To provide Americans with paid sick time and paid leave so that they can address their own health needs and the health needs of their families.

IN THE SENATE OF THE UNITED STATES

Mrs. Murray (for herself, Mrs. Gillibrand,) introduced the following bill; which was read twice and referred to the Committee on __________

A BILL

To provide Americans with paid sick time and paid leave so that they can address their own health needs and the health needs of their families.

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 “Providing Americans
5 Insured Days of Leave Act of 2020”.

ZZ4 KM 59J
TITLE I—DISPLACEMENT OF THE LEAVE PROVISIONS OF THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

SEC. 101. REPEALS OF PORTIONS OF THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT.

(a) AFTER ENACTMENT.—If this Act is enacted after the Families First Coronavirus Response Act is enacted, subdivisions C, E, and G of that Act are repealed, and all amendments made by those divisions shall be considered to have no force and effect.

(b) BEFORE ENACTMENT.—If this Act is enacted before the Families First Coronavirus Response Act is enacted, effective 1 day after the date of enactment of that Act, subdivisions C, E, and G of that Act are repealed, and all amendments made by those divisions shall be considered to have no force and effect.
TITLE II—IMMEDIATE REIMBURSEMENT OF EMPLOYERS
FOR PAID SICK DAYS AND
PAID LEAVE FOR PUBLIC
HEALTH EMERGENCIES

SEC. 201. IMMEDIATE REIMBURSEMENT OF EMPLOYERS
FOR PAID SICK DAYS AND PAID LEAVE FOR
PUBLIC HEALTH EMERGENCIES.

(a) IN GENERAL.—

(1) REIMBURSEMENT.—An employer of a covered individual who uses paid sick time or emergency paid leave under title III during a public health emergency shall be reimbursed by the Secretary of the Treasury out of the Treasury of the United States for the wages paid to the covered individual for the period during which the covered individual used the paid sick time or emergency paid leave.

(2) PROCESS.—

(A) INFORMATION.—To be eligible to receive such reimbursement, the employer shall submit to the Secretary of Labor an affidavit that attests that the employer provided such paid sick time or emergency paid leave, and related records showing the period of and wages
associated with the paid sick time or emergency
paid leave.

(B) DETERMINATION.—The Secretary
shall review the information in the affidavit and
records and come to a determination regarding
the validity of such information within 5 busi-
ness days after receipt. If the Secretary does
not make a determination within the 5-busi-
ness-day period, on the sixth business day after
receipt of such information the Secretary shall
be deemed to have determined the information
to be valid.

(C) REIMBURSEMENT.—Upon the Sec-

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tary’s determination that the information is
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valid and that the employer provided an amount
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of such paid sick time or emergency paid leave
to a covered individual, the Secretary shall
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transmit the determination, affidavit, and
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records to the Secretary of the Treasury, and
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the Secretary of the Treasury shall provide
timely reimbursement out of the Treasury of
the United States. The Secretary of the Treas-
ury shall provide that reimbursement not later
than 2 business days after receipt of the deter-
mination from the Secretary of Labor.
(b) **Fraud.**—The Secretary of Labor and the Secretary of the Treasury shall both have authority to investigate fraud under this section and to seek recovery of fraudulently obtained funds and related penalties in any court of competent jurisdiction.

(c) **Application.**—

(1) **In General.**—Except as provided for in paragraph (2), this section shall apply to all paid sick time and emergency paid leave provided by employers under title III during calendar year 2020 and calendar year 2021.

(2) **Future Application to Additional Paid Sick Time.**—This section shall apply to all additional paid sick time provided by employers under title III during any calendar year.

**TITLE III—PAID SICK DAYS AND PAID LEAVE FOR PUBLIC HEALTH EMERGENCIES**

**SEC. 301. DEFINITIONS.**

In title II and this title:

(1) **Child.**—The term “child” means a biological, foster, or adopted child, a stepchild, a child of a domestic partner, a legal ward, or a child of a person standing in loco parentis.
(2) COVERED INDIVIDUAL.—The term "covered individual" means an individual who is—

(A) an employee; or

(B) an individual performing any services or labor for remuneration for an employer, regardless of whether the individual is classified as an independent contractor by the employer.

(3) DOMESTIC PARTNER.—

(A) IN GENERAL.—The term "domestic partner", with respect to an individual, means another individual with whom the individual is in a committed relationship.

(B) COMMITTED RELATIONSHIP DEFINED.—The term "committed relationship" means a relationship between 2 individuals, each at least 18 years of age, in which each individual is the other individual’s sole domestic partner and both individuals share responsibility for a significant measure of each other’s common welfare. The term includes any such relationship between 2 individuals, including individuals of the same sex, that is granted legal recognition by a State or political subdivision of a State as a marriage or analogous relationship, including a civil union or domestic partnership.
(4) DOMESTIC VIOLENCE.—The term “domestic violence” has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12291(a)), except that the reference in such section to the term “jurisdiction receiving grant monies” shall be deemed to mean the jurisdiction in which the victim lives or the jurisdiction in which the employer involved is located. Such term also includes dating violence, as that term is defined in such section.

(5) EMPLOYEE.—The term “employee” means an individual who is—

(A)(i) an employee, as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who is not covered under subparagraph (E), except that a reference in such section to an employer shall be considered to be a reference to an employer described in clauses (i)(I) and (ii) of paragraph (6)(A); or

(ii) an employee of the Government Accountability Office;

(B) a State employee described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));
(C) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), other than an applicant for employment;

(D) a covered employee, as defined in section 411(c) of title 3, United States Code; or

(E) a Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code, or any other individual occupying a position in the civil service (as that term is defined in section 2102(1) of title 5, United States Code).

(6) EMPLOYER.—

(A) IN GENERAL.—The term “employer” means a person who is—

(i)(I) a covered employer, as defined in subparagraph (B), who is not covered under subclause (V);

(II) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(III) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;
(IV) an employing office, as defined in section 411(c) of title 3, United States Code; or

(V) an employing agency covered under subchapter V of chapter 63 of title 5, United States Code; and

(ii) engaged in commerce (including government), or an industry or activity affecting commerce (including government), as defined in subparagraph (B)(iii).

(B) COVERED EMPLOYER.—

(i) IN GENERAL.—In subparagraph (A)(i)(I), the term “covered employer”—

(I) means any person engaged in commerce or in any industry or activity affecting commerce who employs 1 or more employees;

(II) includes—

(aa) any person who acts directly or indirectly in the interest of (within the meaning of section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) an employer in relation to any of
the employees of such employer;

and

(bb) any successor in interest of an employer;

(III) includes any “public agency”, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)); and

(IV) includes the Government Accountability Office.

(ii) **PUBLIC AGENCY.**—For purposes of subclause (III) or (IV) of clause (i), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(iii) **DEFINITIONS.**—For purposes of this subparagraph:

(I) **COMMERCE.**—The terms “commerce” and “industry or activity affecting commerce” mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include “commerce” and any “industry affect-
ing commerce”, as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (1) and (3)).

(II) EMPLOYEE.—The term “employee” has the same meaning given such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(III) PERSON.—The term “person” has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

(7) EMPLOYMENT BENEFITS.—The term “employment benefits” means all benefits provided or made available to covered individuals by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an “em-
ployee benefit plan”, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(8) FLSA TERMS.—The terms “employ” and “State” have the meanings given the terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(9) HEALTH CARE PROVIDER.—The term “health care provider” means a provider who—

(A)(i) is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) is any other person determined by the Secretary to be capable of providing health care services; and

(B) is not employed by an employer for whom the provider issues certification under this title.

(10) PAID SICK TIME.—The term “paid sick time” means an increment of compensated leave that—

(A) can be—

(i) earned by a covered individual for use during an absence from employment or
work for a reason described in any paragraph of section 302(b); or

(ii) provided by an employer during a public health emergency for use during an absence from employment or work for a reason described in any paragraph of section 302(b); and

(B) is compensated at a rate that is not less than the greatest of—

(i) the covered individual's regular rate of pay;

(ii) the minimum wage rate provided for in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)); or

(iii) the minimum wage rate provided for in the applicable State or local law for the State or locality in which the covered individual is employed or works.

(11) PARENT.—The term “parent” means a biological, foster, or adoptive parent of a covered individual, a stepparent of a covered individual, a parent-in-law of a covered individual, a parent of a domestic partner of a covered individual, or a legal guardian or other person who stood in loco parentis
to a covered individual when the covered individual was a child.

(12) **PUBLIC HEALTH EMERGENCY.**—The term “public health emergency” means—

(A) a public health emergency—

(i) declared by the Secretary of Health and Human Services for a jurisdiction, or by a State or local public health official with authority to declare such an emergency for the State or jurisdiction within the State; and

(ii) due to a public health condition that is—

(I) emergent and acute;

(II) not a longstanding, chronic public health condition; and

(B) an emergency with respect to coronavirus, as defined in section 506 of the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Public Law 116–123), declared by a Federal, State, or local public official.

(13) **SECRETARY.**—The term “Secretary” means the Secretary of Labor.
(14) **SEXUAL ASSAULT.**—The term “sexual assault” has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12291(a)).

(15) **SPOUSE.**—The term “spouse”, with respect to a covered individual, has the meaning given such term by the marriage laws of the State in which the marriage was celebrated.

(16) **STALKING.**—The term “stalking” has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12291(a)).

(17) **STATE.**—The term “State” has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(18) **VICTIM SERVICES ORGANIZATION.**—The term “victim services organization” means a non-profit, nongovernmental organization that provides assistance to victims of domestic violence, sexual assault, or stalking or advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence, sexual assault, or stalking prevention or treatment program, an organization operating a shelter or providing counseling services,
or a legal services organization or other organization providing assistance through the legal process.

(19) WORK.—The term “work” means to be employed or to be engaged in providing labor or services for an employer.

SEC. 302. PAID SICK TIME AND EMERGENCY PAID LEAVE.

(a) EARNING OF PAID SICK TIME.—

(1) IN GENERAL.—

(A) EARNING.—Subject to subsection (c) and paragraph (2), an employer shall provide each covered individual employed by or working for the employer not less than 1 hour of earned paid sick time for every 30 hours worked, to be used as described in subsection (b).

(B) LIMIT.—An employer shall not be required to permit a covered individual to earn, under this subsection, more than 56 hours of paid sick time in a year, unless the employer chooses to set a higher limit.

(2) EXEMPT EMPLOYEES.—

(A) IN GENERAL.—Except as provided in paragraph (3), for purposes of this subsection, an employee who is exempt from overtime requirements under section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C.
213(a)(1)) shall be assumed to work 40 hours in each workweek.

(B) Shorter normal workweek.—If the normal workweek of such an employee is less than 40 hours, the employee shall earn paid sick time under this subsection based upon that normal workweek.

(3) Dates for beginning to earn paid sick time and use.—

(A) In general.—Covered individuals shall begin to earn paid sick time under this subsection at the commencement of their employment or work. A covered individual shall be entitled to use the earned paid sick time beginning on the 60th calendar day following commencement of the covered individual’s employment or work. After that 60th calendar day, the covered individual may use the paid sick time as the time is earned. An employer may, at the discretion of the employer, loan paid sick time to a covered individual for use by such covered individual in advance of the covered individual earning such sick time as provided in this subsection and may permit use before the 60th day of employment or work.
(B) Public health emergency.—Subparagraph (A) shall not apply with respect to additional paid sick time provided under subsection (e). In the event of a public health emergency, a covered individual may immediately use the accrued or additional paid sick time described in subsection (e), regardless of how long the covered individual has been employed by or working for an employer.

(4) Carryover.—

(A) In general.—Except as provided in subparagraph (B), paid sick time earned under this subsection shall carry over from 1 year to the next.

(B) Construction.—This subsection shall not be construed to require an employer to permit a covered individual to earn more than 56 hours of earned paid sick time at a given time.

(5) Employers with existing policies.—Any employer with a paid leave policy who makes available an amount of paid leave that is sufficient to meet the requirements of this subsection and that may be used for the same purposes and under the same conditions as the purposes and conditions out-
lined in subsection (b) shall not be required to per-
mit a covered individual to earn more paid sick time
under this subsection.

(6) CONSTRUCTION.—Nothing in this section
shall be construed as requiring financial or other re-
imbursement to a covered individual from an em-
ployer upon the covered individual’s termination,
resignation, retirement, or other separation from
employment or work for paid sick time that has not
been used.

(7) REINSTATEMENT.—If a covered individual
is separated from employment or work with an em-
ployer and is rehired or reengaged for work, within
12 months after that separation, by the same em-
ployer, the employer shall reinstate the covered indi-
vidual’s previously earned paid sick time under this
subsection. The covered individual shall be entitled
to use the earned paid sick time and earn more paid
sick time at the recommencement of employment or
work with the employer.

(8) PROHIBITION.—An employer may not re-
quire, as a condition of providing paid sick time
under this title, that the covered individual involved
search for or find a replacement covered individual
to cover the hours during which the covered individual is using paid sick time.

(9) SCHEDULING.—A covered individual shall make a reasonable effort to schedule a period of accrued paid sick time under this subsection in a manner that does not unduly disrupt the operations of the employer.

(b) USES.—Paid sick time or emergency paid leave under this section may be used by a covered individual for any of the following:

(1) An absence resulting from a physical or mental illness, injury, or medical condition of the covered individual.

(2) An absence resulting from obtaining professional medical diagnosis or care, or preventive medical care, for the covered individual.

(3) An absence resulting from the closure of a covered individual's place of employment or work by order of a Federal or State public official with jurisdiction, or at the employer's discretion, due to a public health emergency.

(4) An absence because a Federal or State public official with jurisdiction or a health care provider has determined, or the covered individual has independently determined, that the covered individual’s
presence in the community may jeopardize the health of others because of the covered individual’s exposure to a communicable disease during a public health emergency or the exhibition of symptoms of a communicable disease during a public health emergency, regardless of whether the covered individual has actually contracted the communicable disease.

(5) An absence for the purpose of caring for a child, a parent, a spouse, a domestic partner, or any other individual related by blood or affinity whose close association with the covered individual is the equivalent of a family relationship—

(A) who has any of the conditions or needs for diagnosis or care described in paragraph (4);

(B) who is a child, if the child’s school or place of care has been closed by order of a Federal or State public official with jurisdiction or at the discretion of the school or place of care due to a public health emergency, including if a school or entity operating the place of care is physically closed but is providing education or care to the child remotely; or

(C) because a Federal or State public official with jurisdiction or a health care provider
has determined that the presence in the community of the person receiving care may jeopardize the health of others because of the person’s exposure to a communicable disease during a public health emergency, regardless of whether the person has actually contracted the communicable disease.

(6) An absence for the purpose of caring for a child, a parent, a spouse, a domestic partner, or any other individual related by blood or affinity whose close association with the covered individual is the equivalent of a family relationship—

(A) who has any of the conditions or needs for diagnosis or care described in paragraph (1) or (2);

(B) who is a child, if the covered individual is required to attend a school meeting or a meeting at a place where the child is receiving care necessitated by the child’s health condition or disability; or

(C) who is otherwise in need of care.

(7) An absence resulting from domestic violence, sexual assault, or stalking, if the time is to—

(A) seek medical attention for the covered individual or the covered individual’s child, par-
ent, spouse, domestic partner, or an individual related to the covered individual as described in paragraph (6), to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(B) obtain or assist a related person described in paragraph (6) in obtaining services from a victim services organization;

(C) obtain or assist a related person described in paragraph (6) in obtaining psychological or other counseling;

(D) seek relocation; or

(E) take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic violence, sexual assault, or stalking.

(c) ADDITIONAL PAID SICK TIME FOR PUBLIC HEALTH EMERGENCY.—

(1) ADDITIONAL PAID SICK TIME.—On the date of a declaration of a public health emergency, an employer in the jurisdiction involved shall provide each covered individual of the employer in that jurisdiction with additional paid sick time, in addition to any amount of paid sick time accrued by the covered
individual under subsection (a) (including paid leave referred to in subsection (a)(5)).

(2) AMOUNT OF PAID SICK TIME.—In receiving additional paid sick time under paragraph (1), the covered individual shall receive—

(A) for a full-time salaried covered individual, a specified amount of paid sick time that is sufficient to provide the covered individual with 14 continuous days away from work without a reduction in pay; and

(B) subject to paragraph (3), for a part-time, hourly, or piece-rate covered individual, a specified amount of paid sick time equal to the number of hours that the covered individual was scheduled to work or, if not so scheduled, regularly works in a 14-day period.

(3) VARYING SCHEDULE HOURS CALCULATION.—

(A) IN GENERAL.—In the case of a part-time, hourly, or piece-rate covered individual described in paragraph (2)(B) whose schedule varies from week to week to such an extent that an employer is unable to determine with certainty the number of hours the covered individual regularly works, the employer shall use
the rules specified in subparagraph (B) to calculate the amount of additional paid sick time that the covered individual shall receive under paragraph (2)(B).

(B) SPECIAL CALCULATION RULES.—The employer shall calculate that amount as—

(i) subject to clause (ii), a number equal to the average number of hours that the covered individual was scheduled to work per 14-day period over the 6-month period ending on the date on which the covered individual takes such additional paid sick time, including hours for which the covered individual took leave of any type; or

(ii) if the covered individual did not work over such 6-month period, the reasonable expectation of the covered individual at the time of hiring or engagement of the average number of hours per 14-day period that the covered individual would regularly be scheduled to work.

(4) GUIDELINES.—Not later than 5 days after the date of the enactment of this Act, the Secretary of Labor shall issue guidelines to assist employers in
calculating the amount of additional paid sick time
that a covered individual shall receive under this
subsection.

(5) USE OF LEAVE.—The additional sick time
and accrued sick time described in this subsection
shall be available for immediate use by the covered
individual for the purposes described in any para-
graph of subsection (b) beginning on the date a pub-
lic health emergency is declared, regardless of how
long the covered individual has been employed by or
working for an employer.

(6) PERIODS.—A covered individual may take
the additional sick time on the schedule that meets
the covered individual’s needs, consistent with sub-
section (b), including taking the additional sick time
intermittently or on a reduced leave schedule, and
an employer may not require a covered individual to
take the additional sick time in a single period or on
any other schedule specified by the employer.

(d) EMERGENCY PAID LEAVE FOR PUBLIC HEALTH
EMERGENCY.—

(1) IN GENERAL.—Subject to section 401, dur-
ing a public health emergency, an employer in the
jurisdiction involved shall provide each covered indi-
vidual of the employer in that jurisdiction with
emergency paid leave, in addition to any amount of paid sick time accrued by the covered individual under subsection (a) (including paid leave referred to in subsection (a)(5)) and in addition to additional paid sick time under subsection (c).

(2) AMOUNT OF PAID LEAVE.—In receiving emergency paid leave under paragraph (1), the covered individual shall receive 12 weeks of such paid leave.

(3) AMOUNT OF BENEFIT.—In receiving emergency paid leave under paragraph (1), the covered individual shall be compensated at a rate that is not less than the greatest of—

(A) two-thirds of the covered individual’s regular rate of pay;

(B) the minimum wage rate provided for in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)); or

(C) the minimum wage rate provided for in the applicable State or local law for the State or locality in which the covered individual is employed or working.

(4) USE OF LEAVE.—The emergency paid leave described in this subsection shall be available for immediate use by the covered individual for the pur-
poses described in any paragraph of subsection (b),
and for qualified caregiving, as defined in section
402 and in a manner such that section 404(j) shall
apply, beginning on the date a public health emer-
gency is declared, regardless of how long the covered
individual has been employed by or working for an
employer.

(5) PERIODS.—A covered individual may take
the emergency paid leave on the schedule that meets
the covered individual’s needs, consistent with sub-
section (b) and section 402, including taking the
emergency paid leave intermittently or on a reduced
leave schedule, and an employer may not require a
covered individual to take the emergency paid leave
in a single period or on any other schedule specified
by the employer.

(6) SEQUENCING.—During a public health
emergency, a covered individual may first use the
additional sick time for the purposes described in
any paragraph of subsection (b). The covered indi-
vidual may then use the emergency paid leave during
a public health emergency. A covered individual may
elect to use accrued sick time before additional sick
time or emergency paid leave. An employer may not
require a covered individual to use accrued sick time
or any other paid leave provided by the employer to the covered individual, before using additional sick time or emergency paid leave.

(7) CONSTRUCTION.—Nothing in this section shall be construed as requiring financial or other reimbursement to a covered individual from an employer upon the covered individual’s termination, resignation, retirement, or other separation from employment or work for emergency paid leave that has not been used.

(8) PROHIBITION.—An employer may not require, as a condition of providing emergency paid leave under this title, that the covered individual involved search for or find a replacement covered individual to cover the hours during which the covered individual is using emergency paid leave.

(e) PROCEDURES.—

(1) IN GENERAL.—Paid sick time and emergency paid leave shall be provided upon the oral or written request of a covered individual. Such request shall—

(A) include the expected duration of the period of such time or leave;

(B) in a case in which the need for such period of time is foreseeable at least 7 days in
advance of such period, be provided at least 7 days in advance of such period; and

(C) otherwise, be provided as soon as practicable after the covered individual is aware of the need for such period.

(2) Certification in General.—

(A) Provision.—

(i) In General.—Subject to subparagraphs (C) and (D), an employer may require that a request for paid sick time under this section for a purpose described in paragraph (1), (2), or (6) of subsection (b) be supported by a certification issued by the health care provider of the covered individual or of an individual described in subsection (b)(6), as appropriate, if the period of such time covers more than 3 consecutive workdays.

(ii) Timeliness.—The covered individual shall provide a copy of such certification to the employer in a timely manner, not later than 30 days after the first day of the period of time. The employer shall not delay the commencement of the period
of time on the basis that the employer has not yet received the certification.

(B) SUFFICIENT CERTIFICATION.—

(i) IN GENERAL.—A certification provided under subparagraph (A) shall be sufficient if it states—

(I) the date on which the period of time will be needed;

(II) the probable duration of the period of time;

(III) the appropriate medical facts within the knowledge of the health care provider regarding the condition involved, subject to clause (ii); and

(IV)(aa) for purposes of paid sick time under subsection (b)(1), a statement that absence from work is medically necessary;

(bb) for purposes of such time under subsection (b)(2), the dates on which testing for a medical diagnosis or care is expected to be given and the duration of such testing or care; and
(cc) for purposes of such time under subsection (b)(6), in the case of time to care for someone who is not a child, a statement that care is needed for an individual described in such subsection, and an estimate of the amount of time that such care is needed for such individual.

(ii) LIMITATION.—In issuing a certification under subparagraph (A), a health care provider shall make reasonable efforts to limit the medical facts described in clause (i)(III) that are disclosed in the certification to the minimum necessary to establish a need for the covered individual to utilize paid sick time.

(C) PUBLIC HEALTH EMERGENCIES.—No certification or other documentation may be required under this title by an employer during any public health emergency.

(D) REGULATIONS.—Regulations prescribed under section 311 shall specify the manner in which a covered individual who does not have health insurance shall provide a certification for purposes of this paragraph.
(E) Confidentiality and nondisclosure.—

(i) Protected health information.—Nothing in this title shall be construed to require a health care provider to disclose information in violation of section 1177 of the Social Security Act (42 U.S.C. 1320d–6) or the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(ii) Health information records.—If an employer possesses health information about a covered individual or a covered individual’s child, parent, spouse, domestic partner, or an individual related to the covered individual as described in subsection (b)(6), such information shall—

(I) be maintained on a separate form and in a separate file from other personnel information;

(II) be treated as a confidential medical record; and
(III) not be disclosed except to
the affected covered individual or with
the permission of the affected covered
individual.

(3) Certification in the case of domestic
violence, sexual assault, or stalking.—

(A) In general.—An employer may re-
quire that a request for paid sick time for a
purpose described in subsection (b)(7) be sup-
ported by any one of the following forms of doc-
umentation, but the employer may not specify
the particular form of documentation to be pro-
vided:

(i) A police report indicating that the
covered individual, or a member of the cov-
ered individual’s family described in sub-
section (b)(7), was a victim of domestic vi-
olence, sexual assault, or stalking.

(ii) A court order protecting or sepa-
rating the covered individual or a member
of the covered individual’s family described
in subsection (b)(7) from the perpetrator
of an act of domestic violence, sexual as-
sault, or stalking, or other evidence from
the court or prosecuting attorney that the
covered individual or a member of the covered individual’s family described in subsection (b)(7) has appeared in court or is scheduled to appear in court in a proceeding related to domestic violence, sexual assault, or stalking.

(iii) Other documentation signed by a covered individual or volunteer working for a victim services organization, an attorney, a police officer, a medical professional, a social worker, an antiviolence counselor, or a member of the clergy, affirming that the covered individual or a member of the covered individual’s family described in subsection (b)(7) is a victim of domestic violence, sexual assault, or stalking.

(B) REQUIREMENTS.—The requirements of paragraph (2) shall apply to certifications under this paragraph, except that—

(i) subclauses (III) and (IV) of subparagraph (B)(i) and subparagraph (B)(ii) of such paragraph shall not apply;

(ii) the certification shall state the reason that the leave is required with the facts to be disclosed limited to the min-
imum necessary to establish a need for the
covered individual to be absent from work,
and the covered individual shall not be re-
quired to explain the details of the domes-
tic violence, sexual assault, or stalking in-
volved; and

(iii) with respect to confidentiality
under subparagraph (E) of such para-
graph, any information provided to the em-
ployer under this paragraph shall be con-
fidential, except to the extent that any dis-
closure of such information is—

(I) requested or consented to in
writing by the covered individual; or

(II) otherwise required by appli-
cable Federal or State law.

(f) Restoration to Position.—The provisions of
section 104(a) of the Family and Medical Leave Act of
1993 (29 U.S.C. 2614(a)) or section 6384 of title 5,
United States Code, as the case may be, shall apply to
a covered individual taking accrued or additional paid sick
time, or emergency paid leave, under this title, and to the
employer of the covered individual. Such provisions shall
be enforced in accordance with this title.
(g) Maintenance of Health Benefits.—The provisions of section 104(e)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2614(e)(1)) shall apply to a covered individual taking accrued or additional paid sick time, or emergency paid leave, under this title, and to the employer of the covered individual. Such provisions shall be enforced in accordance with this title.

(h) No Effect on Eligibility for Supplemental Security Income.—Any paid sick time or emergency paid leave provided to a covered individual under this title shall not be regarded as income or resources for any month, for purposes of determining the eligibility of the recipient (or the recipient’s spouse or family) for benefits or assistance, or the amount or extent of benefits or assistance, under the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.).

SEC. 303. EMPLOYMENT UNDER MULTIEmployer Collective Bargaining Agreements.

(a) Employers.—An employer signatory to a multi-employer collective bargaining agreement may, consistent with its bargaining obligations and its collective bargaining agreement, fulfill its obligations under this title by making contributions to a multiemployer fund, plan, or program based on the hours of paid sick time, and of
emergency paid leave, each of its employees is entitled to
under this title while working under the multiemployer col-
lective bargaining agreement, provided that the fund, plan,
or program enables employees to secure pay from such
fund, plan, or program based on the hours the employees
have worked under the multiemployer collective bargaining
agreement and for the amount of time and uses specified
under this title.

(b) EMPLOYEES.—Employees who work under a mul-
tiemployer collective bargaining agreement into which
their employers make contributions as provided in sub-
section (a) may secure pay from such fund, plan, or pro-
gram based on hours the employees have worked under
the multiemployer collective bargaining agreement for the
amount of time and uses specified under this title.

SEC. 304. NOTICE REQUIREMENT.

(a) IN GENERAL.—Each employer shall notify each
covered individual and include in any covered individual
handbook the information described in paragraphs (1)
through (4). Each employer shall post and keep posted
a notice, to be prepared or approved in accordance with
procedures specified in regulations prescribed under sec-
tion 311, setting forth excerpts from, or summaries of,
the pertinent provisions of this title including—
(1) information describing paid sick time and paid emergency leave available to covered individuals under this title;

(2) information pertaining to the filing of an action under this title;

(3) the details of the notice requirement for a foreseeable period of time under section 302(e)(1)(B); and

(4) information that describes—

(A) the protections that a covered individual has in exercising rights under this title; and

(B) how the covered individual can contact the Secretary (or other appropriate authority as described in section 306) if any of the rights are violated.

(b) LOCATION.—The notice described under subsection (a) shall be posted—

(1) in conspicuous places on the premises of the employer, where notices to covered individuals (including applicants) are customarily posted; or

(2) in covered individual handbooks.

(e) MODEL NOTICE.—Not later than 5 days after the date of enactment of this Act, the Secretary of Labor shall
make publicly available a model notice that meets the re-
quirements of subsection (a).

(d) VIOLATION; PENALTY.—Any employer who will-
fully violates the posting requirements of this section shall
be subject to a civil fine in an amount not to exceed $100
for each separate offense.

SEC. 305. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful
for any employer to interfere with, restrain, or deny
the exercise of, or the attempt to exercise, any right
provided under this title, including—

(A) discharging or discriminating against
(including retaliating against) any individual,
including a job applicant, for exercising, or at-
tempting to exercise, any right provided under
this title;

(B) using the taking of paid sick time or
emergency paid leave under this title as a nega-
tive factor in an employment action or work-re-
lated action, such as hiring, promotion, reduc-
ing hours or number of shifts, or a disciplinary
action; or
(C) counting the paid sick time or emergency paid leave under a no-fault attendance policy or any other absence control policy.

(2) Discrimination.—It shall be unlawful for any employer to discharge or in any other manner discriminate against (including retaliating against) any individual, including a job applicant, for opposing any practice made unlawful by this title.

(b) Interference with Proceedings or Inquiries.—It shall be unlawful for any person to discharge or in any other manner discriminate against (including retaliating against) any individual, including a job applicant, because such individual—

(1) has filed an action, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this title.

(e) Construction.—Nothing in this section shall be construed to state or imply that the scope of the activities prohibited by section 105 of the Family and Medical Leave
Act of 1993 (29 U.S.C. 2615) is less than the scope of the activities prohibited by this section.

SEC. 306. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection—

(A) the term “employee” means an employee described in subparagraph (A) or (B) of section 301(5) or a corresponding covered individual; and

(B) the term “employer” means an employer described in subclause (I) or (II) of section 301(6)(A)(i).

(2) INVESTIGATIVE AUTHORITY.—

(A) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subparagraph (C), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)), with respect to employers, employees, and other individuals affected.

(B) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall make, keep, and preserve records pertaining to compliance with
this title in accordance with section 11(c) of the
211(c)) and in accordance with regulations pre-
scribed by the Secretary.

(C) REQUIRED SUBMISSIONS GENERALLY
LIMITED TO AN ANNUAL BASIS.—The Secretary
shall not require, under the authority of this
paragraph, an employer to submit to the Sec-
retary any books or records more than once
during any 12-month period, unless the Sec-
retary has reasonable cause to believe there
may exist a violation of this title or any regula-
tion or order issued pursuant to this title, or is
investigating a charge pursuant to paragraph
(4).

(D) SUBPOENA AUTHORITY.—For the pur-
poses of any investigation provided for in this
paragraph, the Secretary shall have the sub-
poena authority provided for under section 9 of
the Fair Labor Standards Act of 1938 (29

(3) CIVIL ACTION BY EMPLOYEES OR INDIVID-
UALS.—

(A) RIGHT OF ACTION.—An action to re-
cover the damages or equitable relief prescribed
in subparagraph (C) may be maintained against any employer in any Federal or State court of competent jurisdiction by one or more employees or individuals or their representative for and on behalf of—

(i) the employees or individuals; or

(ii) the employees or individuals and others similarly situated.

(B) No waiver.—In such an action brought by one or more employees or individuals or their representative for and on behalf of the persons described in clause (i) or (ii) of subparagraph (A), to enforce the rights in this title, no court of competent jurisdiction may grant an employer’s motion to compel arbitration, under chapter 1 of title 9, United States Code, or any analogous State arbitration statute, of the claims involved. An employee’s right to bring an action on behalf of similarly situated employees to enforce such rights may not be subject to any private agreement that purports to require the employees to pursue claims on an individual basis.

(C) Liability.—Any employer who violates section 305 (including a violation relating
to rights provided under section 302) shall be
liable to any employee or individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, em-
ployment benefits, or other com-
pensation denied or lost by rea-
son of the violation; or

(bb) in a case in which
wages, salary, employment bene-
fits, or other compensation have
not been denied or lost, any ac-
tual monetary losses sustained as
a direct result of the violation up
to a sum equal to 56 hours of
wages or salary for the employee
or individual, or the specified pe-
period described in subsection
(c)(2) or (d)(2) of section 302, or
a combination of those hours and
that period, as the case may be;

(II) the interest on the amount
described in subclause (I) calculated
at the prevailing rate; and
(III) an additional amount as liquidated damages; and

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

(D) FEES AND COSTS.—The court in an action under this paragraph shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney’s fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 305 (including a violation relating to rights provided under section 302) in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (3)(C)(i).
(C) Sums recovered.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee or individual affected. Any such sums not paid to an employee or individual affected because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(5) Limitation.—

(A) In general.—Except as provided in subparagraph (B), an action may be brought under paragraph (3), (4), or (6) not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) Willful violation.—In the case of an action brought for a willful violation of section 305 (including a willful violation relating to rights provided under section 302), such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.
(C) COMMENCEMENT.—In determining when an action is commenced under paragraph (3), (4), or (6) for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(6) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of section 305 (including a violation relating to rights provided under section 302), including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to employees or individuals eligible under this title; or

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

(7) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under paragraph (4) or (6).
(8) GOVERNMENT ACCOUNTABILITY OFFICE.—
Notwithstanding any other provision of this subsection, in the case of the Government Accountability Office, the authority of the Secretary of Labor under this subsection shall be exercised by the Comptroller General of the United States.

(b) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) including section 401(d) of such Act (2 U.S.C. 1401(d)), to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), the corresponding Federal agency described in that section 401(d), or any person, alleging a violation of subsection (a)(1) of section 202 of that Act (2 U.S.C. 1312) shall be the powers, remedies, and procedures this title provides to that Board, the corresponding Federal agency, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section 301(5)(C) or a corresponding covered individual.

(c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Merit Systems Protection Board, or any person, alleging a violation of section
412(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 301(5)(D) or a corresponding covered individual.

(d) Employees Covered by Chapter 63 of Title 5, United States Code.—The powers, remedies, and procedures provided in title 5, United States Code, to an employing agency, provided in chapter 12 of that title to the Merit Systems Protection Board, or provided in that title to any person, alleging a violation of chapter 63 of that title shall be the powers, remedies, and procedures this title provides to that agency, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section 301(5)(E) or a corresponding covered individual.

(e) Remedies for State Employees.—

(1) Waiver of sovereign immunity.—A State’s receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th Amendment to the Constitution or otherwise, to a suit brought by a covered individual of that pro-
gram or activity under this title for equitable, legal, or other relief authorized under this title.

(2) OFFICIAL CAPACITY.—An official of a State may be sued in the official capacity of the official by any covered individual who has complied with the procedures under subsection (a)(3), for injunctive relief that is authorized under this title. In such a suit the court may award to the prevailing party those costs authorized by section 722 of the Revised Statutes (42 U.S.C. 1988).

(3) APPLICABILITY.—With respect to a particular program or activity, paragraph (1) applies to conduct occurring on or after the day, after the date of enactment of this Act, on which a State first receives or uses Federal financial assistance for that program or activity.

(4) DEFINITION OF PROGRAM OR ACTIVITY.—In this subsection, the term “program or activity” has the meaning given the term in section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

SEC. 307. EDUCATION AND OUTREACH.

The Secretary may conduct a public awareness campaign to educate and inform the public of the requirements for paid sick time and paid emergency leave required by this title.
SEC. 308. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this title shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, disability, sexual orientation, gender identity, marital status, familial status, or any other protected status.

(b) STATE AND LOCAL LAWS.—Nothing in this title shall be construed to supersede (including preempts) any provision of any State or local law that provides greater paid sick time or leave rights (including greater amounts of paid sick time or leave, or greater coverage of those eligible for paid sick time or leave) than the rights established under this title.

SEC. 309. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this title shall be construed to diminish the obligation of an employer to comply with any contract, collective bargaining agreement, or any employment benefit program or plan that provides greater paid sick leave or other leave rights to covered individuals than the rights established under this title.

(b) LESS PROTECTIVE.—The rights established for covered individuals under this title shall not be diminished by any contract, collective bargaining agreement, or any employment benefit program or plan.
SEC. 310. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this title shall be construed to discourage employers from adopting or retaining leave policies more generous than policies that comply with the requirements of this title.

SEC. 311. REGULATIONS.

(a) IN GENERAL.—

(1) AUTHORITY.—Except as provided in paragraph (2) and subject to subsection (e), not later than 180 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as are necessary to carry out this title with respect to employees described in subparagraph (A) or (B) of section 301(5), corresponding covered individuals, and other individuals affected by employers described in subclause (I) or (II) of section 301(6)(A)(i).

(2) GOVERNMENT ACCOUNTABILITY OFFICE.—Subject to subsection (e), the Comptroller General of the United States shall prescribe the regulations with respect to employees of the Government Accountability Office, corresponding covered individuals, and other individuals affected by the Comptroller General of the United States.
(b) **Employees Covered by Congressional Accountability Act of 1995.**—

(1) **Authority.**—Subject to subsection (e), not later than 90 days after the Secretary prescribes regulations under subsection (a), the Board of Directors of the Office of Congressional Workplace Rights shall prescribe (in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384)) and the corresponding Federal agency described in section 401(d) of such Act (2 U.S.C. 1401(d)) shall prescribe such regulations as are necessary to carry out this title with respect to employees described in section 301(5)(C), corresponding covered individuals, and other individuals affected by employers described in section 301(6)(A)(i)(III).

(2) **Agency Regulations.**—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this title except insofar as the Board may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the imple-
mentation of the rights and protections involved under this section.

(c) Employees Covered by Chapter 5 of Title 3, United States Code.—

(1) Authority.—Subject to subsection (e), not later than 90 days after the Secretary prescribes regulations under subsection (a), the President (or the designee of the President) shall prescribe such regulations as are necessary to carry out this title with respect to employees described in section 301(5)(D), corresponding covered individuals, and other individuals affected by employers described in section 301(6)(A)(i)(IV).

(2) Agency Regulations.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this title except insofar as the President (or designee) may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

(d) Employees Covered by Chapter 63 of Title 5, United States Code.—
(1) AUTHORITY.—Subject to subsection (e), not later than 90 days after the Secretary prescribes regulations under subsection (a), the Director of the Office of Personnel Management shall prescribe such regulations as are necessary to carry out this title with respect to employees described in section 301(5)(E), corresponding covered individuals, and other individuals affected by employers described in section 301(6)(A)(i)(V).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this title except insofar as the Director may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

(e) IMMEDIATE COMPLIANCE BY EMPLOYERS.—The rights and responsibilities specified in this title shall apply to employers on the first Sunday following enactment of this Act and employers shall comply on such date, without regard to whether regulations have been prescribed under this section.
SEC. 312. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out title II and this title such sums as may be necessary for fiscal year 2020 and each subsequent fiscal year.

SEC. 313. EFFECTIVE DATES.

(a) IN GENERAL.—Titles I through III take effect on the date of enactment of this Act.

(b) PREVIOUS DECLARATIONS.—If a public health emergency was declared before and remains in effect on the date of enactment of this Act, for purposes of titles I through III (and in particular section 302(c) of this Act) the public health emergency shall be considered to have been declared on the date of enactment of this Act, including an emergency described in section 301(12)(B).

TITLE IV—FAMILY AND MEDICAL LEAVE INSURANCE BENEFITS

SEC. 401. SUNSET.

On December 31, 2021, subsection (d) of section 302 is repealed.

SEC. 402. DEFINITIONS.

In this title, the following definitions apply:

(1) CAREGIVING DAY.—The term “caregiving day” means, with respect to an individual, a calendar day in which the individual engaged in qualified caregiving.
(2) COMMISSIONER.—The term “Commissioner” means the Commissioner of Social Security.

(3) DEPUTY COMMISSIONER.—The term “Deputy Commissioner” means the Deputy Commissioner who heads the Office of Paid Family and Medical Leave established under section 403(a).

(4) ELIGIBLE INDIVIDUAL.—The term “eligible individual” means an individual who is entitled to a benefit under section 404 for a particular month, upon filing an application for such benefit for such month.

(5) INITIAL WAITING PERIOD.—The term “initial waiting period” means a period beginning with the first caregiving day of an individual occurring during the individual’s benefit period and ending after the earlier of—

(A) the fifth caregiving day of the individual occurring during the benefit period; or

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

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

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

(8) STATE.—The term “State” means any State of the United States or the District of Columbia or any territory or possession of the United States.

(9) WAGES.—The term “wages”, except as such term is used in subsection (h)(2) of section 404, has the same meaning as such term in section 209 of the Social Security Act (42 U.S.C. 409).

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

(A) beginning with the first caregiving day of an individual occurring during the individual’s benefit period and after the expiration of the individual’s 5-day waiting period, if applicable; and

(B) ending with the 60th caregiving day of the individual occurring during the benefit pe-
period and after the expiration of the 5-day waiting period,
disregarding any caregiving day of the individual occurring during any month in the benefit period after the first 20 caregiving days of the individual occurring during such month.

SEC. 403. OFFICE OF PAID FAMILY AND MEDICAL LEAVE.

(a) Establishment of Office.—There is established within the Social Security Administration an office to be known as the Office of Paid Family and Medical Leave. The Office shall be headed by a Deputy Commissioner who shall be appointed by the Commissioner.

(b) Responsibilities of Deputy Commissioner.—The Commissioner, acting through the Deputy Commissioner, shall be responsible for—

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

(2) issuing such regulations as may be necessary to carry out the purposes of this title;

(3) entering into cooperative agreements with other agencies and departments to ensure the efficiency of the administration of the program;

(4) determining eligibility for family and medical leave insurance benefits under section 404;
(5) determining benefit amounts for each month of such eligibility and making timely payments of such benefits to entitled individuals in accordance with such section;

(6) establishing and maintaining a system of records relating to the administration of such section;

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

(8) providing information on request regarding eligibility requirements, the claims process, benefit amounts, maximum benefits payable, notice requirements, nondiscrimination rights, confidentiality, coordination of leave under this title and other laws, collective bargaining agreements, and employer policies;

(9) annually providing employers a notice informing employees of the availability of such benefits;

(10) annually making available to the public a report that includes the number of individuals who received such benefits, the purposes for which such benefits were received, and an analysis of utilization rates of such benefits by gender, race, ethnicity, and income levels; and
(11) tailoring culturally and linguistically competent education and outreach toward increasing utilization rates of benefits under such section.

(c) Availability of Data.—The Commissioner shall make available to the Deputy Commissioner such data as the Commissioner determines necessary to enable the Deputy Commissioner to effectively carry out the responsibilities described in subsection (b).

SEC. 404. FAMILY AND MEDICAL LEAVE INSURANCE BENEFIT PAYMENTS.

(a) In General.—Every individual who—

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

(2) has earned income from employment during the 12 months prior to the month in which the application is filed;

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

(4) was engaged in qualified caregiving, or anticipates being so engaged, during the period that begins 90 days before the date on which such application is filed or within 30 days after such date,
shall be entitled to such a benefit for each month in the benefit period specified in subsection (e), not to exceed 60 caregiving days per benefit period.

(b) Benefit Amount.—

(1) In general.—Except as otherwise provided in this subsection, the benefit amount to which an individual is entitled under this section for a month shall be an amount equal to the greater of—

(A) the lesser of \( \frac{1}{18} \) of the wages and self-employment income of the individual for the calendar year in which such wages and self-employment income are the highest among the most recent three calendar years, or the maximum benefit amount determined under paragraph (2); or

(B) the minimum benefit amount determined under paragraph (2),

multiplied by the quotient (not greater than 1) obtained by dividing the number of caregiving days of the individual in such month by 20.

(2) Annual increase of maximum and minimum benefit amounts.—

(A) For individuals who initially become eligible for family and medical leave insurance benefits in calendar year 2022, the maximum
monthly benefit amount and the minimum
monthly benefit amount shall be $4,000 and
$580, respectively.

(B) For individuals who initially become el-
gible for family and medical leave insurance
benefits in any calendar year after calendar
year 2022 the maximum benefit amount and
the minimum benefit amount shall be, respec-
tively, the product of the corresponding amount
determined with respect to calendar year 2022
and the quotient obtained by dividing—

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

(ii) the national average wage index
(as so defined) for 2020.

(3) LIMITATIONS ON BENEFITS PAID.—

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

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

(4) REDUCTION IN BENEFIT AMOUNT ON ACCOUNT OF RECEIPT OF CERTAIN BENEFITS.—A benefit under this section for a month shall be reduced by the amount, if any, in certain benefits (as determined under regulations issued by the Commissioner) as may be otherwise received by an individual. For purposes of the preceding sentence, certain 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 (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 in which the individual meets the criteria specified in paragraphs (1), (2), and (3) of subsection (a), and shall end on the date that is 365 days after the 1st day of the benefit period.

(2) Retroactive benefits.—In the case of an application for benefits under this section for qualified caregiving in which the individual was engaged at any time during the 90-day period preceding the date on which such application is sub-
mitted, the benefit period specified in this subsection shall begin on the later of—

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

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

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

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

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

(3) if such qualified caregiving is engaged in by the individual for any other authorized reason, a certification, issued by a relevant authority determined under regulations issued by the Commissioner, that affirms the circumstances giving rise to such reason;

and

(4) an attestation from the applicant that his or her employer has been provided with written notice of the individual’s intention to take family or medical leave, if the individual has an employer, or to the Commissioner in all other cases.

(e) INELIGIBILITY; DISQUALIFICATION.—

(1) INELIGIBILITY FOR BENEFIT.—An individual shall be ineligible for a benefit under this section for any month for which the individual is entitled to—

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

(B) monthly insurance benefits under section 202 of such Act (42 U.S.C. 402) based on such individual’s disability (as defined in section 223(d) of such Act (42 U.S.C. 423(d))); or

(C) benefits under title XVI of such Act (42 U.S.C. 1381 et seq.) based on such individual’s status as a disabled individual (as determined under section 1614 of such Act (42 U.S.C. 1382e)).

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

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

(1) ELIGIBILITY DETERMINATIONS.—

(A) IN GENERAL.—The Commissioner shall provide notice to an individual applying for benefits under this section of the initial determination of eligibility for such benefits, and
the estimated benefit amount for a month in which one caregiving day of the individual occurs, as soon as practicable after the application is received.

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

(2) BENEFIT PAYMENT DETERMINATIONS.—

(A) IN GENERAL.—The Commissioner shall make any monthly benefit payment to an individual claiming benefits for a month under this section, or provide notice of the reason such payment will not be made if the Commissioner determines that the individual is not entitled to payment for such month, not later than 20 days after the individual’s monthly benefit claim report for such month is received.
Such monthly report shall be filed with the Commissioner not later than 15 days after the end of each month.

(B) REVIEW.—If the Commissioner determines that payment will not be made to an individual for a month, or if the Commissioner determines that payment shall be made based on a number of caregiving days in the month inconsistent with the number of caregiving days in the monthly benefit claim report of the individual for such month, the individual may request review of such determination at any time before the end of the 20-day period that begins on the date notice of such determination is received, except that such 20-day period may be extended for good cause. Not later than 20 days after the individual requests review of the determination, the Commissioner shall provide notice to the individual of a final determination of payment for such month, and shall make payment to the individual of any additional amount not included in the initial payment to the individual for such month to which the Commissioner determines the individual is entitled.
(3) **Burden of Proof.**—An application for benefits under this section and a monthly benefit claim report of an individual shall each be presumed to be true and accurate, unless the Commissioner demonstrates by a preponderance of the evidence that information contained in the application is false.

(4) **Definition of Monthly Benefit Claim Report.**—For purposes of this subsection, the term “monthly benefit claim report” means, with respect to an individual for a month, the individual’s report to the Commissioner of the number of caregiving days of the individual in such month, which shall be filed no later than 15 days after the end of each month.

(5) **Review.**—All final determinations of the Commissioner under this subsection shall be reviewable according to the procedures set out in section 205 of the Social Security Act (42 U.S.C. 405).

(g) **Relationship With State Law; Employer Benefits.**—

(1) **In General.**—This section does not preempt or supercede any provision of State or local law that authorizes a State or local municipality to
provide paid family and medical leave benefits similar to the benefits provided under this section.

(2) GREATER BENEFITS ALLOWED.—Nothing in this title shall be construed to diminish the obligation of an employer to comply with any contract, collective bargaining agreement, or any employment benefit program or plan that provides greater paid leave or other leave rights to employees than the rights established under this title.

(h) PROHIBITED ACTS; ENFORCEMENT.—

(1) IN GENERAL.—It shall be unlawful for any person to discharge or in any other manner discriminate against an individual because the individual has applied for, indicated an intent to apply for, or received family and medical leave insurance benefits.

(2) CIVIL ACTION BY AN INDIVIDUAL.—

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

(i) for damages equal to the sum of—

(I) the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost to such
individual by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the individual, any actual monetary losses sustained by the individual as a direct result of the violation, such as the cost of providing care, up to a sum equal to 60 calendar days of wages or salary for the individual;

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

(III) an additional amount as liquidated 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

(ii) the individual and other individuals similarly situated.

(C) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney’s fee, reasonable expert witness fees, and
other costs of the action to be paid by the defendant.

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

(i) on the filing of a complaint by the Commissioner in an action under paragraph (5) in which restraint is sought of any further delay in the payment of the amount described in subparagraph (A)(I) to such individual by the person responsible under subparagraph (A) for the payment; or

(ii) on the filing of a complaint by the Commissioner in an action under paragraph (3) in which a recovery is sought of the damages described in subparagraph (A)(I) owing to an individual by a person liable under subparagraph (A), unless the action described in clause (i) or (ii) is dismissed without prejudice on motion of the Commissioner.

(3) ACTION BY THE COMMISSIONER.—

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

(B) Sums recovered.—Any sums recovered by the Commissioner pursuant to subparagraph (A) shall be held in a special deposit account and shall be paid, on order of the Commissioner, directly to each individual affected. Any such sums not paid to an individual because of inability to do so within a period of 3 years shall be deposited into the Federal Family and Medical Leave Insurance Trust Fund.

(4) Limitation.—

(A) In general.—An action may be brought under this subsection not later than 3 years after the date of the last event constituting the alleged violation for which the action is brought.

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

(5) Action for injunction by commissioner.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Commissioner—
(A) to restrain violations of paragraph (1), including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to an individual; or

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

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

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

(1) IN GENERAL.—For purposes of determining whether an activity engaged in by an individual constitutes qualified caregiving under this section—

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

(B) the term “son or daughter” (as used in such section) includes a son or daughter (as defined in section 101 of such Act) of the individual’s domestic partner.

(2) DOMESTIC PARTNER.—

(A) IN GENERAL.—For purposes of paragraph (1), the term “domestic partner”, with respect to an individual, means another individual with whom the individual is in a committed relationship.

(B) COMMITTED RELATIONSHIP DEFINED.—The term “committed relationship” means a relationship between two individuals (each at least 18 years of age) in which each individual is the other individual’s sole domestic partner and both individuals share responsibility for a significant measure of each other’s common welfare. The term includes any such relationship between two individuals, including individuals of the same sex, that is granted legal recognition by a State or political subdivision of a State as a marriage or analogous rela-
tionship, including a civil union or domestic partnership.

(k) Applicability of Certain Social Security Act Provisions.—The provisions of sections 204, 205, 206, and 208 of the Social Security Act shall apply to benefit payments authorized by and paid out pursuant to this section in the same way that such provisions apply to benefit payments authorized by and paid out pursuant to title II of such Act.

(l) Effective Date for Applications.—Applications described in this section may be filed after January 1, 2022.

SEC. 405. ESTABLISHMENT OF FAMILY AND MEDICAL LEAVE INSURANCE TRUST FUND.

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

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

(A) for the first three fiscal years beginning after January 1, 2021, such sums as may be necessary for the Commissioner to administer the office established under section 403 and pay the benefits under section 404;

(B) 100 percent of the taxes imposed by sections 3101(c) and 3111(c) of the Internal Revenue Code of 1986 with respect to wages (as defined in section 3121 of such Code) reported to the Secretary of the Treasury pursuant to subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such sections to such wages;

(C) 100 percent of the taxes imposed by section 1401(c) of such Code with respect to self-employment income (as defined in section 1402 of such Code) reported to the Secretary of the Treasury on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such sections to such wages;
tax under such section to such self-employment income; and

(D) 100 percent of the taxes imposed by sections 3201(c), 3211(c), and 3221(c) of such Code with respect to compensation (as defined in section 3231 of such Code) reported to the Secretary of the Treasury on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such sections to such compensation.

(2) Repayment of Initial Appropriation.—
Amounts appropriated pursuant to subparagraph (A) of paragraph (1) shall be repaid to the Treasury of the United States not later than 10 years after the first appropriation is made pursuant to such subparagraph.

(3) Transfer to Trust Fund.—The amounts described in paragraph (2) shall be transferred from time to time from the general fund in the Treasury to the Federal Family and Medical Leave Insurance Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in such paragraph, paid to or deposited into the Treasury. Proper adjustments
shall be made in amounts subsequently transferred
to the extent prior estimates were inconsistent with
the taxes specified in such paragraph.

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

(d) BENEFITS PAID FROM TRUST FUND.—Benefit
payments required to be made under section 404 shall be
made only from the Federal Family and Medical Leave
Insurance Trust Fund.

(e) ADMINISTRATION.—There are authorized to be
made available for expenditure, out of the Federal Family
and Medical Leave Insurance Trust Fund, such sums as
may be necessary to pay the costs of the administration
of section 404, including start-up costs, technical assist-
ance, outreach, education, evaluation, and reporting.

(f) PROHIBITION.—No funds from the Social Secu-
rity Trust Fund or appropriated to the Social Security Ad-
ministration to administer Social Security programs may
be used for Federal Family and Medical Leave Insurance
benefits or administration set forth under this title.
SEC. 406. INTERNAL REVENUE CODE PROVISIONS.

(a) IN GENERAL.—

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

(A) by redesignating subsection (c) as subsection (d), and

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

“(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

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

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

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

(A) by redesignating subsection (c) as subsection (d), and

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

“(c) FAMILY AND MEDICAL LEAVE INSURANCE.—
“(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the wages (as defined in section 3121(a)) paid by the employer with respect to employment (as defined in section 3121(b)).

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

(3) SELF-EMPLOYMENT INCOME CONTRIBUTION.—

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

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

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

“(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

“(1) IN GENERAL.—In addition to other taxes, there is hereby imposed for each taxable year, on the self-employment income of every individual, a tax equal to the applicable percentage of the amount of the self-employment income for such taxable year.
“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term ‘applicable percentage’ means 0.4 percent in the case of self-employment income in any taxable year.”.

(B) EXCLUSION OF CERTAIN NET EARNINGS FROM SELF-EMPLOYMENT.—Section 1402(b)(1) of such Code is amended by striking “tax imposed by section 1401(a)” and inserting “taxes imposed by subsections (a) and (e) of section 1401”.

(b) RAILROAD RETIREMENT TAX ACT.—

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

(A) by redesignating subsection (c) as subsection (d), and

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

“(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

“(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the applicable percentage of the compensation received during any calendar year by such employee for services rendered by such employee.
“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term ‘applicable percentage’ means 0.2 percent in the case of compensation received in any calendar year.”.

(2) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Section 3211 of such Code is amended—

(A) by redesignating subsection (c) as subsection (d), and

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

“(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

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

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

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

(A) by redesignating subsection (c) as subsection (d), and
(B) by inserting after subsection (b) the following:

“(c) FAMILY AND MEDICAL LEAVE INSURANCE.—

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

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

(e) CONFORMING AMENDMENTS.—

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

(A) in paragraph (1)—

(i) by inserting ‘‘, section 3101(c),’’ after ‘‘by section 3101(a);’’ and

(ii) by striking ‘‘both’’ and inserting ‘‘each’’; and

(B) in paragraph (2), by inserting ‘‘or 3101(c)’’ after ‘‘3101(a)’’ each place it appears.

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

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on May 1, 2022.

SEC. 407. REGULATIONS.

The Commissioner, in consultation with the Secretary of Labor, shall prescribe regulations necessary to carry out this title. In developing such regulations, the Commissioner shall consider the input from a volunteer advisory body comprised of not more than 15 individuals, including experts in the relevant subject matter and officials charged with implementing State paid family and medical leave insurance programs. The Commissioner shall take such programs into account when proposing regulations. Such individuals shall be appointed as follows:

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

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

(3) Two individuals to be appointed by the minority leader of the Senate.

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

(5) Two individuals to be appointed by the minority leader of the House of Representatives.
SEC. 408. GAO STUDY.

Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on family and medical leave insurance benefits paid under section 404 for any month during the 1-year period beginning on January 1, 2022. The report shall include the following:

(1) An identification of the total number of applications for such benefits filed for any month during such 1-year period, and the average number of days occurring in the period beginning on the date on which such an application is received and ending on the date on which the initial determination of eligibility with respect to the application is made.

(2) An identification of the total number of requests for review of an initial adverse determination of eligibility for such benefits made during such 1-year period, and the average number of days occurring in the period beginning on the date on which such review is requested and ending on the date on which the final determination of eligibility with respect to such review is made.

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

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

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