

116TH CONGRESS  
1ST SESSION

# S. 463

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

FEBRUARY 12, 2019

Mrs. GILLIBRAND (for herself, Mr. CARDIN, Mr. BLUMENTHAL, Mr. SANDERS, Mr. REED, Mr. BOOKER, Mr. BROWN, Mr. BENNET, Mr. MURPHY, Mr. WHITEHOUSE, Mr. SCHUMER, Mr. MARKEY, Ms. KLOBUCHAR, Mr. KING, Mr. LEAHY, Mrs. FEINSTEIN, Mr. MENENDEZ, Mr. MERKLEY, Ms. HARRIS, Mr. VAN HOLLEN, Mr. HEINRICH, Mr. SCHATZ, Ms. HASSAN, Ms. BALDWIN, Ms. DUCKWORTH, Mrs. SHAHEEN, Ms. WARREN, Mrs. MURRAY, Mr. DURBIN, Mr. CARPER, Mr. CASEY, Mr. UDALL, Ms. ROSEN, Ms. HIRONO, and Ms. SMITH) 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. FINDINGS AND PURPOSE.**

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

1           (1) In more than two-thirds of families with  
2 children, all adults in the household work.  
3 43,500,000 people provide unpaid care to family  
4 members, and six of every ten family caregivers re-  
5 port working at jobs unrelated to their care respon-  
6 sibilities. More than half report working full time.  
7 An estimated 36,000,000 working age adults live  
8 with a family member who has a disability. Without  
9 paid family and medical leave, many workers are un-  
10 able to take time away from work to care for new-  
11 born children, parents and relatives with serious  
12 health conditions, or themselves.

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

23           (3) Many workers cannot afford to take unpaid  
24 time off work to provide care. According to the De-  
25 partment of Labor, nearly half of workers who quali-

1       fied for leave under the Family and Medical Leave  
2       Act of 1993 (FMLA) in 2011 were unable to take  
3       the leave because they could not afford to take time  
4       off without pay. Six in ten workers who took par-  
5       tially paid or unpaid leave reported difficulty making  
6       ends meet; half of these workers were forced to cut  
7       their leaves short due to financial constraints.

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

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

22          (6) The estimated value of unpaid family care  
23      provided in 2013 was \$470,000,000,000. Family  
24      caregivers face financial, physical and emotional  
25      hardships, and in many cases their careers, incomes,

1 and retirement security suffer because of their fam-  
2 ily responsibilities.

3 (7) The average worker age 50 and older who  
4 leaves the workforce to care for an elderly parent  
5 loses more than \$300,000 in earnings and retire-  
6 ment income. Working caregivers should not have to  
7 risk their family's economic security to fulfill their  
8 caregiving obligations.

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

22 (9) Ensuring working family caregivers have  
23 paid family leave to care for seriously ill or injured  
24 older adult relatives could drive down Medicare costs  
25 by decreasing recurrences of ailments and re-admit-

1       tance into hospitals. The implementation of Califor-  
2       nia's paid family leave insurance program, which has  
3       been in effect since 2004, accounted for an 11 per-  
4       cent relative decline in elder nursing home usage.

5           (10) Only half of cancer patients and survivors  
6       report having access to paid leave, and only four in  
7       ten caregivers of those patients are able to take paid  
8       leave to help with completing treatment, managing  
9       symptoms and side effects, and caring for their own  
10      health.

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

1 away from work after the birth or adoption of a  
 2 child.

3 (12) When new mothers have no choice but to  
 4 return to work without taking leave, children can ex-  
 5 perience a variety of negative outcomes including  
 6 higher rates of infant mortality, lower rates of  
 7 breastfeeding, and lower rates of immunization. Cali-  
 8 fornia's paid leave program improved child health  
 9 outcomes, particularly for economically vulnerable  
 10 children, and improved breastfeeding and vaccina-  
 11 tion rates.

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

24 (14) A gender-inclusive nationwide paid family  
 25 and medical leave program would address persistent

1 sex discrimination in the utilization of leave benefits  
2 and reduce the disparity between women and men  
3 regarding who takes time off from work to fulfill  
4 caregiving duties.

5 (15) Many men would like to be more involved  
6 in caregiving and report greater work-family conflict  
7 than ever before. When fathers in two-parent, oppo-  
8 site-sex households take paid leave, their involvement  
9 in caregiving and domestic chores increases, sup-  
10 porting equal co-parenting and making it easier for  
11 women to return to the workforce. In California,  
12 men's use of the State's paid family leave insurance  
13 program to care for a new child has more than dou-  
14 bled since the program's implementation. In Rhode  
15 Island, which implemented its program in 2014, men  
16 took leave at higher rates in the program's first year  
17 than other State programs' first year.

18 (16) Paid family and medical leave promotes  
19 families' financial security and independence, in-  
20 creases worker retention, and promotes savings for  
21 taxpayers. Women who take paid leave after a  
22 child's birth are more likely to be in the labor force  
23 in the 9 to 12 months after a child's birth and to  
24 earn higher wages in the year following their child's  
25 birth. Both men and women who take paid leave

1 after a child's birth are less likely to receive SNAP  
2 benefits and other public assistance in the year fol-  
3 lowing a child's birth.

4 (17) Without paid medical leave, workers who  
5 are ill or injured may return to work before being  
6 fully recovered, thus making them susceptible to a  
7 relapse or recurrence, and potentially placing addi-  
8 tional burdens on the health care system. When a  
9 job requires physical stamina or ability, individuals  
10 who return to work too early may put themselves or  
11 others in jeopardy.

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

23 (19) When workers can care for themselves and  
24 their loved ones, employers experience positive im-  
25 pacts. In California, where a family leave insurance



1 program has existed for more than a decade, work-  
2 ers in low-wage, high-turnover industries are much  
3 more likely to return to their jobs after using the  
4 program, and 9 out of 10 businesses report positive  
5 or neutral effects on profitability and productivity.

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

18 (21) Californians have filed nearly 2,810,000  
19 paid family leave claims between the implementation  
20 of the State's paid family leave program in 2004  
21 and November 2017. In New Jersey, more than  
22 255,000 claims have been filed over the more than  
23 7 years of the program's existence, and in Rhode Is-  
24 land, nearly 34,000 claims were filed in the pro-

1        gram's first 3 years. These claims represent valuable  
2        care for new children and seriously ill loved ones.

3            (22) Social Security is the Nation's primary so-  
4        cial insurance system, with the most complete record  
5        of workers' earnings history. It provides retirement  
6        assistance and disability benefits currently and,  
7        since its creation in 1934, the programs the Social  
8        Security Administration administers have been up-  
9        dated multiple times to reflect the changing needs of  
10       the population, families and the workforce. The sys-  
11       tem needs to be changed again now—with appro-  
12       priate investments to meet the agency's needs—to  
13       reflect today's realities.

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

20           (24) Without a national paid leave policy, the  
21       United States is missing out on substantial economic  
22       activity, which has been estimated at approximately  
23       \$500,000,000,000 by the Department of Labor, as  
24       women in particular are held back from partici-  
25       pating in the workforce in equal shares.

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

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

5           (1) to help working people, including single  
6           working parents and workers in dual-earner families,  
7           afford to take time away from work to provide care  
8           for a family member;

9           (2) to provide workers with a reasonable level  
10          of wage replacement during time away from work  
11          for a serious health condition, for the birth or adop-  
12          tion of a child, for the care of a child, spouse, or  
13          parent who has a serious health condition, for the  
14          care of an injured servicemember, or for qualifying  
15          exigencies arising from the deployment of a service-  
16          member;

17          (3) to address sex discrimination, promote the  
18          goal of equal employment opportunity for women  
19          and men, and to provide relief when employers vio-  
20          late the law; and

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

24 **SEC. 3. DEFINITIONS.**

25          In this Act, the following definitions apply:

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

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

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

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

15          (5) INITIAL WAITING PERIOD.—The term “ini-  
16      tial waiting period” means a period beginning with  
17      the first caregiving day of an individual occurring  
18      during the individual’s benefit period and ending  
19      after the earlier of—

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

22                (B) the month preceding the first month in  
23                the benefit period during which occur not less  
24                than 15 caregiving days of the individual.

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

8           (7) SELF-EMPLOYMENT INCOME.—The term  
 9       “self-employment income” has the same meaning as  
 10      such term in section 211(b) of such Act (42 U.S.C.  
 11      411(b)).

12          (8) STATE.—The term “State” means any  
 13      State of the United States or the District of Colum-  
 14      bia or any territory or possession of the United  
 15      States.

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

20          (10) 60-DAY LIMITATION PERIOD.—The term  
 21      “60-day limitation period” means a period—

22              (A) beginning with the first caregiving day  
 23              of an individual occurring during the individ-  
 24              ual’s benefit period and after the expiration of

1 the individual's 5-day waiting period, if applica-  
 2 ble; and

3 (B) ending with the 60th caregiving day of  
 4 the individual occurring during the benefit pe-  
 5 riod and after the expiration of the 5-day wait-  
 6 ing period,  
 7 disregarding any caregiving day of the individual oc-  
 8 ccurring during any month in the benefit period after  
 9 the first 20 caregiving days of the individual occur-  
 10 ring during such month.

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

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

17 (b) RESPONSIBILITIES OF DEPUTY COMMIS-  
 18 SIONER.—The Commissioner, acting through the Deputy  
 19 Commissioner, shall be responsible for—

20 (1) hiring personnel and making employment  
 21 decisions with regard to such personnel;

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

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

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

6           (5) determining benefit amounts for each  
7           month of such eligibility and making timely pay-  
8           ments of such benefits to entitled individuals in ac-  
9           cordance with such section;

10          (6) establishing and maintaining a system of  
11          records relating to the administration of such sec-  
12          tion;

13          (7) preventing fraud and abuse relating to such  
14          benefits;

15          (8) providing information on request regarding  
16          eligibility requirements, the claims process, benefit  
17          amounts, maximum benefits payable, notice require-  
18          ments, nondiscrimination rights, confidentiality, co-  
19          ordination of leave under this Act and other laws,  
20          collective bargaining agreements, and employer poli-  
21          cies;

22          (9) annually providing employers a notice in-  
23          forming employees of the availability of such bene-  
24          fits;

1           (10) annually making available to the public a  
 2       report that includes the number of individuals who  
 3       received such benefits, the purposes for which such  
 4       benefits were received, and an analysis of utilization  
 5       rates of such benefits by gender, race, ethnicity, and  
 6       income levels; and

7           (11) tailoring culturally and linguistically com-  
 8       petent education and outreach toward increasing uti-  
 9       lization rates of benefits under such section.

10       (c) AVAILABILITY OF DATA.—The Commissioner  
 11       shall make available to the Deputy Commissioner such  
 12       data as the Commissioner determines necessary to enable  
 13       the Deputy Commissioner to effectively carry out the re-  
 14       sponsibilities described in subsection (b).

15       **SEC. 5. FAMILY AND MEDICAL LEAVE INSURANCE BENEFIT**  
 16                 **PAYMENTS.**

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

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

22           (2) has earned income from employment during  
 23       the 12 months prior to the month in which the ap-  
 24       plication is filed;



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

4           (4) was engaged in qualified caregiving, or an-  
 5           ticipates being so engaged, during the period that  
 6           begins 90 days before the date on which such appli-  
 7           cation is filed or within 30 days after such date,  
 8           shall be entitled to such a benefit for each month in the  
 9           benefit period specified in subsection (c), not to exceed 60  
 10          caregiving days per benefit period.

11          (b) BENEFIT AMOUNT.—

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

16                   (A) the lesser of  $\frac{1}{18}$  of the wages and self-  
 17                   employment income of the individual for the  
 18                   calendar year in which such wages and self-em-  
 19                   ployment income are the highest among the  
 20                   most recent three calendar years, or the max-  
 21                   imum benefit amount determined under para-  
 22                   graph (2); or

23                   (B) the minimum benefit amount deter-  
 24                   mined under paragraph (2),

1 multiplied by the quotient (not greater than 1) ob-  
 2 tained by dividing the number of caregiving days of  
 3 the individual in such month by 20.

4 (2) ANNUAL INCREASE OF MAXIMUM AND MIN-  
 5 IMUM BENEFIT AMOUNTS.—

6 (A) For individuals who initially become el-  
 7 igible for family and medical leave insurance  
 8 benefits in the first full calendar year after the  
 9 date of enactment of this Act, the maximum  
 10 monthly benefit amount and the minimum  
 11 monthly benefit amount shall be \$4,000 and  
 12 \$580, respectively.

13 (B) For individuals who initially become el-  
 14 igible for family and medical leave insurance  
 15 benefits in any calendar year after such first  
 16 full calendar year the maximum benefit amount  
 17 and the minimum benefit amount shall be, re-  
 18 spectively, the product of the corresponding  
 19 amount determined with respect to the first cal-  
 20 endar year under subparagraph (A) and the  
 21 quotient obtained by dividing—

22 (i) the national average wage index  
 23 (as defined in section 209(k)(1) of the So-  
 24 cial Security Act (42 U.S.C. 409(k)(1)))  
 25 for the second calendar year preceding the

1           calendar year for which the determination  
2           is made, by

3                   (ii) the national average wage index  
4           (as so defined) for 2018.

5           (3) LIMITATIONS ON BENEFITS PAID.—

6                   (A) NONPAYABLE WAITING PERIOD.—Any  
7           calendar day during an individual's benefit pe-  
8           riod which occurs before the expiration of an  
9           initial waiting period shall not be taken into ac-  
10          count under this subsection as a caregiving day  
11          of the individual.

12                  (B) LIMITATION ON TOTAL BENEFITS  
13          PAID.—Any calendar day during an individual's  
14          benefit period which occurs after the expiration  
15          of a 60-day limitation period shall not be taken  
16          into account under this subsection as a  
17          caregiving day of the individual.

18           (4) REDUCTION IN BENEFIT AMOUNT ON AC-  
19          COUNT OF RECEIPT OF CERTAIN BENEFITS.—A ben-  
20          efit under this section for a month shall be reduced  
21          by the amount, if any, in certain benefits (as deter-  
22          mined under regulations issued by the Commis-  
23          sioner) as may be otherwise received by an indi-  
24          vidual. For purposes of the preceding sentence, cer-  
25          tain benefits include—

(A) periodic benefits on account of such individual's total or partial disability under a workmen's compensation law or plan of the United States or a State; and

(B) periodic benefits on account of an individual's employment status under an unemployment law or plan of the United States or a State.

(5) COORDINATION OF BENEFIT AMOUNT WITH CERTAIN STATE BENEFITS.—A benefit received under this section shall be coordinated, in a manner determined by regulations issued by the Commissioner, with the periodic benefits received from temporary disability insurance or family leave insurance programs under any law or plan of a State, a political subdivision (as that term is used in section 218(b)(2) of the Social Security Act (42 U.S.C. 418(b)(2))), or an instrumentality of two or more States (as that term is used in section 218(g) of such Act of the Social Security Act (42 U.S.C. 418(g))).

(c) BENEFIT PERIOD.—

(1) IN GENERAL.—Except as provided in paragraph (2), the benefit period specified in this subsection shall begin on the 1st day of the 1st month

1 in which the individual meets the criteria specified in  
 2 paragraphs (1), (2), and (3) of subsection (a), and  
 3 shall end on the date that is 365 days after the 1st  
 4 day of the benefit period.

5 (2) RETROACTIVE BENEFITS.—In the case of  
 6 an application for benefits under this section for  
 7 qualified caregiving in which the individual was en-  
 8 gaged at any time during the 90-day period pre-  
 9 ceding the date on which such application is sub-  
 10 mitted, the benefit period specified in this subsection  
 11 shall begin on the later of—

12 (A) the 1st day of the 1st month in which  
 13 the individual engaged in such qualified  
 14 caregiving; or

15 (B) the 1st day of the 1st month that be-  
 16 gins during such 90-day period,

17 and shall end on the date that is 365 days after the  
 18 1st day of the benefit period.

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

21 (1) a statement that the individual was engaged  
 22 in qualified caregiving, or anticipates being so en-  
 23 gaged, during the period that begins 90 days before  
 24 the date on which the application is submitted or  
 25 within 30 days after such date;

1           (2) if the qualified caregiving described in the  
2           statement in paragraph (1) is engaged in by the in-  
3           dividual because of a serious health condition of the  
4           individual or a relative of the individual, a certifi-  
5           cation, issued by the health care provider treating  
6           such serious health condition, that affirms the infor-  
7           mation specified in paragraph (1) and contains such  
8           information as the Commissioner shall specify in  
9           regulations, which shall be no more than the infor-  
10          mation that is required to be stated under section  
11          103(b) of the Family and Medical Leave Act of  
12          1993 (29 U.S.C. 2613(b));

13          (3) if such qualified caregiving is engaged in by  
14          the individual for any other authorized reason, a cer-  
15          tification, issued by a relevant authority determined  
16          under regulations issued by the Commissioner, that  
17          affirms the circumstances giving rise to such reason;  
18          and

19          (4) an attestation from the applicant that his or  
20          her employer has been provided with written notice  
21          of the individual's intention to take family or med-  
22          ical leave, if the individual has an employer, or to  
23          the Commissioner in all other cases.

24          (e) INELIGIBILITY; DISQUALIFICATION.—

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

5           (A) disability insurance benefits under sec-  
6       tion 223 of the Social Security Act (42 U.S.C.  
7       423) or a similar permanent disability program  
8       under any law or plan of a State or political  
9       subdivision or instrumentality of a State (as  
10      such terms are used in section 218 of the Social  
11      Security Act (42 U.S.C. 418));

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

16          (C) benefits under title XVI of such Act  
17      (42 U.S.C. 1381 et seq.) based on such individ-  
18      ual's status as a disabled individual (as deter-  
19      mined under section 1614 of such Act (42  
20      U.S.C. 1382c)).

21          (2) DISQUALIFICATION.—An individual who has  
22      been convicted of a violation under section 208 of  
23      the Social Security Act (42 U.S.C. 408) or who has  
24      been found to have used false statements to secure  
25      benefits under this section, shall be ineligible for

1        benefits under this section for a 1-year period fol-  
2        lowing the date of such conviction.

3        (f) REVIEW OF ELIGIBILITY AND BENEFIT PAYMENT  
4 DETERMINATIONS.—

5            (1) ELIGIBILITY DETERMINATIONS.—

6            (A) IN GENERAL.—The Commissioner  
7        shall provide notice to an individual applying  
8        for benefits under this section of the initial de-  
9        termination of eligibility for such benefits, and  
10       the estimated benefit amount for a month in  
11       which one caregiving day of the individual oc-  
12       curs, as soon as practicable after the applica-  
13       tion is received.

14           (B) REVIEW.—An individual may request  
15       review of an initial adverse determination with  
16       respect to such application at any time before  
17       the end of the 20-day period that begins on the  
18       date notice of such determination is received,  
19       except that such 20-day period may be extended  
20       for good cause. As soon as practicable after the  
21       individual requests review of the determination,  
22       the Commissioner shall provide notice to the in-  
23       dividual of a final determination of eligibility  
24       for benefits under this section.

25           (2) BENEFIT PAYMENT DETERMINATIONS.—



1           (A) IN GENERAL.—The Commissioner  
2 shall make any monthly benefit payment to an  
3 individual claiming benefits for a month under  
4 this section, or provide notice of the reason  
5 such payment will not be made if the Commis-  
6 sioner determines that the individual is not en-  
7 titled to payment for such month, not later  
8 than 20 days after the individual's monthly  
9 benefit claim report for such month is received.  
10 Such monthly report shall be filed with the  
11 Commissioner not later than 15 days after the  
12 end of each month.

13           (B) REVIEW.—If the Commissioner deter-  
14 mines that payment will not be made to an in-  
15 dividual for a month, or if the Commissioner  
16 determines that payment shall be made based  
17 on a number of caregiving days in the month  
18 inconsistent with the number of caregiving days  
19 in the monthly benefit claim report of the indi-  
20 vidual for such month, the individual may re-  
21 quest review of such determination at any time  
22 before the end of the 20-day period that begins  
23 on the date notice of such determination is re-  
24 ceived, except that such 20-day period may be  
25 extended for good cause. Not later than 20 days

1 after the individual requests review of the deter-  
2 mination, the Commissioner shall provide notice  
3 to the individual of a final determination of  
4 payment for such month, and shall make pay-  
5 ment to the individual of any additional amount  
6 not included in the initial payment to the indi-  
7 vidual for such month to which the Commis-  
8 sioner determines the individual is entitled.

9 (3) BURDEN OF PROOF.—An application for  
10 benefits under this section and a monthly benefit  
11 claim report of an individual shall each be presumed  
12 to be true and accurate, unless the Commissioner  
13 demonstrates by a preponderance of the evidence  
14 that information contained in the application is  
15 false.

16 (4) DEFINITION OF MONTHLY BENEFIT CLAIM  
17 REPORT.—For purposes of this subsection, the term  
18 “monthly benefit claim report” means, with respect  
19 to an individual for a month, the individual’s report  
20 to the Commissioner of the number of caregiving  
21 days of the individual in such month, which shall be  
22 filed no later than 15 days after the end of each  
23 month.

24 (5) REVIEW.—All final determinations of the  
25 Commissioner under this subsection shall be review-

1       able according to the procedures set out in section  
2       205 of the Social Security Act (42 U.S.C. 405).

3       (g) RELATIONSHIP WITH STATE LAW; EMPLOYER  
4 BENEFITS.—

5           (1) IN GENERAL.—This section does not pre-  
6       empt or supercede any provision of State or local  
7       law that authorizes a State or local municipality to  
8       provide paid family and medical leave benefits simi-  
9       lar to the benefits provided under this section.

10          (2) GREATER BENEFITS ALLOWED.—Nothing  
11       in this Act shall be construed to diminish the obliga-  
12       tion of an employer to comply with any contract, col-  
13       lective bargaining agreement, or any employment  
14       benefit program or plan that provides greater paid  
15       leave or other leave rights to employees than the  
16       rights established under this Act.

17       (h) PROHIBITED ACTS; ENFORCEMENT.—

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

23          (2) CIVIL ACTION BY AN INDIVIDUAL.—

24           (A) LIABILITY.—Any person who violates  
25       paragraph (1) shall be liable to any individual

1 employed by such person who is affected by the  
2 violation—

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

4 (I) the amount of—

5 (aa) any wages, salary, em-  
6 ployment benefits, or other com-  
7 pensation denied or lost to such  
8 individual by reason of the viola-  
9 tion; or

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

21 (II) the interest on the amount  
22 described in subclause (I) calculated  
23 at the prevailing rate; and

24 (III) an additional amount as liq-  
25 uidated damages equal to the sum of

the amount described in subclause (I) and the interest described in subclause (II), except that if a person who has violated paragraph (1) proves to the satisfaction of the court that the act or omission which violated paragraph (1) was in good faith and that the person had reasonable grounds for believing that the act or omission was not a violation of paragraph (1), such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under subclauses (I) and (II), respectively; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(B) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (A) may be maintained against any person in any Federal or State court of competent jurisdiction by any individual for and on behalf of—

(i) the individual; or

1                   (ii) the individual and other individ-  
2                   uals similarly situated.

3                   (C) FEES AND COSTS.—The court in such  
4                   an action shall, in addition to any judgment  
5                   awarded to the plaintiff, allow a reasonable at-  
6                   torney’s fee, reasonable expert witness fees, and  
7                   other costs of the action to be paid by the de-  
8                   fendant.

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

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

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

1 unless the action described in clause (i) or (ii)  
2 is dismissed without prejudice on motion of the  
3 Commissioner.

4 (3) ACTION BY THE COMMISSIONER.—

5 (A) CIVIL ACTION.—The Commissioner  
6 may bring an action in any court of competent  
7 jurisdiction to recover the damages described in  
8 paragraph (2)(A)(I).

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

18 (4) LIMITATION.—

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

24 (B) COMMENCEMENT.—An action brought  
25 by the Commissioner under this subsection shall

1           be considered to be commenced on the date  
2           when the complaint is filed.

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

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

12                   (B) to award such other equitable relief as  
13          may be appropriate, including employment, re-  
14          instatement, and promotion.

15          (i) SPECIAL RULE FOR RAILROAD EMPLOYEES.—For  
16          purposes of subsection (a)(1), an individual shall be  
17          deemed to be insured for disability insurance benefits if  
18          the individual would be so insured if the individual's serv-  
19          ice as an employee (as defined in the section 1(b) of the  
20          Railroad Retirement Act of 1974) after December 31,  
21          1936, were included within the meaning of the term “em-  
22          ployment” for purposes of title II of the Social Security  
23          Act (42 U.S.C. 401 et seq.).

24          (j) DETERMINATION OF WHETHER AN ACTIVITY  
25          CONSTITUTES QUALIFIED CAREGIVING.—



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

4                   (A) the term “spouse” (as used in section  
 5           102(a) of the Family and Medical Leave Act  
 6           (29 U.S.C. 2612(a))) includes the individual’s  
 7           domestic partner; and

8                   (B) the term “son or daughter” (as used  
 9           in such section) includes a son or daughter (as  
 10          defined in section 101 of such Act) of the indi-  
 11          vidual’s domestic partner.

12          (2) DOMESTIC PARTNER.—

13                   (A) IN GENERAL.—For purposes of para-  
 14          graph (1), the term “domestic partner”, with  
 15          respect to an individual, means another indi-  
 16          vidual with whom the individual is in a com-  
 17          mitted relationship.

18                   (B) COMMITTED RELATIONSHIP DE-  
 19          FINED.—The term “committed relationship”  
 20          means a relationship between two individuals  
 21          (each at least 18 years of age) in which each  
 22          individual is the other individual’s sole domestic  
 23          partner and both individuals share responsi-  
 24          bility for a significant measure of each other’s  
 25          common welfare. The term includes any such

1 relationship between two individuals, including  
 2 individuals of the same sex, that is granted  
 3 legal recognition by a State or political subdivi-  
 4 sion of a State as a marriage or analogous rela-  
 5 tionship, including a civil union or domestic  
 6 partnership.

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

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

17 **SEC. 6. ESTABLISHMENT OF FAMILY AND MEDICAL LEAVE**  
 18 **INSURANCE TRUST FUND.**

19 (a) **IN GENERAL.**—There is hereby created on the  
 20 books of the Treasury of the United States a trust fund  
 21 to be known as the “Federal Family and Medical Leave  
 22 Insurance Trust Fund”. The Federal Family and Medical  
 23 Leave Insurance Trust Fund shall consist of such gifts  
 24 and bequests as may be made as provided in section  
 25 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1))

1 and such amounts as may be appropriated to, or deposited  
2 in, the Federal Family and Medical Leave Insurance  
3 Trust Fund as provided in this section.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—

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

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

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

24 (C) 100 percent of the taxes imposed by  
25 section 1401(c) of such Code with respect to

1 self-employment income (as defined in section  
 2 1402 of such Code) reported to the Secretary of  
 3 the Treasury on tax returns under subtitle F of  
 4 such Code, as determined by the Secretary of  
 5 the Treasury by applying the applicable rate of  
 6 tax under such section to such self-employment  
 7 income; and

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

17 (2) REPAYMENT OF INITIAL APPROPRIATION.—

18 Amounts appropriated pursuant to subparagraph  
 19 (A) of paragraph (1) shall be repaid to the Treasury  
 20 of the United States not later than 10 years after  
 21 the first appropriation is made pursuant to such  
 22 subparagraph.

23 (3) TRANSFER TO TRUST FUND.—The amounts

24 described in paragraph (2) shall be transferred from  
 25 time to time from the general fund in the Treasury

1 to the Federal Family and Medical Leave Insurance  
2 Trust Fund, such amounts to be determined on the  
3 basis of estimates by the Secretary of the Treasury  
4 of the taxes, specified in such paragraph, paid to or  
5 deposited into the Treasury. Proper adjustments  
6 shall be made in amounts subsequently transferred  
7 to the extent prior estimates were inconsistent with  
8 the taxes specified in such paragraph.

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

16 (d) BENEFITS PAID FROM TRUST FUND.—Benefit  
17 payments required to be made under section 5 shall be  
18 made only from the Federal Family and Medical Leave  
19 Insurance Trust Fund.

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

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

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

7       (a) IN GENERAL.—

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

10           (A) by redesignating subsection (c) as sub-  
 11   section (d), and

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

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

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

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

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

3                   (A) by redesignating subsection (c) as sub-  
4 section (d), and

5                   (B) by inserting after subsection (b) the  
6 following:

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

8                   “(1) IN GENERAL.—In addition to other taxes,  
9 there is hereby imposed on every employer an excise  
10 tax, with respect to having individuals in his employ,  
11 equal to the applicable percentage of the wages (as  
12 defined in section 3121(a)) paid by the employer  
13 with respect to employment (as defined in section  
14 3121(b)).

15                   “(2) APPLICABLE PERCENTAGE.—For purposes  
16 of paragraph (1), the term ‘applicable percentage’  
17 means 0.2 percent in the case of wages paid in any  
18 calendar year.”.

19           (3) SELF-EMPLOYMENT INCOME CONTRIBU-  
20 TION.—

21                   (A) IN GENERAL.—Section 1401 of such  
22 Code is amended—

23                           (i) by redesignating subsection (c) as  
24 subsection (d), and

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

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

4 “(1) IN GENERAL.—In addition to other taxes,  
 5 there is hereby imposed for each taxable year, on the  
 6 self-employment income of every individual, a tax  
 7 equal to the applicable percentage of the amount of  
 8 the self-employment income for such taxable year.

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

13 (B) EXCLUSION OF CERTAIN NET EARN-  
 14 INGS FROM SELF-EMPLOYMENT.—Section  
 15 1402(b)(1) of such Code is amended by striking  
 16 “tax imposed by section 1401(a)” and inserting  
 17 “taxes imposed by subsections (a) and (c) of  
 18 section 1401”.

19 (b) RAILROAD RETIREMENT TAX ACT.—

20 (1) EMPLOYEE CONTRIBUTION.—Section 3201  
 21 of such Code is amended—

22 (A) by redesignating subsection (c) as sub-  
 23 section (d), and

24 (B) by inserting after subsection (b) the  
 25 following:



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

2 “(1) IN GENERAL.—In addition to other taxes,  
3 there is hereby imposed on the income of each em-  
4 ployee a tax equal to the applicable percentage of  
5 the compensation received during any calendar year  
6 by such employee for services rendered by such em-  
7 ployee.

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

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

14 (A) by redesignating subsection (c) as sub-  
15 section (d), and

16 (B) by inserting after subsection (b) the  
17 following:

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

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

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

5           (3) EMPLOYER CONTRIBUTION.—Section 3221  
 6           of such Code 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 every employer an excise  
 14           tax, with respect to having individuals in his employ,  
 15           equal to the applicable percentage of the compensa-  
 16           tion paid during any calendar year by such employer  
 17           for services rendered to such employer.

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

22           (c) CONFORMING AMENDMENTS.—

23                     (1) Section 6413(c) of the Internal Revenue  
 24           Code of 1986 is amended—

25                     (A) in paragraph (1)—

1 (i) by inserting “, section 3101(c),”  
 2 after “by section 3101(a)”; and

3 (ii) by striking “both” and inserting  
 4 “each”; and

5 (B) in paragraph (2), by inserting “or  
 6 3101(c)” after “3101(a)” each place it appears.

7 (2) Section 15(a) of the Railroad Retirement  
 8 Act of 1974 (45 U.S.C. 231n(a)) is amended by in-  
 9 serting “(other than sections 3201(c), 3211(c), and  
 10 3221(c))” before the period at the end.

11 (d) EFFECTIVE DATE.—The amendments made by  
 12 this section shall take effect 120 days after the date of  
 13 the enactment of this Act.

14 **SEC. 8. REGULATIONS.**

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

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

3           (2) Three individuals to be appointed by the  
4     majority leader of the Senate.

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

7           (4) Three individuals to be appointed by the  
8     Speaker of the House of Representatives.

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

11 **SEC. 9. GAO STUDY.**

12       Not later than 3 years after the date of enactment  
13 of this Act, the Comptroller General shall submit to Con-  
14 gress a report on family and medical leave insurance bene-  
15 fits paid under section 5 for any month during the 1-year  
16 period beginning on January 1, 2021. The report shall in-  
17 clude the following:

18           (1) An identification of the total number of ap-  
19     plications for such benefits filed for any month dur-  
20     ing such 1-year period, and the average number of  
21     days occurring in the period beginning on the date  
22     on which such an application is received and ending  
23     on the date on which the initial determination of eli-  
24     gibility with respect to the application is made.

1           (2) An identification of the total number of re-  
2       requests for review of an initial adverse determination  
3       of eligibility for such benefits made during such 1-  
4       year period, and the average number of days occur-  
5       ring in the period beginning on the date on which  
6       such review is requested and ending on the date on  
7       which the final determination of eligibility with re-  
8       spect to such review is made.

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

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

- 1           (5) An identification of any excessive delay in
- 2           any of the periods described in paragraphs (1)
- 3           through (4), and a description of the causes for such
- 4           delay.

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