (I) of such section) of the individual, a  
18 certification, issued by the health care provider  
19 treating such serious health condition, that affirms  
20 the information specified in paragraph (1) and con-  
21 tains such information as the Commissioner shall  
22 specify in regulations, which shall be no more than  
23 the information that is required to be stated under  
24 section 103(b) of the Family and Medical Leave Act  
25 of 1993 (29 U.S.C. 2613(b));

1           (3) if such qualified caregiving is engaged in by  
2 the individual for any other qualifying reason (as de-  
3 fined in section 2(5)(B)(i)), a certification, issued by  
4 a relevant authority determined under regulations  
5 issued by the Commissioner, that affirms the cir-  
6 cumstances giving rise to such reason; and

7           (4) an attestation from the applicant that his or  
8 her employer has been provided with written notice  
9 of the individual's intention to take family or med-  
10 ical leave, if the individual has an employer, or to  
11 the Commissioner in all other cases.

12 (e) INELIGIBILITY; DISQUALIFICATION.—

13           (1) INELIGIBILITY FOR BENEFIT.—An indi-  
14 vidual shall be ineligible for a benefit under this sec-  
15 tion for any month for which the individual is enti-  
16 tled to—

17           (A) disability insurance benefits under sec-  
18 tion 223 of the Social Security Act (42 U.S.C.  
19 423) or a similar permanent disability program  
20 under any law or plan of a State or political  
21 subdivision or instrumentality of a State (as  
22 such terms are used in section 218 of the Social  
23 Security Act (42 U.S.C. 418));

24           (B) monthly insurance benefits under sec-  
25 tion 202 of such Act (42 U.S.C. 402) based on

1 such individual's disability (as defined in sec-  
2 tion 223(d) of such Act (42 U.S.C. 423(d))); or

3 (C) benefits under title XVI of such Act  
4 (42 U.S.C. 1381 et seq.) based on such individ-  
5 ual's status as a disabled individual (as deter-  
6 mined under section 1614 of such Act (42  
7 U.S.C. 1382e)).

8 (2) DISQUALIFICATION.—An individual who has  
9 been convicted of a violation under section 208 of  
10 the Social Security Act (42 U.S.C. 408) or who has  
11 been found to have used false statements to secure  
12 benefits under this section, shall be ineligible for  
13 benefits under this section for a 1-year period fol-  
14 lowing the date of such conviction.

15 (f) REVIEW OF ELIGIBILITY AND BENEFIT PAYMENT  
16 DETERMINATIONS.—

17 (1) ELIGIBILITY DETERMINATIONS.—

18 (A) IN GENERAL.—The Commissioner  
19 shall provide notice to an individual applying  
20 for benefits under this section of the initial de-  
21 termination of eligibility for such benefits, and  
22 the estimated benefit amount for a month in  
23 which one caregiving day of the individual oc-  
24 curs, as soon as practicable after the applica-  
25 tion is received.



1           (B) REVIEW.—An individual may request  
2 review of an initial adverse determination with  
3 respect to such application at any time before  
4 the end of the 20-day period that begins on the  
5 date notice of such determination is received,  
6 except that such 20-day period may be extended  
7 for good cause. As soon as practicable after the  
8 individual requests review of the determination,  
9 the Commissioner shall provide notice to the in-  
10 dividual of a final determination of eligibility  
11 for benefits under this section.

12           (2) BENEFIT PAYMENT DETERMINATIONS.—

13           (A) IN GENERAL.—The Commissioner  
14 shall make any monthly benefit payment to an  
15 individual claiming benefits for a month under  
16 this section, or provide notice of the reason  
17 such payment will not be made if the Commis-  
18 sioner determines that the individual is not en-  
19 titled to payment for such month, not later  
20 than 20 days after the individual's monthly  
21 benefit claim report for such month is received.  
22 Such monthly report shall be filed with the  
23 Commissioner not later than 15 days after the  
24 end of each month.

1           (B) REVIEW.—If the Commissioner deter-  
2 mines that payment will not be made to an in-  
3 dividual for a month, or if the Commissioner  
4 determines that payment shall be made based  
5 on a number of caregiving days in the month  
6 inconsistent with the number of caregiving days  
7 in the monthly benefit claim report of the indi-  
8 vidual for such month, the individual may re-  
9 quest review of such determination at any time  
10 before the end of the 20-day period that begins  
11 on the date notice of such determination is re-  
12 ceived, except that such 20-day period may be  
13 extended for good cause. Not later than 20 days  
14 after the individual requests review of the deter-  
15 mination, the Commissioner shall provide notice  
16 to the individual of a final determination of  
17 payment for such month, and shall make pay-  
18 ment to the individual of any additional amount  
19 not included in the initial payment to the indi-  
20 vidual for such month to which the Commis-  
21 sioner determines the individual is entitled.

22           (3) BURDEN OF PROOF.—An application for  
23 benefits under this section and a monthly benefit  
24 claim report of an individual shall each be presumed  
25 to be true and accurate, unless the Commissioner

1 demonstrates by a preponderance of the evidence  
2 that information contained in the application is  
3 false.

4 (4) DEFINITION OF MONTHLY BENEFIT CLAIM  
5 REPORT.—For purposes of this subsection, the term  
6 “monthly benefit claim report” means, with respect  
7 to an individual for a month, the individual’s report  
8 to the Commissioner of the number of caregiving  
9 days of the individual in such month, which shall be  
10 filed no later than 15 days after the end of each  
11 month.

12 (5) REVIEW.—All final determinations of the  
13 Commissioner under this subsection shall be review-  
14 able according to the procedures set out in section  
15 205 of the Social Security Act (42 U.S.C. 405).

16 (g) RELATIONSHIP WITH STATE LAW; EMPLOYER  
17 BENEFITS.—

18 (1) IN GENERAL.—This section does not pre-  
19 empt or supersede any provision of State or local  
20 law that authorizes a State or local municipality to  
21 provide paid family and medical leave benefits simi-  
22 lar to the benefits provided under this section.

23 (2) GREATER BENEFITS ALLOWED.—Nothing  
24 in this Act shall be construed to diminish the obliga-  
25 tion of an employer to comply with any contract, col-

1 lective bargaining agreement, or any employment  
 2 benefit program or plan that provides greater paid  
 3 leave or other leave rights to employees than the  
 4 rights established under this Act.

5 (h) EMPLOYMENT AND BENEFITS PROTECTION AND  
 6 ENFORCEMENT.—

7 (1) EMPLOYMENT AND BENEFITS PROTEC-  
 8 TION.—

9 (A) IN GENERAL.—

10 (i) PROHIBITED ACTS.—It shall be  
 11 unlawful for any person to interfere with,  
 12 restrain, deny, or retaliate against an indi-  
 13 vidual because of the exercise of, or the at-  
 14 tempt to exercise, any right provided under  
 15 this section, including through—

16 (I) discharging or in any other  
 17 manner discriminating against (in-  
 18 cluding retaliating against) an indi-  
 19 vidual because the individual has ap-  
 20 plied for, indicated an intent to apply  
 21 for, or received family and medical  
 22 leave insurance benefits; or

23 (II) using the application for or  
 24 the receipt of such benefits as a nega-  
 25 tive factor in an employment action.

1 (ii) RESTORATION TO POSITION.—It  
2 shall be interference with the right of an  
3 individual for purposes of clause (i) for an  
4 employer of the individual to, upon the  
5 conclusion of any leave for which the indi-  
6 vidual received a family and medical leave  
7 insurance benefit under this section, fail  
8 to—

9 (I) restore the individual to the  
10 position of employment held by the in-  
11 dividual when the leave commenced;  
12 or

13 (II) restore the individual to an  
14 equivalent position with equivalent  
15 employment benefits, pay, and other  
16 terms and conditions of employment.

17 (iii) MAINTENANCE OF HEALTH BEN-  
18 EFITS.—It shall be interference with the  
19 right of an individual for purposes of  
20 clause (i) for an employer of the individual  
21 to fail to maintain, for the duration of any  
22 leave for which the individual received a  
23 family and medical leave insurance benefit  
24 under this section, coverage of the indi-  
25 vidual under any group health plan (as de-

1            fined in section 5000(b)(1) of the Internal  
2            Revenue Code of 1986) at the level and  
3            under the conditions coverage would have  
4            been provided if the individual had contin-  
5            ued in employment continuously for the  
6            duration of such leave.

7            (B) OPPOSING UNLAWFUL PRACTICES.—It  
8            shall be unlawful for any employer to discharge  
9            or in any other manner discriminate against  
10           any individual for opposing any practice made  
11           unlawful by this subsection.

12           (C) INTERFERENCE WITH PROCEEDINGS  
13           OR INQUIRIES.—It shall be unlawful for any  
14           person to discharge or in any other manner dis-  
15           criminate against any individual because such  
16           individual—

17                (i) has filed any charge, or has insti-  
18                tuted or caused to be instituted any pro-  
19                ceeding, under or related to this sub-  
20                section;

21                (ii) has given, or is about to give, any  
22                information in connection with any inquiry  
23                or proceeding relating to any right pro-  
24                vided under this section; or

1 (iii) has testified, or is about to tes-  
2 tify, in any inquiry or proceeding relating  
3 to any right provided under this section.

4 (D) REBUTTABLE PRESUMPTION OF RE-  
5 TALIATION.—Any adverse action (including any  
6 action described in subparagraph (C) or (D))  
7 taken against an employee within 12 months of  
8 the employee taking any leave for which the in-  
9 dividual received a family and medical leave in-  
10 surance benefit under this section shall estab-  
11 lish a rebuttable presumption that the action of  
12 the employer is retaliating against such em-  
13 ployee in violation of subparagraph (A)(i).

14 (E) NON-APPLICATION FOR NEW HIRES.—  
15 Clauses (ii) and (iii) of subparagraph (A) shall  
16 not apply to any individual during the 90-day  
17 period beginning with the day the individual be-  
18 gins work for an employer.

19 (2) CIVIL ACTION BY AN INDIVIDUAL.—

20 (A) LIABILITY.—Any person who violates  
21 paragraph (1) shall be liable to any individual  
22 employed by such person who is affected by the  
23 violation—

24 (i) for damages equal to the sum of—

25 (I) the amount of—

1 (aa) any wages, salary, em-  
2 ployment benefits, or other com-  
3 pensation denied or lost to such  
4 individual by reason of the viola-  
5 tion; or

6 (bb) in a case in which  
7 wages, salary, employment bene-  
8 fits, or other compensation have  
9 not been denied or lost to the in-  
10 dividual, any actual monetary  
11 losses sustained by the individual  
12 as a direct result of the violation,  
13 such as the cost of providing  
14 care, up to a sum equal to 60  
15 calendar days of wages or salary  
16 for the individual;

17 (II) the interest on the amount  
18 described in subclause (I) calculated  
19 at the prevailing rate; and

20 (III) an additional amount as liq-  
21 uidated damages equal to the sum of  
22 the amount described in subclause (I)  
23 and the interest described in sub-  
24 clause (II), except that if a person  
25 who has violated paragraph (1) proves



1 to the satisfaction of the court that  
2 the act or omission which violated  
3 paragraph (1) was in good faith and  
4 that the person had reasonable  
5 grounds for believing that the act or  
6 omission was not a violation of para-  
7 graph (1), such court may, in the dis-  
8 cretion of the court, reduce the  
9 amount of the liability to the amount  
10 and interest determined under sub-  
11 clauses (I) and (II), respectively; and  
12 (ii) for such equitable relief as may be  
13 appropriate, including employment, rein-  
14 statement, and promotion.

15 (B) RIGHT OF ACTION.—An action to re-  
16 cover the damages or equitable relief prescribed  
17 in subparagraph (A) may be maintained against  
18 any person in any Federal or State court of  
19 competent jurisdiction by any individual for and  
20 on behalf of—

21 (i) the individual; or

22 (ii) the individual and other individ-  
23 uals similarly situated.

24 (C) FEES AND COSTS.—The court in such  
25 an action shall, in addition to any judgment

1 awarded to the plaintiff, allow a reasonable at-  
2 torney's fee, reasonable expert witness fees, and  
3 other costs of the action to be paid by the de-  
4 fendant.

5 (D) LIMITATIONS.—The right provided by  
6 subparagraph (B) to bring an action by or on  
7 behalf of any individual shall terminate—

8 (i) on the filing of a complaint by the  
9 Commissioner in an action under para-  
10 graph (5) in which restraint is sought of  
11 any further delay in the payment of the  
12 amount described in subparagraph (A)(I)  
13 to such individual by the person respon-  
14 sible under subparagraph (A) for the pay-  
15 ment; or

16 (ii) on the filing of a complaint by the  
17 Commissioner in an action under para-  
18 graph (3) in which a recovery is sought of  
19 the damages described in subparagraph  
20 (A)(I) owing to an individual by a person  
21 liable under subparagraph (A),

22 unless the action described in clause (i) or (ii)  
23 is dismissed without prejudice on motion of the  
24 Commissioner.

25 (3) ACTION BY THE COMMISSIONER.—

1 (A) CIVIL ACTION.—The Commissioner  
2 may bring an action in any court of competent  
3 jurisdiction to recover the damages described in  
4 paragraph (2)(A)(I).

5 (B) SUMS RECOVERED.—Any sums recov-  
6 ered by the Commissioner pursuant to subpara-  
7 graph (A) shall be held in a special deposit ac-  
8 count and shall be paid, on order of the Com-  
9 missioner, directly to each individual affected.  
10 Any such sums not paid to an individual be-  
11 cause of inability to do so within a period of 3  
12 years shall be deposited into the Federal Family  
13 and Medical Leave Insurance Trust Fund.

14 (4) LIMITATION.—

15 (A) IN GENERAL.—An action may be  
16 brought under this subsection not later than 3  
17 years after the date of the last event consti-  
18 tuting the alleged violation for which the action  
19 is brought.

20 (B) COMMENCEMENT.—An action brought  
21 by the Commissioner under this subsection shall  
22 be considered to be commenced on the date  
23 when the complaint is filed.

24 (5) ACTION FOR INJUNCTION BY COMMIS-  
25 SIONER.—The district courts of the United States

1 shall have jurisdiction, for cause shown, in an action  
 2 brought by the Commissioner—

3 (A) to restrain violations of paragraph (1),  
 4 including the restraint of any withholding of  
 5 payment of wages, salary, employment benefits,  
 6 or other compensation, plus interest, found by  
 7 the court to be due to an individual; or

8 (B) to award such other equitable relief as  
 9 may be appropriate, including employment, re-  
 10 instatement, and promotion.

11 (i) **APPLICABILITY OF CERTAIN SOCIAL SECURITY**  
 12 **ACT PROVISIONS.**—The provisions of sections 204, 205,  
 13 206, and 208 of the Social Security Act shall apply to  
 14 benefit payments authorized by and paid out pursuant to  
 15 this section in the same way that such provisions apply  
 16 to benefit payments authorized by and paid out pursuant  
 17 to title II of such Act.

18 (j) **EFFECTIVE DATE FOR APPLICATIONS.**—Applica-  
 19 tions described in this section may be filed beginning 18  
 20 months after the date of enactment of this Act.

21 **SEC. 5. FUNDING FOR STATE ADMINISTRATION OPTION**  
 22 **FOR LEGACY STATES.**

23 (a) **IN GENERAL.**—

24 (1) **PAYMENTS TO LEGACY STATES.**—In each  
 25 calendar year beginning with calendar year 2025,

1 the Commissioner shall make a grant to each State  
2 that, for the calendar year preceding such calendar  
3 year, was a legacy State and that met the data shar-  
4 ing requirements of subsection (e), in an amount  
5 equal to the lesser of—

6 (A) an amount, as estimated by the Com-  
7 missioner, equal to the total amount of com-  
8 prehensive paid leave benefits that would have  
9 been paid under section 4 (including the costs  
10 to the Commissioner to administer such bene-  
11 fits, not to exceed (for purposes of estimating  
12 such total amount under this subparagraph) 7  
13 percent of the total amount of such benefits  
14 paid) to individuals who received paid family  
15 and medical leave benefits under a State law  
16 described in paragraph (1) or (3) of subsection  
17 (b) during the calendar year preceding such cal-  
18 endar year if the State had not been a legacy  
19 State for such preceding calendar year; or

20 (B) an amount equal to the total cost of  
21 paid family and medical leave benefits under a  
22 State law described in paragraph (1) or (3) of  
23 subsection (b) for the calendar year preceding  
24 such calendar year, including—

1 (i) any paid family and medical leave  
2 benefits provided by an employer (whether  
3 directly, under a contract with an insurer,  
4 or provided through a multiemployer plan)  
5 as described in subsection (d); and

6 (ii) the full cost to the State of ad-  
7 ministering such law (except that such cost  
8 may not exceed 7 percent of the total  
9 amount of paid family and medical leave  
10 benefits paid under such State law).

11 (2) ESTIMATED PAYMENTS.—In any case in  
12 which, during any calendar year, the Commissioner  
13 has reason to believe that a State will be a legacy  
14 State and meet the data sharing requirements of  
15 subsection (e) for such calendar year, the Commis-  
16 sioner may make estimated payments during such  
17 calendar year of the grant which would be paid to  
18 such State in the succeeding calendar year, to be ad-  
19 justed as appropriate in the succeeding calendar  
20 year.

21 (b) LEGACY STATE.—For purposes of this section,  
22 the term “legacy State” for a calendar year means a State  
23 with respect to which the Commissioner determines that—

1           (1) the State has enacted, not later than the  
2           date of enactment of this Act, a State law that pro-  
3           vides paid family and medical leave benefits;

4           (2) for any calendar year that begins before the  
5           date that is 3 years after the date of enactment of  
6           this Act, the State certifies to the Commissioner  
7           that the State intends to remain a legacy State and  
8           meet the data sharing requirements of subsection (e)  
9           at least through the first calendar year that begins  
10          on or after such date; and

11          (3) for any calendar year that begins on or  
12          after such date, a State law of the State provides for  
13          a State program to remain in effect throughout such  
14          calendar year that provides comprehensive paid fam-  
15          ily and medical leave benefits (which may be paid di-  
16          rectly by the State or, if permitted under such State  
17          law, by an employer pursuant to such State law)—

18                (A) for at least 12 full workweeks of leave  
19                during each 12-month period to at least all of  
20                those individuals in the State who would be eli-  
21                gible for comprehensive paid leave benefits  
22                under section 4 (without regard to section  
23                2(5)(C)), except that the State shall provide  
24                such benefits for leave from employment by the  
25                State or any political subdivision thereof, and

1           may elect to provide such benefits for leave  
2           from any other governmental employment; and

3                   (B) at a wage replacement rate that is at  
4           least equivalent to the wage replacement rate  
5           under the comprehensive paid leave benefit pro-  
6           gram under section 4 (without regard to section  
7           2(5)(C)).

8           (c) COVERED EMPLOYMENT UNDER THE LAW OF A  
9 LEGACY STATE.—For purposes of this Act, the term “cov-  
10 ered employment under the law of a legacy State” means  
11 employment (or self-employment) with respect to which an  
12 individual would be eligible to receive paid family and med-  
13 ical benefits under the State law of a State, as described  
14 in paragraph (1) or (3) of subsection (b), during any pe-  
15 riod during which such State is a legacy State.

16           (d) EMPLOYER-PROVIDED BENEFITS IN A LEGACY  
17 STATE.—

18                   (1) TREATMENT FOR PURPOSES OF THIS  
19 TITLE.—In the case of a State that permits paid  
20 family and medical leave benefits to be provided by  
21 an employer (whether directly, under a contract with  
22 an insurer, or provided through a multiemployer  
23 plan) pursuant to a State law described in para-  
24 graph (1) or (3) of subsection (b)—



1           (A) such benefits shall be considered, for  
2           all purposes under this Act, paid family and  
3           medical leave benefits under the law of a legacy  
4           State; and

5           (B) leave for which such benefits are paid  
6           shall be considered, for all such purposes, leave  
7           from covered employment under the law of a  
8           legacy State.

9           (2) DISTRIBUTION OF GRANT FUNDS.—In any  
10          case in which paid family and medical leave benefits  
11          are provided by 1 or more employers (whether di-  
12          rectly, under a contract with an insurer, or provided  
13          through a multiemployer plan) in a legacy State pur-  
14          suant to a State law described in paragraph (1) or  
15          (3) of subsection (b), the State, upon the receipt of  
16          any grant amount under subsection (a), may dis-  
17          tribute an appropriate share of such grant to each  
18          such employer.

19          (e) DATA SHARING.—As a condition of receiving a  
20          grant under subsection (a) in a calendar year, a State  
21          shall enter into an agreement with the Commissioner  
22          under which the State shall provide the Commissioner—

23                (1) with information, to be provided periodically  
24                as determined by the Commissioner, concerning indi-  
25                viduals who received a paid leave benefit under a

1 State law described in paragraph (1) or (3) of sub-  
 2 section (b), including—

3 (A) each individual’s name;

4 (B) information to establish the individ-  
 5 ual’s identity;

6 (C) dates for which such paid leave bene-  
 7 fits were paid;

8 (D) the amount of such paid leave benefit;  
 9 and

10 (E) to the extent available, such other in-  
 11 formation concerning such individuals as nec-  
 12 essary for the purpose of carrying out this sec-  
 13 tion and section 2(5)(C);

14 (2) not later than July 1 of such calendar year,  
 15 the amount described in subsection (a)(2) for the  
 16 calendar year preceding such calendar year; and

17 (3) such other information as needed to deter-  
 18 mine compliance with grant requirements.

19 **SEC. 6. ESTABLISHMENT OF FAMILY AND MEDICAL LEAVE**  
 20 **INSURANCE TRUST FUND.**

21 (a) IN GENERAL.—There is hereby created on the  
 22 books of the Treasury of the United States a trust fund  
 23 to be known as the “Federal Family and Medical Leave  
 24 Insurance Trust Fund”. The Federal Family and Medical  
 25 Leave Insurance Trust Fund shall consist of such gifts

1 and bequests as may be made as provided in section  
2 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1))  
3 and such amounts as may be appropriated to, or deposited  
4 in, the Federal Family and Medical Leave Insurance  
5 Trust Fund as provided in this section.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—

7 (1) IN GENERAL.—There is authorized to be  
8 appropriated to the Federal Family and Medical  
9 Leave Insurance Trust Fund out of moneys in the  
10 Treasury not otherwise appropriated—

11 (A) for the first 3 fiscal years beginning  
12 after the date of enactment of this Act, such  
13 sums as may be necessary for the Commissioner  
14 to—

15 (i) administer the office established  
16 under section 3;

17 (ii) pay the benefits under section 4;

18 and

19 (iii) provide the grants under section  
20 5;

21 (B) 100 percent of the taxes imposed by  
22 sections 3101(c) and 3111(c) of the Internal  
23 Revenue Code of 1986 with respect to wages  
24 (as defined in section 3121 of such Code) re-  
25 ported to the Secretary of the Treasury pursu-

1 ant to subtitle F of such Code, as determined  
2 by the Secretary of the Treasury by applying  
3 the applicable rate of tax under such sections to  
4 such wages;

5 (C) 100 percent of the taxes imposed by  
6 section 1401(c) of such Code with respect to  
7 self-employment income (as defined in section  
8 1402 of such Code) reported to the Secretary of  
9 the Treasury on tax returns under subtitle F of  
10 such Code, as determined by the Secretary of  
11 the Treasury by applying the applicable rate of  
12 tax under such section to such self-employment  
13 income; and

14 (D) 100 percent of the taxes imposed by  
15 sections 3201(c), 3211(c), and 3221(c) of such  
16 Code with respect to compensation (as defined  
17 in section 3231 of such Code) reported to the  
18 Secretary of the Treasury on tax returns under  
19 subtitle F of such Code, as determined by the  
20 Secretary of the Treasury by applying the ap-  
21 plicable rate of tax under such sections to such  
22 compensation.

23 (2) REPAYMENT OF INITIAL APPROPRIATION.—  
24 Amounts appropriated pursuant to subparagraph  
25 (A) of paragraph (1) shall be repaid to the Treasury

1 of the United States not later than 10 years after  
2 the first appropriation is made pursuant to such  
3 subparagraph.

4 (3) TRANSFER TO TRUST FUND.—The amounts  
5 described in paragraph (2) shall be transferred from  
6 time to time from the general fund in the Treasury  
7 to the Federal Family and Medical Leave Insurance  
8 Trust Fund, such amounts to be determined on the  
9 basis of estimates by the Secretary of the Treasury  
10 of the taxes, specified in such paragraph, paid to or  
11 deposited into the Treasury. Proper adjustments  
12 shall be made in amounts subsequently transferred  
13 to the extent prior estimates were inconsistent with  
14 the taxes specified in such paragraph.

15 (c) MANAGEMENT OF TRUST FUND.—The provisions  
16 of subsections (c), (d), (e), (f), (i), and (m) of section 201  
17 of the Social Security Act (42 U.S.C. 401) shall apply with  
18 respect to the Federal Family and Medical Leave Insur-  
19 ance Trust Fund in the same manner as such provisions  
20 apply to the Federal Old-Age and Survivors Insurance  
21 Trust Fund and the Disability Insurance Trust Fund.

22 (d) BENEFITS AND GRANTS PAID FROM TRUST  
23 FUND.—Benefit payments required to be made under sec-  
24 tion 4 and grants provided under section 5 shall be made

1 only from the Federal Family and Medical Leave Insur-  
 2 ance Trust Fund.

3 (e) ADMINISTRATION.—There are authorized to be  
 4 made available for expenditure, out of the Federal Family  
 5 and Medical Leave Insurance Trust Fund, such sums as  
 6 may be necessary to pay the costs of the administration  
 7 of sections 4 and 5, including start-up costs, technical as-  
 8 sistance, outreach, education, evaluation, and reporting.

9 (f) PROHIBITION.—No funds from the Social Secu-  
 10 rity Trust Fund or appropriated to the Social Security Ad-  
 11 ministration to administer Social Security programs may  
 12 be used for Federal Family and Medical Leave Insurance  
 13 benefits or administration set forth under this Act.

14 **SEC. 7. INTERNAL REVENUE CODE PROVISIONS.**

15 (a) IN GENERAL.—

16 (1) EMPLOYEE CONTRIBUTION.—Section 3101  
 17 of the Internal Revenue Code of 1986 is amended—

18 (A) by redesignating subsection (c) as sub-  
 19 section (d); and

20 (B) by inserting after subsection (b) the  
 21 following:

22 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

23 “(1) IN GENERAL.—In addition to other taxes,  
 24 there is hereby imposed on the income of every indi-  
 25 vidual a tax equal to the applicable percentage of the

1 wages (as defined in section 3121(a)) received by the  
2 individual with respect to employment (as defined in  
3 section 3121(b)).

4 “(2) APPLICABLE PERCENTAGE.—For purposes  
5 of paragraph (1), the term ‘applicable percentage’  
6 means 0.2 percent in the case of wages received in  
7 any calendar year.

8 “(3) APPLICATION OF TAX TO FEDERAL,  
9 STATE, AND LOCAL EMPLOYMENT.—For purposes of  
10 the tax imposed by paragraph (1) and the applica-  
11 tion of section 3121(b) with respect to such tax,  
12 rules similar to the rules under paragraphs (1) and  
13 (2) of section 3121(u) shall apply (without regard to  
14 paragraph (2)(C) of such section).”.

15 (2) EMPLOYER CONTRIBUTION.—Section 3111  
16 of such Code is amended—

17 (A) by redesignating subsection (c) as sub-  
18 section (d); and

19 (B) by inserting after subsection (b) the  
20 following:

21 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

22 “(1) IN GENERAL.—In addition to other taxes,  
23 there is hereby imposed on every employer an excise  
24 tax, with respect to having individuals in his employ,  
25 equal to the applicable percentage of the wages (as

1 defined in section 3121(a)) paid by the employer  
2 with respect to employment (as defined in section  
3 3121(b)).

4 “(2) APPLICABLE PERCENTAGE.—For purposes  
5 of paragraph (1), the term ‘applicable percentage’  
6 means 0.2 percent in the case of wages paid in any  
7 calendar year.

8 “(3) APPLICATION OF TAX TO FEDERAL,  
9 STATE, AND LOCAL EMPLOYMENT.—For purposes of  
10 the tax imposed by paragraph (1) and the applica-  
11 tion of section 3121(b) with respect to such tax,  
12 rules similar to the rules under paragraphs (1) and  
13 (2) of section 3121(u) shall apply (without regard to  
14 paragraph (2)(C) of such section).”.

15 (3) SELF-EMPLOYMENT INCOME CONTRIBU-  
16 TION.—

17 (A) IN GENERAL.—Section 1401 of such  
18 Code is amended—

19 (i) by redesignating subsection (c) as  
20 subsection (d); and

21 (ii) by inserting after subsection (b)  
22 the following:

23 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

24 “(1) IN GENERAL.—In addition to other taxes,  
25 there is hereby imposed for each taxable year, on the



1 self-employment income of every individual, a tax  
2 equal to the applicable percentage of the amount of  
3 the self-employment income for such taxable year.

4 “(2) APPLICABLE PERCENTAGE.—For purposes  
5 of paragraph (1), the term ‘applicable percentage’  
6 means 0.4 percent in the case of self-employment in-  
7 come in any taxable year.”.

8 (B) EXCLUSION OF CERTAIN NET EARN-  
9 INGS FROM SELF-EMPLOYMENT.—Section  
10 1402(b)(1) of such Code is amended by striking  
11 “tax imposed by section 1401(a)” and inserting  
12 “taxes imposed by subsections (a) and (c) of  
13 section 1401”.

14 (b) RAILROAD RETIREMENT TAX ACT.—

15 (1) EMPLOYEE CONTRIBUTION.—Section 3201  
16 of such Code is amended—

17 (A) by redesignating subsection (c) as sub-  
18 section (d); and

19 (B) by inserting after subsection (b) the  
20 following:

21 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

22 “(1) IN GENERAL.—In addition to other taxes,  
23 there is hereby imposed on the income of each em-  
24 ployee a tax equal to the applicable percentage of  
25 the compensation received during any calendar year

1 by such employee for services rendered by such em-  
2 ployee.

3 “(2) APPLICABLE PERCENTAGE.—For purposes  
4 of paragraph (1), the term ‘applicable percentage’  
5 means 0.2 percent in the case of compensation re-  
6 ceived in any calendar year.”.

7 (2) EMPLOYEE REPRESENTATIVE CONTRIBU-  
8 TION.—Section 3211 of such Code is amended—

9 (A) by redesignating subsection (c) as sub-  
10 section (d); and

11 (B) by inserting after subsection (b) the  
12 following:

13 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

14 “(1) IN GENERAL.—In addition to other taxes,  
15 there is hereby imposed on the income of each em-  
16 ployee representative a tax equal to the applicable  
17 percentage of the compensation received during any  
18 calendar year by such employee representative for  
19 services rendered by such employee representative.

20 “(2) APPLICABLE PERCENTAGE.—For purposes  
21 of paragraph (1), the term ‘applicable percentage’  
22 means 0.2 percent in the case of compensation re-  
23 ceived in any calendar year.”.

24 (3) EMPLOYER CONTRIBUTION.—Section 3221  
25 of such Code is amended—

1 (A) by redesignating subsection (c) as sub-  
2 section (d); and

3 (B) by inserting after subsection (b) the  
4 following:

5 “(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

6 “(1) IN GENERAL.—In addition to other taxes,  
7 there is hereby imposed on every employer an excise  
8 tax, with respect to having individuals in his employ,  
9 equal to the applicable percentage of the compensa-  
10 tion paid during any calendar year by such employer  
11 for services rendered to such employer.

12 “(2) APPLICABLE PERCENTAGE.—For purposes  
13 of paragraph (1), the term ‘applicable percentage’  
14 means 0.2 percent in the case of compensation paid  
15 in any calendar year.”.

16 (c) CONFORMING AMENDMENTS.—

17 (1) Section 6413(c) of the Internal Revenue  
18 Code of 1986 is amended—

19 (A) in paragraph (1)—

20 (i) by inserting “, section 3101(c),”  
21 after “by section 3101(a)”; and

22 (ii) by striking “both” and inserting  
23 “each”; and

24 (B) in paragraph (2), by inserting “or  
25 3101(c)” after “3101(a)” each place it appears.

1           (2) Section 15(a) of the Railroad Retirement  
2           Act of 1974 (45 U.S.C. 231n(a)) is amended by in-  
3           serting “(other than sections 3201(c), 3211(c), and  
4           3221(c))” before the period at the end.

5           (d) **EFFECTIVE DATE.**—The amendments made by  
6           this section shall take effect 120 days after the date of  
7           the enactment of this Act.

8           **SEC. 8. REGULATIONS.**

9           The Commissioner, in consultation with the Secretary  
10          of Labor, shall prescribe regulations necessary to carry out  
11          this Act. In developing such regulations, the Commissioner  
12          shall consider the input from a volunteer advisory body  
13          comprised of not more than 15 individuals, including ex-  
14          perts in the relevant subject matter and officials charged  
15          with implementing State paid family and medical leave in-  
16          surance programs. The Commissioner shall take such pro-  
17          grams into account when proposing regulations. Such indi-  
18          viduals shall be appointed as follows:

19               (1) Five individuals to be appointed by the  
20               President.

21               (2) Three individuals to be appointed by the  
22               majority leader of the Senate.

23               (3) Two individuals to be appointed by the mi-  
24               nority leader of the Senate.

1           (4) Three individuals to be appointed by the  
2 Speaker of the House of Representatives.

3           (5) Two individuals to be appointed by the mi-  
4 nority leader of the House of Representatives.

5 **SEC. 9. GAO STUDY.**

6       As soon as practicable after calendar year 2024, the  
7 Comptroller General shall submit to Congress a report on  
8 family and medical leave insurance benefits paid under  
9 section 4 for any month during the 1-year period begin-  
10 ning on January 1, 2024. The report shall include the fol-  
11 lowing:

12           (1) An identification of the total number of ap-  
13 plications for such benefits filed for any month dur-  
14 ing such 1-year period, and the average number of  
15 days occurring in the period beginning on the date  
16 on which such an application is received and ending  
17 on the date on which the initial determination of eli-  
18 gibility with respect to the application is made.

19           (2) An identification of the total number of re-  
20 quests for review of an initial adverse determination  
21 of eligibility for such benefits made during such 1-  
22 year period, and the average number of days occur-  
23 ring in the period beginning on the date on which  
24 such review is requested and ending on the date on

1       which the final determination of eligibility with re-  
2       spect to such review is made.

3           (3) An identification of the total number of  
4       monthly benefit claim reports for such benefits filed  
5       during such 1-year period, and the average number  
6       of days occurring in the period beginning on the  
7       date on which such a claim report is received and  
8       ending on the date on which the initial determina-  
9       tion of eligibility with respect to the claim report is  
10      made.

11          (4) An identification of the total number of re-  
12      quests for review of an initial adverse determination  
13      relating to a monthly benefit claim report for such  
14      benefits made during such 1-year period, and the av-  
15      erage number of days occurring in the period begin-  
16      ning on the date on which such review is requested  
17      and ending on the date on which the final deter-  
18      mination of eligibility with respect to such review is  
19      made.

20          (5) An identification of any excessive delay in  
21      any of the periods described in paragraphs (1)  
22      through (4), and a description of the causes for such  
23      delay.

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