

116TH CONGRESS
1ST SESSION

H. R. 1185

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2019

Ms. DELAURO (for herself, Mr. NEAL, Mr. DANNY K. DAVIS of Illinois, Mr. SCOTT of Virginia, Ms. WASSERMAN SCHULTZ, Ms. NORTON, Mr. PAYNE, Mrs. DINGELL, Mr. SERRANO, Ms. ROYBAL-ALLARD, Mr. DEFazio, Mr. CICILLINE, Mr. KHANNA, Ms. BONAMICI, Mr. LOWENTHAL, Mr. COHEN, Mrs. BEATTY, Mr. MCNERNEY, Mr. LARSON of Connecticut, Mr. CUMMINGS, Mr. RICHMOND, Mr. ESPAILLAT, Mr. WELCH, Ms. OMAR, Ms. KUSTER of New Hampshire, Mr. HIGGINS of New York, Ms. HILL of California, Ms. SPEIER, Mr. HASTINGS, Mrs. WATSON COLEMAN, Mrs. KIRKPATRICK, Miss RICE of New York, Mr. NADLER, Ms. JACKSON LEE, Ms. WILSON of Florida, Ms. GABBARD, Mr. LANGEVIN, Mr. POCAN, Ms. MOORE, Ms. PINGREE, Ms. BLUNT ROCHESTER, Mr. ENGEL, Mr. MOULTON, Mr. LAWSON of Florida, Mrs. MURPHY, Ms. SHALALA, Ms. FRANKEL, Ms. DEGETTE, Mrs. CAROLYN B. MALONEY of New York, Mr. GRIJALVA, Mr. RYAN, Mr. GOMEZ, Ms. MCCOLLUM, Mr. PALLONE, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. RASKIN, Mr. SEAN PATRICK MALONEY of New York, Mr. TAKANO, Mr. PRICE of North Carolina, Mr. AGUILAR, Mr. CARBAJAL, Mrs. TORRES of California, Mr. LEVIN of Michigan, Mr. GARAMENDI, Mr. KILMER, Mr. YARMUTH, Mr. SWALWELL of California, Ms. KAPTUR, Ms. DEAN, Ms. CASTOR of Florida, Mr. SOTO, Mr. DOGGETT, Mrs. LAWRENCE, Mr. KRISHNAMOORTHY, Mr. LUJÁN, Mr. MCGOVERN, Ms. DELBENE, Mr. CÁRDENAS, Mr. SCHIFF, Mr. TONKO, Mr. SARBANES, Mrs. LOWEY, Mr. NEGUSE, Mrs. CRAIG, Mrs. HAYES, Mrs. TRAHAN, Mr. CRIST, Mrs. MCBATH, Mr. PASCRELL, Mr. DEUTCH, Mr. SABLAN, Mr. BERA, Ms. ESHOO, Mrs. DAVIS of California, Mr. KENNEDY, Mr. COURTNEY, Ms. FUDGE, Ms. JAYAPAL, Mr. KILDEE, Mr. EVANS, Ms. SÁNCHEZ, Ms. WILD, Ms. OCASIO-CORTEZ, Ms. CLARKE of New York, Mr. TRONE, Mr. LYNCH, Ms. PRESSLEY, Ms. BARRAGÁN, Mr. GALLEGRO, Ms. VELÁZQUEZ, Mr. BEYER, Ms. SEWELL of Alabama, Mr. CONNOLLY, Ms. MATSUI, Mr. PERLMUTTER, Ms. LEE of California, Mr. PANETTA, Mr. GONZALEZ of Texas, Mr. LARSEN of Washington, Mr. KIND, Ms. JUDY CHU of California, Mr. DESAULNIER, Mr. NORCROSS, Ms. MUCARSEL-POWELL, Mr. MORELLE, Ms. SCANLON, Mr. HIMES, Mr. HORSFORD, Ms. MENG, Mr. RUSH, Ms. SCHAKOWSKY,

Mr. CARTWRIGHT, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. QUIGLEY, Mr. SUOZZI, Mr. GARCÍA of Illinois, Ms. SLOTKIN, Mr. CLEAVER, Ms. LOFGREN, Mr. MEEKS, Ms. WEXTON, Ms. STEVENS, Mr. JEFFRIES, Ms. UNDERWOOD, Ms. CLARK of Massachusetts, Mr. ROSE of New York, Mr. MALINOWSKI, Ms. HOULAHAN, Ms. SCHRIER, Mr. DAVID SCOTT of Georgia, Mr. LEWIS, Mr. VARGAS, Mr. HUFFMAN, Mr. KEATING, Mr. COX of California, Mr. SIRES, Ms. GARCIA of Texas, Mr. MCEACHIN, Mr. TED LIEU of California, Mr. KIM, Ms. ADAMS, Ms. HAALAND, Mr. SMITH of Washington, and Mr. DELGADO) introduced the following bill; which was referred to the Committee on Ways and Means

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. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) In more than two-thirds of families with
 9 children, all adults in the household work.
 10 43,500,000 people provide unpaid care to family
 11 members, and six of every ten family caregivers re-
 12 port working at jobs unrelated to their care respon-
 13 sibilities. More than half report working full time.
 14 An estimated 36,000,000 working age adults live
 15 with a family member who has a disability. Without

1 paid family and medical leave, many workers are un-
2 able to take time away from work to care for new-
3 born children, parents and relatives with serious
4 health conditions, or themselves.

5 (2) Both women and men need to be able to
6 take time off work to participate in the care of their
7 children, in the care of seriously ill family members,
8 and to address their own serious health conditions.
9 Yet, a mere 17 percent of civilian workers in the
10 United States have access to paid family leave
11 through their employers, and fewer than 40 percent
12 have access to short-term disability insurance pro-
13 vided by their employer to use for their own ill-
14 nesses.

15 (3) Many workers cannot afford to take unpaid
16 time off work to provide care. According to the De-
17 partment of Labor, nearly half of workers who quali-
18 fied for leave under the Family and Medical Leave
19 Act of 1993 (FMLA) in 2011 were unable to take
20 the leave because they could not afford to take time
21 off without pay. Six in ten workers who took par-
22 tially paid or unpaid leave reported difficulty making
23 ends meet; half of these workers were forced to cut
24 their leaves short due to financial constraints.

1 (4) Only 17 percent of all workers had access
2 to paid family leave in 2017 and it was available to
3 only 5 percent of people working in the lowest pay-
4 ing jobs. Workers who lack paid family and medical
5 leave face lost wages or even job loss when they miss
6 work because of their own illness or to care for an
7 ill child or parent. In this way, access to paid family
8 and medical leave plays a critical role in families' ef-
9 forts to maintain employment and economic security.

10 (5) Caregiving has a high value but also comes
11 at a high cost for family caregivers. Working fami-
12 lies in the United States lose an estimated
13 \$20,600,000,000 in wages each year due to lack of
14 access to paid family and medical leave.

15 (6) The estimated value of unpaid family care
16 provided in 2013 was \$470,000,000,000. Family
17 caregivers face financial, physical and emotional
18 hardships, and in many cases their careers, incomes,
19 and retirement security suffer because of their fam-
20 ily responsibilities.

21 (7) The average worker age 50 and older who
22 leaves the workforce to care for an elderly parent
23 loses more than \$300,000 in earnings and retire-
24 ment income. Working caregivers should not have to

1 risk their family's economic security to fulfill their
2 caregiving obligations.

3 (8) By 2030, one in five United States resi-
4 dents will have reached retirement age, and individ-
5 uals 65 and older are projected to outnumber those
6 under the age of 18 for the first time in the history
7 of the United States. The number of potential family
8 caregivers for each person age 80 and older will fall
9 from 7:1 in 2010 to fewer than 3:1 by 2050. Addi-
10 tionally, the number of people with chronic condi-
11 tions is expected to reach nearly 160,000,000 by
12 2020. Many of these individuals will at some point
13 require family care, and for older workers still in the
14 workforce, many will need time off at some point to
15 address serious health conditions.

16 (9) Ensuring working family caregivers have
17 paid family leave to care for seriously ill or injured
18 older adult relatives could drive down Medicare costs
19 by decreasing recurrences of ailments and re-admit-
20 tance into hospitals. The implementation of Califor-
21 nia's paid family leave insurance program, which has
22 been in effect since 2004, accounted for an 11 per-
23 cent relative decline in elder nursing home usage.

24 (10) Only half of cancer patients and survivors
25 report having access to paid leave, and only four in

1 ten caregivers of those patients are able to take paid
2 leave to help with completing treatment, managing
3 symptoms and side effects, and caring for their own
4 health.

5 (11) Many workers are forced to quickly return
6 to work after the birth or arrival of a child because
7 they have no access to paid family and medical
8 leave. Only half of new mothers take paid leave of
9 any duration after the birth of their first child, and
10 among women with less than a high school education
11 the figure is less than 20 percent—a rate that has
12 not changed in more than half a century. Access to
13 paid leave is even rarer for men, as just 9 percent
14 of private sector workers are employed at worksites
15 that offer paid paternity leave to all male employees.
16 Three out of every four fathers in white-collar jobs
17 took one week or less of leave after their most recent
18 child was born, and nearly 60 percent of low-income
19 fathers reported taking zero weeks of paid time
20 away from work after the birth or adoption of a
21 child.

22 (12) When new mothers have no choice but to
23 return to work without taking leave, children can ex-
24 perience a variety of negative outcomes including
25 higher rates of infant mortality, lower rates of

1 breastfeeding, and lower rates of immunization. Cali-
2 fornia's paid leave program improved child health
3 outcomes, particularly for economically vulnerable
4 children, and improved breastfeeding and vaccina-
5 tion rates.

6 (13) New mothers without sufficient leave expe-
7 rience a higher incidence of physical and mental
8 health concerns, and new mothers with fewer than
9 12 weeks of leave experience elevated risks of
10 postpartum depression. California's paid family leave
11 insurance program increased the number of weeks of
12 leave that women take after childbirth, with larger
13 effects among women in jobs that do not provide
14 paid leave. New Jersey's paid leave program, which
15 has been in effect since 2009, was strongly associ-
16 ated with improvements in new mothers' physical
17 health.

18 (14) A gender-inclusive nationwide paid family
19 and medical leave program would address persistent
20 sex discrimination in the utilization of leave benefits
21 and reduce the disparity between women and men
22 regarding who takes time off from work to fulfill
23 caregiving duties.

24 (15) Many men would like to be more involved
25 in caregiving and report greater work-family conflict

1 than ever before. When fathers in two-parent, oppo-
2 site-sex households take paid leave, their involvement
3 in caregiving and domestic chores increases, sup-
4 porting equal co-parenting and making it easier for
5 women to return to the workforce. In California,
6 men's use of the State's paid family leave insurance
7 program to care for a new child has more than dou-
8 bled since the program's implementation. In Rhode
9 Island, which implemented its program in 2014, men
10 took leave at higher rates in the program's first year
11 than other State programs' first year.

12 (16) Paid family and medical leave promotes
13 families' financial security and independence, in-
14 creases worker retention, and promotes savings for
15 taxpayers. Women who take paid leave after a
16 child's birth are more likely to be in the labor force
17 in the 9 to 12 months after a child's birth and to
18 earn higher wages in the year following their child's
19 birth. Both men and women who take paid leave
20 after a child's birth are less likely to receive SNAP
21 benefits and other public assistance in the year fol-
22 lowing a child's birth.

23 (17) Without paid medical leave, workers who
24 are ill or injured may return to work before being
25 fully recovered, thus making them susceptible to a

1 relapse or recurrence, and potentially placing addi-
2 tional burdens on the health care system. When a
3 job requires physical stamina or ability, individuals
4 who return to work too early may put themselves or
5 others in jeopardy.

6 (18) A social insurance model of providing paid
7 family leave pioneered and implemented by the
8 States of California, New Jersey, Rhode Island, and
9 New York, and recently passed in the District of Co-
10 lumbia, Washington, and Massachusetts, has worked
11 well for workers, their families, and employers. The
12 overwhelming majority of California employers re-
13 port that the State's program had a positive or neu-
14 tral effect on their business, and businesses surveyed
15 in New Jersey and Rhode Island reported having lit-
16 tle trouble adjusting to the State's law.

17 (19) When workers can care for themselves and
18 their loved ones, employers experience positive im-
19 pacts. In California, where a family leave insurance
20 program has existed for more than a decade, work-
21 ers in low-wage, high-turnover industries are much
22 more likely to return to their jobs after using the
23 program, and 9 out of 10 businesses report positive
24 or neutral effects on profitability and productivity.

1 (20) High-profile employers are increasingly
2 recognizing the value of providing paid leave in re-
3 duced turnover and improved employee morale and
4 productivity, yet access to paid leave remains low
5 across most industries, particularly for low- and
6 middle-income workers. Some of the fastest-growing
7 occupations, such as home health care and service
8 jobs, typically pay low wages and are particularly
9 unlikely to offer paid leave benefits. As of 2018,
10 more than 75 businesses and business leaders have
11 endorsed the need for a strong, inclusive national
12 paid leave policy.

13 (21) Californians have filed nearly 2,810,000
14 paid family leave claims between the implementation
15 of the State's paid family leave program in 2004
16 and November 2017. In New Jersey, more than
17 255,000 claims have been filed over the more than
18 7 years of the program's existence, and in Rhode Is-
19 land, nearly 34,000 claims were filed in the pro-
20 grams first 3 years. These claims represent valuable
21 care for new children and seriously ill loved ones.

22 (22) Social Security is the Nation's primary so-
23 cial insurance system, with the most complete record
24 of workers' earnings history. It provides retirement
25 assistance and disability benefits currently and,

1 since its creation in 1934, the programs the Social
2 Security Administration administers have been up-
3 dated multiple times to reflect the changing needs of
4 the population, families and the workforce. The sys-
5 tem needs to be changed again now—with appro-
6 priate investments to meet the agency’s needs—to
7 reflect today’s realities.

8 (23) Researchers at Brandeis University esti-
9 mate that, following enactment of this Act, the share
10 of families falling into financial hardship (earnings
11 below 200 percent of the Federal poverty line) as a
12 result of taking 12 weeks of unpaid leave would be
13 reduced by more than 81 percent.

14 (24) Without a national paid leave policy, the
15 United States is missing out on substantial economic
16 activity, which has been estimated at approximately
17 \$500,000,000,000 by the Department of Labor, as
18 women in particular are held back from partici-
19 pating in the workforce in equal shares.

20 (25) A national paid family and medical leave
21 program has the support of more than eight in ten
22 voters across demographic and party lines.

23 (b) PURPOSE.—It is the purpose of this Act—

24 (1) to help working people, including single
25 working parents and workers in dual-earner families,

1 afford to take time away from work to provide care
2 for a family member;

3 (2) to provide workers with a reasonable level
4 of wage replacement during time away from work
5 for a serious health condition, for the birth or adop-
6 tion of a child, for the care of a child, spouse, or
7 parent who has a serious health condition, for the
8 care of an injured servicemember, or for qualifying
9 exigencies arising from the deployment of a service-
10 member;

11 (3) to address sex discrimination, promote the
12 goal of equal employment opportunity for women
13 and men, and to provide relief when employers vio-
14 late the law; and

15 (4) to accomplish the purposes described in
16 paragraphs (1), (2), and (3) in a manner that ac-
17 commodates the legitimate interests of employers.

18 **SEC. 3. DEFINITIONS.**

19 In this Act, the following definitions apply:

20 (1) CAREGIVING DAY.—The term “caregiving
21 day” means, with respect to an individual, a cal-
22 endar day in which the individual engaged in quali-
23 fied caregiving.

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

1 (3) DEPUTY COMMISSIONER.—The term “Dep-
2 uty Commissioner” means the Deputy Commissioner
3 who heads the Office of Paid Family and Medical
4 Leave established under section 4(a).

5 (4) ELIGIBLE INDIVIDUAL.—The term “eligible
6 individual” means an individual who is entitled to a
7 benefit under section 5 for a particular month, upon
8 filing an application for such benefit for such month.

9 (5) INITIAL WAITING PERIOD.—The term “ini-
10 tial waiting period” means a period beginning with
11 the first caregiving day of an individual occurring
12 during the individual’s benefit period and ending
13 after the earlier of—

14 (A) the fifth caregiving day of the indi-
15 vidual occurring during the benefit period; or

16 (B) the month preceding the first month in
17 the benefit period during which occur not less
18 than 15 caregiving days of the individual.

19 (6) QUALIFIED CAREGIVING.—The term “quali-
20 fied caregiving” means any activity engaged in by an
21 individual, other than regular employment, for a rea-
22 son for which an eligible employee would be entitled
23 to leave under subparagraphs (A) through (E) of
24 paragraph (1) of section 102(a) of the Family and
25 Medical Leave Act of 1993 (29 U.S.C. 2612(a)).

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

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

9 (9) WAGES.—The term “wages”, except as such
10 term is used in subsection (h)(2) of section 5, has
11 the same meaning as such term in section 209 of the
12 Social Security Act (42 U.S.C. 409).

13 (10) 60-DAY LIMITATION PERIOD.—The term
14 “60-day limitation period” means a period—

15 (A) beginning with the first caregiving day
16 of an individual occurring during the individ-
17 ual’s benefit period and after the expiration of
18 the individual’s 5-day waiting period, if applica-
19 ble; and

20 (B) ending with the 60th caregiving day of
21 the individual occurring during the benefit pe-
22 riod and after the expiration of the 5-day wait-
23 ing period,

24 disregarding any caregiving day of the individual oc-
25 ccurring during any month in the benefit period after

1 the first 20 caregiving days of the individual occur-
2 ring during such month.

3 **SEC. 4. OFFICE OF PAID FAMILY AND MEDICAL LEAVE.**

4 (a) ESTABLISHMENT OF OFFICE.—There is estab-
5 lished within the Social Security Administration an office
6 to be known as the Office of Paid Family and Medical
7 Leave. The Office shall be headed by a Deputy Commis-
8 sioner who shall be appointed by the Commissioner.

9 (b) RESPONSIBILITIES OF DEPUTY COMMIS-
10 SIONER.—The Commissioner, acting through the Deputy
11 Commissioner, shall be responsible for—

12 (1) hiring personnel and making employment
13 decisions with regard to such personnel;

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

16 (3) entering into cooperative agreements with
17 other agencies and departments to ensure the effi-
18 ciency of the administration of the program;

19 (4) determining eligibility for family and med-
20 ical leave insurance benefits under section 5;

21 (5) determining benefit amounts for each
22 month of such eligibility and making timely pay-
23 ments of such benefits to entitled individuals in ac-
24 cordance with such section;

1 (6) establishing and maintaining a system of
2 records relating to the administration of such sec-
3 tion;

4 (7) preventing fraud and abuse relating to such
5 benefits;

6 (8) providing information on request regarding
7 eligibility requirements, the claims process, benefit
8 amounts, maximum benefits payable, notice require-
9 ments, nondiscrimination rights, confidentiality, co-
10 ordination of leave under this Act and other laws,
11 collective bargaining agreements, and employer poli-
12 cies;

13 (9) annually providing employers a notice in-
14 forming employees of the availability of such bene-
15 fits;

16 (10) annually making available to the public a
17 report that includes the number of individuals who
18 received such benefits, the purposes for which such
19 benefits were received, and an analysis of utilization
20 rates of such benefits by gender, race, ethnicity, and
21 income levels; and

22 (11) tailoring culturally and linguistically com-
23 petent education and outreach toward increasing uti-
24 lization rates of benefits under such section.

1 (c) AVAILABILITY OF DATA.—The Commissioner
2 shall make available to the Deputy Commissioner such
3 data as the Commissioner determines necessary to enable
4 the Deputy Commissioner to effectively carry out the re-
5 sponsibilities described in subsection (b).

6 **SEC. 5. FAMILY AND MEDICAL LEAVE INSURANCE BENEFIT**
7 **PAYMENTS.**

8 (a) IN GENERAL.—Every individual who—

9 (1) is insured for disability insurance benefits
10 (as determined under section 223(c) of the Social
11 Security Act (42 U.S.C. 423(c))) at the time such
12 individual's application is filed;

13 (2) has earned income from employment during
14 the 12 months prior to the month in which the ap-
15 plication is filed;

16 (3) has filed an application for a family and
17 medical leave insurance benefit in accordance with
18 subsection (d); and

19 (4) was engaged in qualified caregiving, or an-
20 ticipates being so engaged, during the period that
21 begins 90 days before the date on which such appli-
22 cation is filed or within 30 days after such date,
23 shall be entitled to such a benefit for each month in the
24 benefit period specified in subsection (c), not to exceed 60
25 caregiving days per benefit period.

1 (b) BENEFIT AMOUNT.—

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

6 (A) the lesser of $\frac{1}{18}$ of the wages and self-
7 employment income of the individual for the
8 calendar year in which such wages and self-em-
9 ployment income are the highest among the
10 most recent three calendar years, or the max-
11 imum benefit amount determined under para-
12 graph (2); or

13 (B) the minimum benefit amount deter-
14 mined under paragraph (2),
15 multiplied by the quotient (not greater than 1) ob-
16 tained by dividing the number of caregiving days of
17 the individual in such month by 20.

18 (2) ANNUAL INCREASE OF MAXIMUM AND MIN-
19 IMUM BENEFIT AMOUNTS.—

20 (A) For individuals who initially become el-
21 igible for family and medical leave insurance
22 benefits in the first full calendar year after the
23 date of enactment of this Act, the maximum
24 monthly benefit amount and the minimum

1 monthly benefit amount shall be \$4,000 and
2 \$580, respectively.

3 (B) For individuals who initially become el-
4 igible for family and medical leave insurance
5 benefits in any calendar year after such first
6 full calendar year the maximum benefit amount
7 and the minimum benefit amount shall be, re-
8 spectively, the product of the corresponding
9 amount determined with respect to the first cal-
10 endar year under subparagraph (A) and the
11 quotient obtained by dividing—

12 (i) the national average wage index
13 (as defined in section 209(k)(1) of the So-
14 cial Security Act (42 U.S.C. 409(k)(1)))
15 for the second calendar year preceding the
16 calendar year for which the determination
17 is made, by

18 (ii) the national average wage index
19 (as so defined) for 2018.

20 (3) LIMITATIONS ON BENEFITS PAID.—

21 (A) NONPAYABLE WAITING PERIOD.—Any
22 calendar day during an individual's benefit pe-
23 riod which occurs before the expiration of an
24 initial waiting period shall not be taken into ac-

1 count under this subsection as a caregiving day
2 of the individual.

3 (B) LIMITATION ON TOTAL BENEFITS
4 PAID.—Any calendar day during an individual’s
5 benefit period which occurs after the expiration
6 of a 60-day limitation period shall not be taken
7 into account under this subsection as a
8 caregiving day of the individual.

9 (4) REDUCTION IN BENEFIT AMOUNT ON AC-
10 COUNT OF RECEIPT OF CERTAIN BENEFITS.—A ben-
11 efit under this section for a month shall be reduced
12 by the amount, if any, in certain benefits (as deter-
13 mined under regulations issued by the Commis-
14 sioner) as may be otherwise received by an indi-
15 vidual. For purposes of the preceding sentence, cer-
16 tain benefits include—

17 (A) periodic benefits on account of such in-
18 dividual’s total or partial disability under a
19 workmen’s compensation law or plan of the
20 United States or a State; and

21 (B) periodic benefits on account of an indi-
22 vidual’s employment status under an unemploy-
23 ment law or plan of the United States or a
24 State.

1 (5) COORDINATION OF BENEFIT AMOUNT WITH
2 CERTAIN STATE BENEFITS.—A benefit received
3 under this section shall be coordinated, in a manner
4 determined by regulations issued by the Commis-
5 sioner, with the periodic benefits received from tem-
6 porary disability insurance or family leave insurance
7 programs under any law or plan of a State, a polit-
8 ical subdivision (as that term is used in section
9 218(b)(2) of the Social Security Act (42 U.S.C.
10 418(b)(2))), or an instrumentality of two or more
11 States (as that term is used in section 218(g) of
12 such Act of the Social Security Act (42 U.S.C.
13 418(g))).

14 (c) BENEFIT PERIOD.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the benefit period specified in this sub-
17 section shall begin on the 1st day of the 1st month
18 in which the individual meets the criteria specified in
19 paragraphs (1), (2), and (3) of subsection (a), and
20 shall end on the date that is 365 days after the 1st
21 day of the benefit period.

22 (2) RETROACTIVE BENEFITS.—In the case of
23 an application for benefits under this section for
24 qualified caregiving in which the individual was en-
25 gaged at any time during the 90-day period pre-

1 ceding the date on which such application is sub-
2 mitted, the benefit period specified in this subsection
3 shall begin on the later of—

4 (A) the 1st day of the 1st month in which
5 the individual engaged in such qualified
6 caregiving; or

7 (B) the 1st day of the 1st month that be-
8 gins during such 90-day period,
9 and shall end on the date that is 365 days after the
10 1st day of the benefit period.

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

13 (1) a statement that the individual was engaged
14 in qualified caregiving, or anticipates being so en-
15 gaged, during the period that begins 90 days before
16 the date on which the application is submitted or
17 within 30 days after such date;

18 (2) if the qualified caregiving described in the
19 statement in paragraph (1) is engaged in by the in-
20 dividual because of a serious health condition of the
21 individual or a relative of the individual, a certifi-
22 cation, issued by the health care provider treating
23 such serious health condition, that affirms the infor-
24 mation specified in paragraph (1) and contains such
25 information as the Commissioner shall specify in

1 regulations, which shall be no more than the infor-
2 mation that is required to be stated under section
3 103(b) of the Family and Medical Leave Act of
4 1993 (29 U.S.C. 2613(b));

5 (3) if such qualified caregiving is engaged in by
6 the individual for any other authorized reason, a cer-
7 tification, issued by a relevant authority determined
8 under regulations issued by the Commissioner, that
9 affirms the circumstances giving rise to such reason;
10 and

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

16 (e) INELIGIBILITY; DISQUALIFICATION.—

17 (1) INELIGIBILITY FOR BENEFIT.—An indi-
18 vidual shall be ineligible for a benefit under this sec-
19 tion for any month for which the individual is enti-
20 tled to—

21 (A) disability insurance benefits under sec-
22 tion 223 of the Social Security Act (42 U.S.C.
23 423) or a similar permanent disability program
24 under any law or plan of a State or political
25 subdivision or instrumentality of a State (as

1 such terms are used in section 218 of the Social
2 Security Act (42 U.S.C. 418));

3 (B) monthly insurance benefits under sec-
4 tion 202 of such Act (42 U.S.C. 402) based on
5 such individual's disability (as defined in sec-
6 tion 223(d) of such Act (42 U.S.C. 423(d))); or

7 (C) benefits under title XVI of such Act
8 (42 U.S.C. 1381 et seq.) based on such individ-
9 ual's status as a disabled individual (as deter-
10 mined under section 1614 of such Act (42
11 U.S.C. 1382e)).

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

19 (f) REVIEW OF ELIGIBILITY AND BENEFIT PAYMENT
20 DETERMINATIONS.—

21 (1) ELIGIBILITY DETERMINATIONS.—

22 (A) IN GENERAL.—The Commissioner
23 shall provide notice to an individual applying
24 for benefits under this section of the initial de-
25 termination of eligibility for such benefits, and

1 the estimated benefit amount for a month in
2 which one caregiving day of the individual oc-
3 curs, as soon as practicable after the applica-
4 tion is received.

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

16 (2) BENEFIT PAYMENT DETERMINATIONS.—

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

1 Such monthly report shall be filed with the
2 Commissioner not later than 15 days after the
3 end of each month.

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

1 (3) BURDEN OF PROOF.—An application for
2 benefits under this section and a monthly benefit
3 claim report of an individual shall each be presumed
4 to be true and accurate, unless the Commissioner
5 demonstrates by a preponderance of the evidence
6 that information contained in the application is
7 false.

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

16 (5) REVIEW.—All final determinations of the
17 Commissioner under this subsection shall be review-
18 able according to the procedures set out in section
19 205 of the Social Security Act (42 U.S.C. 405).

20 (g) RELATIONSHIP WITH STATE LAW; EMPLOYER
21 BENEFITS.—

22 (1) IN GENERAL.—This section does not pre-
23 empt or supercede any provision of State or local
24 law that authorizes a State or local municipality to

1 provide paid family and medical leave benefits simi-
2 lar to the benefits provided under this section.

3 (2) GREATER BENEFITS ALLOWED.—Nothing
4 in this Act shall be construed to diminish the obliga-
5 tion of an employer to comply with any contract, col-
6 lective bargaining agreement, or any employment
7 benefit program or plan that provides greater paid
8 leave or other leave rights to employees than the
9 rights established under this Act.

10 (h) PROHIBITED ACTS; ENFORCEMENT.—

11 (1) IN GENERAL.—It shall be unlawful for any
12 person to discharge or in any other manner discrimi-
13 nate against an individual because the individual has
14 applied for, indicated an intent to apply for, or re-
15 ceived family and medical leave insurance benefits.

16 (2) CIVIL ACTION BY AN INDIVIDUAL.—

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

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

22 (I) the amount of—

23 (aa) any wages, salary, em-
24 ployment benefits, or other com-
25 pensation denied or lost to such

1 individual by reason of the viola-
2 tion; or

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

14 (II) the interest on the amount
15 described in subclause (I) calculated
16 at the prevailing rate; and

17 (III) an additional amount as liq-
18 uidated damages equal to the sum of
19 the amount described in subclause (I)
20 and the interest described in sub-
21 clause (II), except that if a person
22 who has violated paragraph (1) proves
23 to the satisfaction of the court that
24 the act or omission which violated
25 paragraph (1) was in good faith and

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

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

18 (i) the individual; or

19 (ii) the individual and other individ-
20 uals similarly situated.

21 (C) FEES AND COSTS.—The court in such
22 an action shall, in addition to any judgment
23 awarded to the plaintiff, allow a reasonable at-
24 torney's fee, reasonable expert witness fees, and

1 other costs of the action to be paid by the de-
2 fendant.

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

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

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

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

23 (3) ACTION BY THE COMMISSIONER.—

24 (A) CIVIL ACTION.—The Commissioner
25 may bring an action in any court of competent

1 jurisdiction to recover the damages described in
2 paragraph (2)(A)(I).

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

12 (4) LIMITATION.—

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

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

22 (5) ACTION FOR INJUNCTION BY COMMIS-
23 SIONER.—The district courts of the United States
24 shall have jurisdiction, for cause shown, in an action
25 brought by the Commissioner—

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

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

9 (i) SPECIAL RULE FOR RAILROAD EMPLOYEES.—For
10 purposes of subsection (a)(1), an individual shall be
11 deemed to be insured for disability insurance benefits if
12 the individual would be so insured if the individual’s serv-
13 ice as an employee (as defined in the section 1(b) of the
14 Railroad Retirement Act of 1974) after December 31,
15 1936, were included within the meaning of the term “em-
16 ployment” for purposes of title II of the Social Security
17 Act (42 U.S.C. 401 et seq.).

18 (j) DETERMINATION OF WHETHER AN ACTIVITY
19 CONSTITUTES QUALIFIED CAREGIVING.—

20 (1) IN GENERAL.—For purposes of determining
21 whether an activity engaged in by an individual con-
22 stitutes qualified caregiving under this section—

23 (A) the term “spouse” (as used in section
24 102(a) of the Family and Medical Leave Act

1 (29 U.S.C. 2612(a)) includes the individual's
2 domestic partner; and

3 (B) the term “son or daughter” (as used
4 in such section) includes a son or daughter (as
5 defined in section 101 of such Act) of the indi-
6 vidual's domestic partner.

7 (2) DOMESTIC PARTNER.—

8 (A) IN GENERAL.—For purposes of para-
9 graph (1), the term “domestic partner”, with
10 respect to an individual, means another indi-
11 vidual with whom the individual is in a com-
12 mitted relationship.

13 (B) COMMITTED RELATIONSHIP DE-
14 FINED.—The term “committed relationship”
15 means a relationship between two individuals
16 (each at least 18 years of age) in which each
17 individual is the other individual's sole domestic
18 partner and both individuals share responsi-
19 bility for a significant measure of each other's
20 common welfare. The term includes any such
21 relationship between two individuals, including
22 individuals of the same sex, that is granted
23 legal recognition by a State or political subdivi-
24 sion of a State as a marriage or analogous rela-

1 tionship, including a civil union or domestic
2 partnership.

3 (k) **APPLICABILITY OF CERTAIN SOCIAL SECURITY**
4 **ACT PROVISIONS.**—The provisions of sections 204, 205,
5 206, and 208 of the Social Security Act shall apply to
6 benefit payments authorized by and paid out pursuant to
7 this section in the same way that such provisions apply
8 to benefit payments authorized by and paid out pursuant
9 to title II of such Act.

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

13 **SEC. 6. ESTABLISHMENT OF FAMILY AND MEDICAL LEAVE**
14 **INSURANCE TRUST FUND.**

15 (a) **IN GENERAL.**—There is hereby created on the
16 books of the Treasury of the United States a trust fund
17 to be known as the “Federal Family and Medical Leave
18 Insurance Trust Fund”. The Federal Family and Medical
19 Leave Insurance Trust Fund shall consist of such gifts
20 and bequests as may be made as provided in section
21 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1))
22 and such amounts as may be appropriated to, or deposited
23 in, the Federal Family and Medical Leave Insurance
24 Trust Fund as provided in this section.

25 (b) **AUTHORIZATION OF APPROPRIATIONS.**—

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

5 (A) for the first three fiscal years begin-
6 ning after the date of enactment of this Act,
7 such sums as may be necessary for the Com-
8 missioner to administer the office established
9 under section 4 and pay the benefits under sec-
10 tion 5;

11 (B) 100 percent of the taxes imposed by
12 sections 3101(c) and 3111(c) of the Internal
13 Revenue Code of 1986 with respect to wages
14 (as defined in section 3121 of such Code) re-
15 ported to the Secretary of the Treasury pursu-
16 ant to subtitle F of such Code, as determined
17 by the Secretary of the Treasury by applying
18 the applicable rate of tax under such sections to
19 such wages;

20 (C) 100 percent of the taxes imposed by
21 section 1401(c) of such Code with respect to
22 self-employment income (as defined in section
23 1402 of such Code) reported to the Secretary of
24 the Treasury on tax returns under subtitle F of
25 such Code, as determined by the Secretary of

1 the Treasury by applying the applicable rate of
2 tax under such section to such self-employment
3 income; and

4 (D) 100 percent of the taxes imposed by
5 sections 3201(c), 3211(c), and 3221(c) of such
6 Code with respect to compensation (as defined
7 in section 3231 of such Code) reported to the
8 Secretary of the Treasury on tax returns under
9 subtitle F of such Code, as determined by the
10 Secretary of the Treasury by applying the ap-
11 plicable rate of tax under such sections to such
12 compensation.

13 (2) REPAYMENT OF INITIAL APPROPRIATION.—
14 Amounts appropriated pursuant to subparagraph
15 (A) of paragraph (1) shall be repaid to the Treasury
16 of the United States not later than 10 years after
17 the first appropriation is made pursuant to such
18 subparagraph.

19 (3) TRANSFER TO TRUST FUND.—The amounts
20 described in paragraph (2) shall be transferred from
21 time to time from the general fund in the Treasury
22 to the Federal Family and Medical Leave Insurance
23 Trust Fund, such amounts to be determined on the
24 basis of estimates by the Secretary of the Treasury
25 of the taxes, specified in such paragraph, paid to or

1 deposited into the Treasury. Proper adjustments
2 shall be made in amounts subsequently transferred
3 to the extent prior estimates were inconsistent with
4 the taxes specified in such paragraph.

5 (c) MANAGEMENT OF TRUST FUND.—The provisions
6 of subsections (c), (d), (e), (f), (i), and (m) of section 201
7 of the Social Security Act (42 U.S.C. 401) shall apply with
8 respect to the Federal Family and Medical Leave Insur-
9 ance Trust Fund in the same manner as such provisions
10 apply to the Federal Old-Age and Survivors Insurance
11 Trust Fund and the Disability Insurance Trust Fund.

12 (d) BENEFITS PAID FROM TRUST FUND.—Benefit
13 payments required to be made under section 5 shall be
14 made only from the Federal Family and Medical Leave
15 Insurance Trust Fund.

16 (e) ADMINISTRATION.—There are authorized to be
17 made available for expenditure, out of the Federal Family
18 and Medical Leave Insurance Trust Fund, such sums as
19 may be necessary to pay the costs of the administration
20 of section 5, including start-up costs, technical assistance,
21 outreach, education, evaluation, and reporting.

22 (f) PROHIBITION.—No funds from the Social Secu-
23 rity Trust Fund or appropriated to the Social Security Ad-
24 ministration to administer Social Security programs may

1 be used for Federal Family and Medical Leave Insurance
2 benefits or administration set forth under this Act.

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

4 (a) IN GENERAL.—

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

7 (A) by redesignating subsection (c) as sub-
8 section (d); and

9 (B) by inserting after subsection (b) the
10 following:

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

12 “(1) IN GENERAL.—In addition to other taxes,
13 there is hereby imposed on the income of every indi-
14 vidual a tax equal to the applicable percentage of the
15 wages (as defined in section 3121(a)) received by the
16 individual with respect to employment (as defined in
17 section 3121(b)).

18 “(2) APPLICABLE PERCENTAGE.—For purposes
19 of paragraph (1), the term ‘applicable percentage’
20 means 0.2 percent in the case of wages received in
21 any calendar year.”.

22 (2) EMPLOYER CONTRIBUTION.—Section 3111
23 of such Code is amended—

24 (A) by redesignating subsection (c) as sub-
25 section (d); and

1 (B) by inserting after subsection (b) the
2 following:

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

4 “(1) IN GENERAL.—In addition to other taxes,
5 there is hereby imposed on every employer an excise
6 tax, with respect to having individuals in his employ,
7 equal to the applicable percentage of the wages (as
8 defined in section 3121(a)) paid by the employer
9 with respect to employment (as defined in section
10 3121(b)).

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

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(e),”
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 Not later than 3 years after the date of enactment
7 of this Act, the Comptroller General shall submit to Con-
8 gress a report on family and medical leave insurance bene-
9 fits paid under section 5 for any month during the 1-year
10 period beginning on January 1, 2021. The report shall in-
11 clude the following:

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.

○