COMMITTEE PRINT

(Providing for reconciliation pursuant to S. Con. Res. 14, the Concurrent Resolution on the Budget for Fiscal Year 2022)

Subtitle A—Universal Paid Family and Medical Leave

SEC. 130001. PAID FAMILY AND MEDICAL LEAVE.

The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following:

“TITLE XXII—PAID FAMILY AND MEDICAL LEAVE BENEFITS

“SEC. 2201. TABLE OF CONTENTS.

“The table of contents for this title is as follows:

“Sec. 2201. Table of contents.
“Sec. 2202. Paid family and medical leave benefit eligibility.
“Sec. 2203. Benefit amount.
“Sec. 2204. Benefit determination and payment.
“Sec. 2205. Appeals.
“Sec. 2206. Stewardship.
“Sec. 2207. Funding for benefit payments, grants, and program administration.
“Sec. 2208. Funding for outreach, public education, and research.
“Sec. 2209. Funding for State administration option for legacy States.
“Sec. 2210. Reimbursement option for employer-sponsored paid leave benefits.
“Sec. 2211. Funding for small business assistance.
“Sec. 2212. Definitions.

“SEC. 2202. PAID FAMILY AND MEDICAL LEAVE BENEFIT ELIGIBILITY.

“(a) ENTITLEMENT.—Every individual who—
“(1) has filed an application for a paid family and medical leave benefit in accordance with section 2204(a);

“(2) has, or anticipates having, at least 4 caregiving hours in a week ending at any time during the period that begins 90 days before the date on which such application is filed or not later than 180 days after such date; and

“(3) has wages or self-employment income at any time during the period—

“(A) beginning with the most recent calendar quarter that ends at least 4 months prior to the beginning of the individual’s benefit period specified in subsection (b); and

“(B) ending with the month before the month in which such benefit period begins,

shall be entitled to such a benefit for each month during such benefit period, except as otherwise provided in this section.

“(b) Benefit Period.—

“(1) In General.—Except as provided in paragraph (2), the benefit period specified in this subsection is the period beginning with the month in which ends the 1st week in which the individual has at least 4 caregiving hours and otherwise meets the
criteria specified in paragraphs (1), (2), and (3) of subsection (a) and ending with the month in which ends the 52nd week ending during such period.

“(2) RETROACTIVE BENEFITS.—In the case of an application for benefits under this section with respect to an individual who has at least 4 caregiving hours in a week at any time during the period that begins 90 days before the date on which such application is filed, the benefit period specified in this subsection is the period beginning with the later of—

“(A) the month in which ends the 1st week in which the individual has at least 4 caregiving hours; or

“(B) the 1st month that begins during such 90-day period,

and ending with the month in which ends the 52nd week ending during such period.

“(3) LIMITATION.—Notwithstanding paragraphs (1) and (2), no benefit period under this title may begin with any month beginning prior to July 2023.

“(c) CAREGIVING HOURS.—

“(1) CAREGIVING HOUR DEFINED.—For purposes of this title, the term ‘caregiving hour’ means
a 1-hour period during which the individual engaged
in qualified caregiving (determined on the basis of
information filed with the Secretary pursuant to
subsection (c) of section 2204).

“(2) QUALIFIED CAREGIVING.—

“(A) IN GENERAL.—For purposes of this
subsection, the term ‘qualified caregiving’
means any activity engaged in by an individual
in lieu of work, other than for monetary com-
ensation, for any reason described in para-
graph (1) or (3) of section 102(a) of the Family
and Medical Leave Act of 1993 (29 U.S.C.
2612(a)), except that for purposes of this para-
graph such section shall be applied—

“(i) by treating such individual as the
employee referred to in such paragraph;

“(ii) as if paragraph (1)(C) were
amended to read as follows:

“(C)(i) In order to care for a qualified
family member of the employee, if such quali-
fied family member has a serious health condi-
tion.

“(ii) For purposes of clause (i), the term
“qualified family member” means, with respect
to an employee—
“(I) a spouse (including a domestic partner in a civil union or other registered domestic partnership recognized by a State) and a spouse’s parent;

“(II) a child and a child’s spouse;

“(III) a parent and a parent’s spouse;

“(IV) a sibling and a sibling’s spouse;

“(V) a grandparent, a grandchild, or a spouse of a grandparent or grandchild; and

“(VI) any other individual who is related by blood or affinity and whose association with the employee is equivalent of a family relationship (as determined under regulations issued by the Secretary of the Treasury).”; and

“(iii) by treating the criterion in paragraph (1)(D) that an individual is ‘unable to perform the functions of the position of such employee’ because of a serious health condition as a criterion that the individual is unable to satisfy the requirements needed to continue receiving the wages or self-
employment income described in subsection (a)(3) with respect to the individual because of such serious health condition;

“(iv) as if paragraph (1)(E) were amended to read as follows:

‘(E) Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that a qualified family member of the employee (as defined in subparagraph (C)(ii)) is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.’; and

“(v) as if paragraph (1) were amended by adding at the end the following:

‘(G) Because of the death of a spouse, parent, or child of the employee.’.

“(vi) as if paragraph (3) were amended by striking ‘the spouse, son, daughter, parent, or next of kin’ and inserting ‘a qualified family member of the employee (as defined in subparagraph (C)(ii))’.

“(B) NO MONETARY COMPENSATION PERMITTED.—For purposes of subparagraph (A), an activity shall be considered to be engaged in
by an individual for monetary compensation if
the individual received any form of wage com-
pensation from an employer, including paid va-
cation, paid sick leave, and any other form of
accrued paid time off (but not including any
such form of accrued paid time off or any non-
accrued paid family and medical leave benefits
sponsored by an employer to the extent that the
sum of such accrued or non-accrued paid leave
and any paid family and medical leave benefits
under section 2202 does not exceed 100 percent
of the individual’s regular rate of pay (as deter-
mined under section 7(e) of the Fair Labor
Standards Act of 1938)), for the time during
which the individual was so engaged.

“(C) TREATMENT OF INDIVIDUALS ELIGI-
BLE FOR EMPLOYER SPONSORED PAID FAMILY
AND MEDICAL LEAVE BENEFITS.—For purposes
of subparagraph (A), an activity engaged in by
an individual shall not be considered to be en-
gaged in in lieu of work if, for the time during
which the individual was so engaged, the indi-
vidual would be eligible for paid family and
medical leave benefits under a program spon-
sored by an employer who receives a grant with respect to such program under section 2210.

“(D) TREATMENT OF INDIVIDUALS EMPLOYED IN LEGACY STATES.—For purposes of subparagraph (A), an activity engaged in by an individual shall not be considered to be engaged in in lieu of work if the time during which the individual was so engaged constitutes leave from employment for which the individual would be eligible to receive paid family or medical leave benefits under the law of a legacy State (as defined in section 2209(b)).

“(d) TREATMENT OF BEREAVEMENT LEAVE.—In the case of an activity engaged in by an individual in lieu of work for a reason described in paragraph (1)(G) of section 102(a) of the Family and Medical Leave Act of 1993 (as such section is applied for purposes of paragraph (2) of subsection (c)), the total number of caregiving hours attributable to such activity, for each death described in such paragraph (1)(G), that may be credited under section 2203(c) to weeks during the individual’s benefit period may not exceed \( \frac{3}{5} \) of the number of hours in the individual’s regular workweek (within the meaning of section 2203(d)).
“(e) NO CAREGIVING HOURS IN INDIVIDUAL’S WEEK OF DEATH.—No caregiving hours of an individual may be credited under section 2203(c) to the week during which the individual dies.

“(f) DISQUALIFICATION FOLLOWING CERTAIN CONVICTIONS.—An individual who has been found to have used false statements or representation to secure benefits under this title shall be ineligible for benefits under this title for a 5-year period following the date of such finding.

“SEC. 2203. BENEFIT AMOUNT.

“(a) IN GENERAL.—The amount of the benefit to which an individual is entitled under section 2202 for a month shall be an amount equal to the sum of the weekly benefit amounts for each week ending during such month. The weekly benefit amount of an individual for a week shall be equal to the product of the individual’s weekly benefit rate (as determined under subsection (b)) multiplied by a fraction—

“(1) the numerator of which is the number of caregiving hours of the individual credited to such week (as determined in subsection (c)); and

“(2) the denominator of which is the number of hours in a regular workweek of the individual (as determined in subsection (d)).

“(b) WEEKLY BENEFIT RATE.—
“(1) IN GENERAL.—For purposes of this section, an individual’s weekly benefit rate shall be an amount equal to the sum of—

“(A) 85 percent of the individual’s average weekly earnings to the extent that such earnings do not exceed the amount established for purposes of this clause by paragraph (2);

“(B) 75 percent of the individual’s average weekly earnings to the extent that such earnings exceed the amount established for purposes of subparagraph (A) but do not exceed the amount established for purposes of this clause by paragraph (2);

“(C) 55 percent of the individual’s average weekly earnings to the extent that such earnings exceed the amount established for purposes of subparagraph (B) but do not exceed the amount established for purposes of this clause by paragraph (2);

“(D) 25 percent of the individual’s average weekly earnings to the extent that such earnings exceed the amount established for purposes of subparagraph (C) but do not exceed the amount established for purposes of this clause by paragraph (2); and
“(E) 5 percent of the individual’s average weekly earnings to the extent that such earnings exceed the amount established for purposes of subparagraph (D) but do not exceed the amount established for purposes of this clause by paragraph (2).

“(2) AMOUNTS ESTABLISHED.—

“(A) INITIAL AMOUNTS.—For individuals whose benefit period under this title begins in or before calendar year 2024, the amount established for purposes of subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) shall be $15,080, $34,248, $72,000, $100,000, and $250,000, respectively.

“(B) WAGE INDEXING.—For individuals whose benefit period under this title begins in any calendar year after 2024, each of the amounts so established shall equal the corresponding amount established for the calendar year preceding such calendar year, or, if larger, the product of the corresponding amount established with respect to the calendar year 2024 and the quotient obtained by dividing—

“(i) the national average wage index (as defined in section 2212) for the second
calendar year preceding such calendar year, by

“(ii) the national average wage index (as so defined) for 2022.

“(C) ROUNding.—Each amount established under subparagraph (B) for any calendar year shall be rounded to the nearest $1, except that any amount so established which is a multiple of $0.50 but not of $1 shall be rounded to the next higher $1.

“(3) Average Weekly Earnings.—For purposes of this subsection, an individual’s average weekly earnings, as calculated by the Secretary, shall be equal to the quotient obtained by dividing—

“(A) the total of the wages and self-employment income received by the individual during the most recent 8-calendar quarter period that ends at least 4 months prior to the beginning of the individual’s benefit period; by

“(B) 104.

“(4) Evidence of Earnings.—For purposes of determining the wages and self-employment income of an individual with respect to an application for benefits under section 2202, the Secretary shall make such determination on the basis of wage data
provided to the Secretary from the National Directory of New Hires pursuant to section 453(j)(5) and self-employment income data provided by the Secretary, except that the Secretary shall also consider any more recent or additional evidence of wages or self-employment income the individual chooses to additionally submit.

“(c) CREDITING OF CAREGIVING HOURS TO A WEEK.—The number of caregiving hours of an individual credited to a week as determined under this subsection shall equal the number of caregiving hours of the individual occurring during such week, except that—

“(1) such number may not exceed the number of hours in a regular workweek of the individual (as determined in subsection (d));

“(2) no caregiving hours may be credited to a week in which fewer than 4 caregiving hours of the individual occur;

“(3) no caregiving hours of the individual may be credited to the individual’s waiting period, consisting of the first week during an individual’s benefit period in which at least 4 caregiving hours occur (regardless of whether the individual received paid vacation, paid sick leave, and any other form of accrued paid time off from the individual’s employer
during such week in accordance with section 2202(e)(2)(B)); and

“(4) the total number of caregiving hours credited to weeks during the individual’s benefit period may not exceed the product of 12 multiplied by the number of hours in a regular workweek of the individual (as so determined).

“(d) Number of Hours in a Regular Workweek.—For purposes of this section, the number of hours in a regular workweek of an individual shall be the number of hours that the individual regularly works in a week for all employers (or regularly worked in the case of an individual no longer employed), as determined under guidance to be issued by the Secretary.

“SEC. 2204. BENEFIT DETERMINATION AND PAYMENT.

“(a) In General.—An individual seeking benefits under section 2202 shall file an application with the Secretary containing the information described in subsection (b) and such other information as the Secretary may require. Any information contained in an application for benefits under section 2202, or in a periodic benefit claim report filed with respect to such benefits, shall be presumed to be true and accurate, unless the Secretary demonstrates by a preponderance of the evidence that information contained in the application or periodic benefit claim
report is false, except that the Secretary shall establish procedures to validate the identity of the individual filing the application.

“(b) REQUIRED CONTENTS OF INITIAL APPLICATION.—An application for a paid family and medical leave benefit filed by an individual shall include—

“(1) an attestation that the individual has, or anticipates having, at least 4 caregiving hours in a week ending at any time during the period that begins 90 days before the date on which such application is filed or not later than 180 days after such date;

“(2) except as otherwise provided in this subsection, a certification, issued by a relevant authority determined under regulations issued by the Secretary, that contains such information as the Secretary shall specify in such regulations as necessary to affirm the circumstances giving rise to the need for such caregiving hours, which shall be no more than the information 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) an attestation from the individual that notice of the individual’s need to be absent from work during such caregiving hours has been provided, not
later than 7 days after such need arises, to the indi-
individual’s employer (except in cases of hardship or
other extenuating circumstances or if the individual
does not have (or no longer has) an employer);

“(4) pay stubs or such other evidence as the in-
dividual may provide demonstrating the individual’s
wages or self-employment income during the period
described in section 2202(a)(3), except that the Sec-
retary may waive this requirement in any case in
which such evidence is otherwise available to the
Secretary;

“(5) an attestation from the individual stating
the number of hours in a regular workweek of the
individual (within the meaning of section 2203(d));
and

“(6) an attestation from the individual stating
that the leave from employment with respect to
which the individual is filing such application is not
employment for which the individual has received—

“(A) a notice from a State pursuant to
subsection (b)(2)(B) of section 2209 stating
that such employment would be eligible for paid
family and medical leave benefits under a State
legacy program described in such section; or
“(B) a notice from the individual’s employer pursuant to subsection (c)(2)(D) of section 2210 stating that such employment would be eligible for paid family and medical leave benefits under an employer-sponsored program described in such section.

In the case of an individual who applies for a paid family and medical leave benefit in the anticipation of caregiving hours occurring after the date of application, the certification described in paragraph (2), the attestation described in paragraph (3), and the evidence described in paragraph (4) may be provided after the 1st week in which at least 4 such caregiving hours occur.

“(c) PERIODIC BENEFIT CLAIM REPORT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), not later than 60 days (or such longer period as may be provided in any case in which the Secretary determines that good cause exists for an extension) after the end of each month during the benefit period of an individual entitled to benefits under section 2202, the individual shall file a periodic benefit claim report with the Secretary. Such periodic benefit claim report shall specify the caregiving hours of the individual that occurred during each week that ended in such month and shall
include such other information as the Secretary may require. No periodic benefit claim report shall be required with respect to any week in which fewer than 4 caregiving hours occurred.

“(2) Retroactive Applications.—In the case of an application filed by an individual for a paid family and medical leave benefit with a benefit period that begins, in accordance with section 2202(b)(2), with a month that ends before the date on which such application is filed, the individual may include with such application the information described in the second sentence of paragraph (1) with respect to each week in the benefit period that ends before such date.

“(d) Determinations and Notice Requirements.—

“(1) Initial Application.—

“(A) In general.—The Secretary shall determine the initial eligibility of an individual applying for benefits under this title in accordance with section 2202.

“(B) Notices.—To ensure payment of benefits in the correct amount and that beneficiaries are aware of the right to appeal a benefit determination of the Secretary—
“(i) not later than 15 days after each application for benefits from an individual under this title is filed, the Secretary shall provide notice to the individual of—

“(I) the initial determination of eligibility for such benefits;

“(II)(aa) the calendar quarter that begins the period described in section 2203(a)(3) with respect to the individual, the 8 calendar quarters used to compute the individual’s average weekly earnings under section 2203(b)(3), and the wages and self-employment income received by the individual during each of those 8 quarters as recorded by the Secretary; and

“(bb) the individual’s right under section 2203(b)(4) to submit more recent or additional evidence of such wages or self-employment income, including a statement that eligibility could change or benefits could increase if such additional evidence re-
results in more recent or higher average weekly earnings;

“(III) the estimated weekly benefit amount for a week to which caregiving hours of the individual are credited;

“(IV) the estimated weekly benefit amount for a week to which a number of caregiving hours are credited equal to the number of hours in a regular workweek of the individual (as determined in subsection 2203(d));

“(V) the number of caregiving hours credited to weeks ending prior to the date of such application;

“(VI) the beginning and ending dates of the individual’s benefit period; and

“(VII) the individual’s right to appeal such initial determination in accordance with the provisions of section 2205; and

“(ii) in any case in which an individual submits additional information with
respect to such an application, the Secretary shall provide an updated notice to the individual containing the same information provided in the notice described in clause (i), including a specific indication of any such information that has been updated as a result of the additional information submitted by the individual.

“(2) MONTHLY BENEFIT DETERMINATIONS.—

“(A) IN GENERAL.—On the basis of the information filed with the Secretary pursuant to subsection (c), the Secretary shall determine, with respect to an individual for each week ending in a month, the number of caregiving hours to be credited to such week in accordance with section 2203(c).

“(B) NOTICES.—To ensure payment of benefits in the correct amount and that beneficiaries are aware of the right to appeal a benefit determination of the Secretary, not later than 15 days after each periodic benefit claim report from an individual is filed (or after filing of initial application for retroactive benefits), the Secretary shall provide notice to the individual specifying—
“(i) whether payment will be made to
the individual for each week to which such
periodic benefit claim report pertains and
the amount of such payment;

“(ii) if the Secretary determines that
payment will not be made for a week or
that payment will be made based on a
number of caregiving hours credited to the
week inconsistent with the number of
caregiving hours specified for such week in
such periodic benefit claim report (or ini-
tial application), the reasons for such de-
termination; and

“(iii) the individual’s right to appeal
such determination in accordance with the
provisions of section 2205.

“(3) CHANGING CIRCUMSTANCES.—The Sec-
retary shall issue regulations to establish a process
under which an individual may notify the Secretary
if more than one type of circumstance gives rise to
the need for caregiving hours during the individual’s
benefit period. Such caregiving hours shall be cred-
ited to weeks within the benefit period in accordance
with section 2203(e) regardless of circumstance.
“(4) ACCESSIBILITY OF NOTICES.—The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary is written in simple and clear language.

“(e) CERTIFICATION OF PAYMENT.—Not later than 15 days after the making of a determination under subsection (d)(2)(A) with respect to the number of caregiving hours of an individual to be credited to weeks ending in a month, the Secretary shall certify payment to such individual of the amount of the paid family and medical leave benefit for such month.

“(f) EXPEDITED BENEFIT PAYMENT IN CASES OF MISSING PAYMENT.—The Secretary shall establish and put into effect procedures under which expedited payment of benefits under this title will be made to an individual to whom a benefit payment was due for a month but was not received by the individual.

“(g) SUBMISSION OF REQUIRED INFORMATION.—

“(1) BY PHONE, MAIL, OR ELECTRONIC MEANS.—To ensure full access to benefits by all eligible individuals, applicable paid leave information with respect to an individual may be submitted to the Secretary by phone, mail, or electronic means.
“(2) By any person.—Any person may submit applicable paid leave information with respect to an individual, including, as applicable, the individual’s representative, the individual’s employer, or any relevant authority identified under subsection (b)(2). The Secretary shall promptly notify an individual whenever any other person submits such information on the individual’s behalf.

“(3) Notice of receipt.—The Secretary shall provide prompt notice of receipt of all applicable paid leave information submitted with respect to an individual.

“(4) Definition of applicable paid leave information.—For purposes of this subsection, the term ‘applicable paid leave information’ means, with respect to an individual, any information submitted to the Secretary with respect to the paid family and medical leave benefits of the individual, including any initial application, periodic benefit claim report, appeal, and any other information submitted in support of such application, report, or appeal.

“Sec. 2205. Appeals.

“(a) In general.—An individual shall have the right—
“(1) to appeal to the Secretary any determination made with respect to—

“(A) paid family and medical leave benefits under section 2202; and

“(B) paid family and medical leave benefits under an employer-sponsored program described in section 2210 whose initial appeal pursuant to subsection (b)(1)(F)(iii) of such section results in a determination unfavorable to the individual; and

“(2) to appeal any final decision of the Secretary by a civil action brought in the district court of the United States for the judicial district in which the plaintiff resides, or in which the principal place of business of the plaintiff sits, or, if the plaintiff does not reside or such principal place of business does not sit within any such judicial district, in the United States District Court for the District of Columbia.

“(b) PROCEDURES.—The Secretary shall establish procedures for appeals of such determinations that ensure that appeals will be heard in a timely manner by a decisionmaker who is different from the initial decisionmaker using procedures that are similar to the procedures used for appeals of determinations under the Medicare Low-In-

“(c) Authority to Issue and Enforce Subpoenas.—

“(1) In general.—For the purpose of any hearing, investigation, or other proceeding authorized or directed under this title, the Secretary shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Secretary. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof.

“(2) Service; Witnesses.—Subpoenas of the Secretary shall be served by anyone authorized by the Secretary—

“(A) by delivering a copy thereof to the individual named therein; or

“(B) by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business.
A verified return by the individual serving the subpoena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

“(3) CONTUMACY OR REFUSAL TO OBEY A SUBPOENA.—

“(A) IN GENERAL.—In case of contumacy by, or refusal to obey a subpoena duly served upon, any person, any district court of the United States for the judicial district in which the person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary, shall have jurisdiction to issue an order requiring such person to appear and give testimony, or to appear and produce evidence, or both. Any failure to obey such order of the court may be punished by the court as contempt thereof.

“(B) TREATMENT OF EMPLOYERS.—In the case of contumacy by, or refusal to obey a subpoena duly served upon, any employer, the Sec-
Secretary shall impose such penalties against the employer as the Secretary determines may apply pursuant to section 2210(f).

"SEC. 2206. STEWARDSHIP.

"(a) PROMOTING EQUITY.—The Secretary shall conduct a robust program to analyze and prevent disparities on the basis of race, color, ethnicity, religion, sex, sexual orientation, gender identity, disability, age, national origin, family composition, or living arrangements with respect to the benefits provided under this title and individuals’ access to such benefits.

"(b) UNDERPAYMENTS AND OVERPAYMENTS.—

"(1) IN GENERAL.—Whenever the Secretary determines that more or less than the correct amount of payment has been made to any individual under this title, the Secretary shall promptly notify the individual of such determination and inform the individual of the right to appeal such determination in accordance with the provisions of section 2205. Proper adjustment or recovery shall be made, under regulations prescribed by the Secretary, as follows:

"(A) UNDERPAYMENTS.—With respect to payment to an individual of less than the correct amount, the Secretary shall promptly pay
the balance of the amount due to such underpaid individual.

“(B) OVERPAYMENTS.—

“(i) IN GENERAL.—With respect to payment to an individual of more than the correct amount, the Secretary shall decrease any payment for a month under this title to which such overpaid individual is entitled (except that the weekly benefit amounts for each week ending during such month as determined under section 2203(a) may not be decreased below the amount specified in clause (ii) with respect to such weekly benefit amounts of the individual), or shall require such overpaid individual to refund the amount in excess of the correct amount, or shall apply any combination of the foregoing.

“(ii) LIMITATION ON RECOVERY.—

“(I) AMOUNT SPECIFIED.—The amount specified in this clause with respect to a weekly benefit amount of an individual for a week is an amount equal to the weekly benefit amount that would be determined for the indi-
vidual for such week under section 2203(a) if the individual’s weekly ben-
efit rate (as determined under section 2203(b)) were equal to the applicable
dollar amount as determined under subclause (II).

“(II) Applicable Dollar Amount.—For purposes of subclause (I), the applicable dollar amount is—

“(aa) with respect to a weekly benefit amount deter-
mined for a week ending in a month in or before calendar year 2024, $315; and

“(bb) with respect to a weekly benefit amount deter-
mined for a week ending in a month in any calendar year after 2024, the corresponding amount established with respect to a weekly benefit amount deter-
mined for a week ending in a month in the calendar year pre-
ceeding such calendar year or, if larger, the product of the cor-
responding amount specified in item (aa) with respect to a weekly benefit amount determined for a week ending in a month in calendar year 2024 multiplied by the quotient obtained by dividing—

“(AA) the national average wage index (as defined in section 2212) for the second calendar year preceding such calendar year, by

“(BB) the national average wage index (as so defined) for 2022.

“(2) Waiver of Certain Overpayments.—In any case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to, or recovery by the United States from, any individual who was without fault in connection with the overpayment if such adjustment or recovery would defeat the purpose of this title or would be against equity and good conscience, or would impede efficient or effective administration of
this title, as determined by the Secretary under pro-
cedures to be established by the Secretary.

“(3) LIABILITY OF CERTIFYING OR DISBURSING
OFFICER.—No certifying or disbursing officer shall
be held liable for any amount certified or paid by
him to any individual where the adjustment or re-
covery of such amount is waived under paragraph
(2), or where adjustment under paragraph (1) is not
completed prior to the death of the individual
against whose benefits deductions are authorized.

“(c) PENALTIES AND OTHER PROCEDURES.—

“(1) IN GENERAL.—Whoever—

“(A) knowingly and willfully makes or
causes to be made any false statement or rep-
resentation of a material fact in any application
for any benefit under this title,

“(B) at any time knowingly and willfully
makes or causes to be made any false statement
or representation of a material fact for use in
determining rights to any such benefit,

“(C) having knowledge of the occurrence of
any event affecting (A) his initial or continued
right to any such benefit, or (B) the initial or
continued right to any such benefit of any other
individual in whose behalf he has applied for or
is receiving such benefit, conceals or fails to disclose such event with an intent fraudulently to secure such benefit either in a greater amount or quantity than is due or when no such benefit is authorized,

“(D) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts such benefit or any part thereof to a use other than for the use and benefit of such other person, or

“(E) conspires to commit any offense described in any of subparagraphs (A) through (C),

shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

“(2) EXCLUSION FROM PARTICIPATION.—

“(A) IN GENERAL.—No person or entity who is convicted of a violation of paragraph (1) may represent, or submit evidence on behalf of, an individual applying for, or receiving, benefits under this title.

“(B) NOTICE, EFFECTIVE DATE, AND PERIOD OF EXCLUSION.—
“(i) In general.—An exclusion under this paragraph shall be effective at such time, for such period, and upon such reasonable notice to the public and to the individual excluded as may be specified in regulations consistent with clause (ii).

“(ii) Effective date.—Such an exclusion shall be effective with respect to services furnished to any individual on or after the effective date of the exclusion. Nothing in this paragraph may be construed to preclude consideration of any medical evidence derived from services provided by a health care provider before the effective date of the exclusion of the health care provider under this paragraph.

“(iii) Period of exclusion.—

“(I) In general.—The Secretary shall specify, in the notice of exclusion under clause (i), the period of the exclusion.

“(II) Previous offense.—In the case of the exclusion of a person or entity under subparagraph (A) who
has previously been subject to an exclusion under such subparagraph—

“(aa) if the person or entity has previously been subject to such an exclusion only once, the period of exclusion shall be not less than 10 years; and

“(bb) if the person or entity has previously been subject to such an exclusion more than once, the exclusion shall be permanent.

“(C) NOTICE TO STATE LICENSING AGENCIES.—The Secretary shall—

“(i) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of a person or entity excluded from participation under this section of the fact and circumstances of the exclusion;

“(ii) request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy; and
“(iii) request that the State or local agency or authority keep the Secretary fully and currently informed with respect to any actions taken in response to the request.

“(D) NOTICE, HEARING, AND JUDICIAL REVIEW.—Any person or entity who is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing by the Secretary and to judicial review of such final agency decision to the same extent as is provided in section 2205.

“(E) APPLICATION FOR TERMINATION OF EXCLUSION.—

“(i) IN GENERAL.—An individual excluded from participation under this paragraph may apply to the Secretary, in the manner specified by the Secretary in regulations and at the end of the period of exclusion provided under subparagraph (B)(iii) and at such other times as the Secretary may provide, for termination of the exclusion effected under this paragraph.
“(ii) CRITERIA FOR TERMINATION.—

The Secretary may terminate the exclusion if the Secretary determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Secretary at the time of the exclusion, that—

“(I) there is no basis under subparagraph (A) for a continuation of the exclusion; and

“(II) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

“(F) AVAILABILITY OF RECORDS OF EXCLUDED PERSONS AND ENTITIES.—Nothing in this section shall be construed to have the effect of limiting access by any applicant or beneficiary under this title or the Secretary to records maintained by any person or entity in connection with services provided to the applicant or beneficiary prior to the exclusion of such person or entity under this paragraph.
“(G) Reporting Requirement.—Any person or entity participating in, or seeking to participate in, the program under this title shall inform the Secretary, in such form and manner as the Secretary shall prescribe by regulation, whether such person or entity has been convicted of a violation under paragraph (1).

“(d) Redetermination of Entitlement.—

“(1) In General.—

“(A) Procedures.—The Secretary shall immediately redetermine the entitlement of individuals to paid family and medical leave benefit benefits under this title if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that such action by the Secretary with regard to beneficiaries in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud.

“(B) Disregard of Certain Evidence.—When redetermining the entitlement,
or making an initial determination of entitlement, of an individual under this title, the Secretary shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

“(2) Similar fault described.—For purposes of paragraph (1), similar fault is involved with respect to a determination if—

“(A) an incorrect or incomplete statement that is material to the determination is knowingly made; or

“(B) information that is material to the determination is knowingly concealed.

“(3) Termination of benefits.—If, after re-determining pursuant to this subsection the entitlement of an individual to monthly insurance benefits, the Secretary determines that there is insufficient evidence to support such entitlement, the Secretary may terminate such entitlement and may treat benefits paid on the basis of such insufficient evidence as overpayments.

“SEC. 2207. FUNDING FOR BENEFIT PAYMENTS, GRANTS, AND PROGRAM ADMINISTRATION.

“(a) Funding for benefit payments and grants.—
“(1) IN GENERAL.—There are appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to pay benefits under section 2202 and for grants under sections 2209 and 2210, subject to paragraph (2).

“(2) LIMITATION.—In no case shall a grant under section 2209 exceed a total amount (for all applicable individuals) equivalent to the sum of benefits paid (including, in the case of a grant under section 2209, the full cost of administering such benefits) for each applicable individual (as described under paragraph (3)) calculated on the basis of a total number of hours of leave during the individual’s benefit period equal to—

“(A) the product of 12 multiplied by the number of hours in a regular workweek of the individual (within the meaning of section 2203(d)), minus

“(B) the number of caregiving hours (as defined in section 2202(c)) of such individual credited in total to months during such benefit period under this title.

“(3) APPLICABLE INDIVIDUAL.—For purposes of paragraph (2), an ‘applicable individual’ is an individual, with respect to whom a grant under section
2209 is awarded, receiving paid family or medical leave benefits for days of leave under a paid family and medical leave benefit program of a legacy State (as defined in section 2209(b)).

“(b) FUNDING FOR PROGRAM ADMINISTRATION.—
There are appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary for the following purposes (including through the use of grants or contracts except where otherwise specified):

“(1) Costs related to taking applications, responding to public inquiries, assisting with problem resolution, taking requests for appeals, and the provision of other necessary assistance to individuals applying for or receiving benefits under this title, including the following:

“(A) Costs related to staffing a national toll-free telephone number (which shall not be carried out through the use of grants or contracts).

“(B) Costs related to technology to support a national toll-free telephone number and technology related to the design, construction and maintenance of an online application and customer service portal.
“(C) Costs related to mailed notices.

“(2) Costs related to determining eligibility (which shall not be carried out through the use of grants or contracts).

“(3) Costs related to ensuring program integrity and combating fraud, including by issuing regulations to do the following:

“(A) Ensure identity validation of applicants and beneficiaries.

“(B) Verify the professional credentials of relevant authorities who provide certifications pursuant to section 2204(b)(2).

“(C) Ensure the accuracy of any wage and self-employment income data used in the administration of this title.

“(D) Ensure that the attestation requirement in section 2204(b)(3) has been satisfied for each applicant and beneficiary.

“(E) Ensure the accuracy of periodic benefit claim reports.

“(F) Provide for post-effectuation quality review of approved claims and quality review of denied claims (which shall not be carried out through the use of grants or contracts).
“(4) Costs related to certification of payment of benefits (which shall not be carried out through the use of grants or contracts).

“(5) Costs related to appeals (which shall not be carried out through the use of grants or contracts).

“(6) Costs related to the administration by the Secretary of the legacy State grant program under section 2209 and the employer-sponsored plan grant program under section 2210.

“(7) Costs related to developing systems of records for purposes of administering the program under this title (which shall not be carried out through the use of grants or contracts, except that costs related to technology to support such systems of records may be carried out through the use of grants or contracts).

“(8) Costs related to data exchange and sharing, for which the Secretary shall enter into an agreement with relevant data sources including the National Directory of New Hires and shall seek to enter into agreements with States to obtain such information as the Secretary may require to determine eligibility and benefits payable under section 2202, administer the grants in sections 2209 and 2210,
and verify such other information as the Secretary
determines may be necessary in carrying out the
provisions of this title.

“(9) Costs related to the training of employees,
grantees, and contractors, including training relating
to the prevention of discrimination in the adminis-
tration of this title on the basis of race, color, eth-
nicity, religion, sex, sexual orientation, gender iden-
tity, disability, age, national origin, family composi-
tion, or living arrangements.

“(10) Costs related to providing technical as-
sistance to legacy States under section 2209 and to
employers or third party administrators designated
by an employer of paid leave programs under section
2210.

“(11) Costs related to providing technical as-
sistance to small business employers with respect to
the requirements of the small business assistance
grants in section 2211 and the process by which
their employees may apply for benefits under section
2202; and

“(12) Any other costs necessary for the effec-
tive administration of this title.
“SEC. 2208. FUNDING FOR OUTREACH, PUBLIC EDUCATION, AND RESEARCH.

“(a) Funding for Outreach and Public Education.—There are appropriated, out of any funds in the Treasury not otherwise appropriated, $150,000,000 for each of fiscal years 2022 through 2026 for the Secretary to, with respect to benefits provided by the program under this title—

“(1) engage in a robust program of culturally and linguistically competent education and outreach toward ensuring awareness of and access to such benefits;

“(2) provide information to potential beneficiaries regarding eligibility requirements, the claims process, benefit amounts, maximum benefits payable, notice requirements, the appeals process, and nondiscrimination rights, including specific benefit estimates based on the average monthly earnings of a potential beneficiary; and

“(3) provide employers with a model notice to be used to inform employees of the availability of such benefits.

“(b) Funding for Research.—There are appropriated, out of any funds in the Treasury not otherwise appropriated, $150,000,000 for each of fiscal years 2023 through 2027 for the Secretary to—
“(1) develop and carry out grants for research for the purpose of ensuring full access to the benefits provided by the program under this title, including through the detection and prevention of disparities on the basis of race, color, ethnicity, religion, sex, sexual orientation, gender identity, disability, age, national origin, income, language, job classification, family composition, or living arrangements; and

“(2) annually make available to the public beginning in fiscal year 2024 a report that includes—

“(A) the number of individuals who received such benefits;

“(B) the purposes and durations for which such benefits were received;

“(C) an analysis of benefit use by occupation, industry, wage levels, employer size, and geography;

“(D) an analysis of disparities identified by the grants for research authorized under this subsection on the basis of race, color, ethnicity, religion, sex, sexual orientation, gender identity, disability, age, national origin, family composition, or living arrangements;

“(E) a description of the actions by the Secretary to prevent disparities and ensure full
access to the benefits provided by the program under this title;

“(F) a comparative analysis of paid family and medical leave benefits received by individuals through the program under section 2202, through a legacy State paid family and medical leave program described in section 2209, or through an employer-sponsored program described in section 2210 that takes into account the number of individuals receiving benefits, the characteristics of the benefits received, and the patterns of leave-taking under each program;

“(G) the number of employers who received a reimbursement grant under section 2210 and the number of employees of such employers who received paid family and medical leave benefits under an employer-sponsored program described in such section; and

“(H) the number of employers who received one or more small business assistance grants under section 2211 and the total number of such grants provided.
SEC. 2209. FUNDING FOR STATE ADMINISTRATION OPTION FOR LEGACY STATES.

“(a) In General.—In each calendar year beginning with 2024, the Secretary shall make a grant to each State that, for the calendar year preceding such calendar year (or, in the case of a grant under this section in 2024, for the portion of such preceding calendar year occurring after June 30), was a legacy State and that met the data sharing requirements of subsection (c), in an amount equal to the lesser of—

“(1) an amount, as estimated by the Secretary, in consultation with the Secretary of Labor, equal to the total amount of paid family and medical leave benefits that would have been paid under section 2202 (including the full Federal cost of administering such benefits) to individuals who received benefits under a State program described in subsection (b) during the calendar year preceding such calendar year (or, in the case of a grant under this section in 2024, for the portion of such preceding calendar year occurring after June 30) if the State had not been a legacy State for such preceding calendar year (or, in the case of a grant under this section in 2024, for the portion of such preceding calendar year occurring after June 30); or
“(2) an amount equal to the total cost of the State paid family and medical leave program described in subsection (b) for the calendar year preceding such calendar year (or, in the case of a grant under this section in 2024, for the portion of such preceding calendar year occurring after June 30), including—

“(A) the total amount of paid family and medical leave benefits that would have been paid to individuals under such program for leave that is exempt under such program on account of being otherwise paid under a program provided by such individual’s employer; and

“(B) the full cost to the State of administering such program.

In any case in which, during any calendar year, the Secretary has reason to believe that a State will be a legacy State and meet the data sharing requirements of subsection (c) for such calendar year, the Secretary may make estimated payments during such calendar year of the grant which would be paid to such State in the succeeding calendar year, to be adjusted as appropriate in the succeeding calendar year.

“(b) LEGACY STATE.—For purposes of this section, the term ‘legacy State’ for a calendar year means a State
that the Secretary, in consultation with the Secretary of Labor, determines—

“(1) has enacted, not later than the date of enactment of this title, a State law that provides paid family and medical leave benefits; and

“(2) for any calendar year that begins on or after the date that is 3 years after the date of enactment of this title, has in effect, throughout such calendar year, a State program enacted into law—

“(A) that provides paid family and medical leave benefits—

“(i) for at least 12 full workweeks of leave during each 12-month period to at least all of those individuals in the State who would be eligible for paid family and medical leave benefits under section 2202 (without regard to section 2202(c)(2)(D)) during any part of such calendar year, provided that such State program—

“(I) shall provide paid family and medical leave benefits for leave from employment by the State or any political subdivision thereof, except that any State or local employees subject to a collective bargaining agreement
may be excluded from such coverage
with the agreement of 90 percent of
the employees covered by the collective
bargaining agreement; and

“(II) may provide such benefits
for leave from Federal employment;
and

“(ii) at a wage replacement rate that
is at least equivalent to the wage replace-
ment rate under the program under this
title (without regard to section
2202(e)(2)(D)); and

“(B) that provides an annual notice to
each individual whose employment would be eli-
gible for such benefits under the State program.

“(c) DATA SHARING.—As a condition of receiving a
grant under subsection (a) in a calendar year, a State
shall enter into an agreement with the Secretary under
which the State shall provide the Secretary—

“(1) with information, to be provided periodi-
cally as determined by the Secretary, concerning in-
dividuals who received a paid leave benefit under a
State program described in subsection (b), including
each individual’s name, information to establish the
individual’s identity, dates for which such paid leave
benefits were paid, the amount of such paid leave
benefit, and, to the extent available, such other in-
formation concerning such individuals as the Sec-
retary may require for the purpose of carrying out
this section and section 2202(c)(2)(D);

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

“(3) such other information as the Secretary
determines may be necessary in carrying out the
provisions of this title, including for the purposes of
promoting equity as described under section 2206(a)
and for research described under section 2208(b).

“(d) FUNDING FOR TRANSITIONAL COSTS FOR LEG-
ACY STATES.—

“(1) IN GENERAL.—There are appropriated to
the Secretary, out of any funds in the Treasury not
otherwise appropriated, such sums as necessary for
grants in accordance with this subsection.

“(2) TRANSITION GRANTS.—The Secretary
shall make a grant under this subsection to each
State that—

“(A) is a legacy State for the calendar
year in which occurs the date of enactment of
this title;
“(B) certifies to the Secretary that the State intends to remain a legacy State and meet the data sharing requirements of subsection (c) at least through the first calendar year that begins on or after the date that is 3 years after the date of enactment of this title; and

“(C) agrees to repay the full amount of such grant if the State fails to remain a legacy State and meet the data sharing requirements of subsection (c) as certified in subparagraph (B).

“(3) AMOUNT OF GRANT.—The amount of a grant provided to a State under this subsection shall be equal to 1⁄2 of the sum of the State’s expenditures from the date of enactment of this title through the calendar year described in paragraph (2)(B) on—

“(A) the costs of creating new information technology systems as needed to implement the data sharing requirements of subsection (c) (including staffing costs related to such systems); and

“(B) other necessary costs incurred by the State to meet the requirements of subsection (b)(2)(A)(ii).
“(4) ESTIMATED ADVANCE PAYMENTS.—The Secretary may make estimated payments of a grant provided to a State under this subsection for any calendar year, to be adjusted as appropriate in the succeeding calendar year.

“SEC. 2210. REIMBURSEMENT OPTION FOR EMPLOYER-SPONSORED PAID LEAVE BENEFITS.

“(a) IN GENERAL.—For each calendar year beginning with 2023, the Secretary shall make a grant to each employer that is an eligible employer for such calendar year in an amount equal to—

“(1) in the case of an eligible employer sponsoring a paid family and medical leave benefit program with respect to which benefits are awarded and paid under a contract with an insurer, an amount equal to 90 percent of the product of—

“(A) the projected national average cost per employee of providing paid family and medical leave benefits as determined by the Secretary for such calendar year under subsection (c)(3); multiplied by

“(B) the number of employees (pro-rated for part-time employees) covered under the program for such calendar year (or, in the case of
calendar year 2023, for the portion of such cal-
endar year occurring after June 30); and
“(2) in the case of an eligible employer spon-
soring a self-insured paid family and medical leave
benefit program with respect to which benefits are
awarded and paid directly by the employer (or by a
third party administrator on behalf of the employer),
an amount equal to 90 percent of—
“(A) the amount of benefits paid under the
program for such calendar year to individuals
for up to 12 weeks of leave per individual (or,
in the case of calendar year 2023, for the por-
tion of such calendar year occurring after June
30); or
“(B) if lesser, the product of the national
average weekly benefit amount paid under sec-
tion 2203(a) during such calendar year (or, in
the case of calendar year 2023, during the por-
tion of such calendar year occurring after June
30) multiplied by the number of weeks of leave
(up to 12 per individual) paid by the employer
for all individuals under the program for the
calendar year (or such portion in the case of
calendar year 2023).
“(b) Eligibility; Application Requirements.—
“(1) IN GENERAL.—For purposes of subsection (a), an eligible employer for a calendar year is an employer (other than the Federal Government or the government of any State (or political subdivision thereof) that is a legacy State for such calendar year under section 2209) that satisfies all of the following requirements:

“(A) NON-LEGACY STATE EMPLOYEES.—

The employer has one or more employees during such calendar year whose employment with such employer would not be eligible for paid family or medical leave benefits under the law of any legacy State (as defined in section 2209(b)) for such calendar year.

“(B) APPLICATION; SUBMISSION OF REQUIRED INFORMATION.—Not later than the certification deadline specified in paragraph (2)(A) for such calendar year, the employer—

“(i) notifies the Secretary that the employer intends to seek a grant under this section for such calendar year;

“(ii) certifies to the Secretary that the employer will have in effect during such calendar year a paid family and medical leave benefit program that meets the re-
quirements of subsection (c) and, not later than the submission deadline specified in paragraph (2)(B) for such calendar year, provides all documentation relating to such program as the Secretary may request; and

“(iii) pays an application fee of $1,000 (or $200 in the case of a renewed application).

“(C) APPROVAL BY THE SECRETARY.—The paid family and medical leave benefit program referred to in subparagraph (B) is subsequently approved by the Secretary as meeting all applicable requirements.

“(D) INFORMATION SUBMISSION REQUIREMENT.—At the time of application for such grant for each calendar year, the employer—

“(i) submits to the Secretary—

“(I) an attestation that the paid family and medical leave benefit program referred to in subparagraph (B) will remain in effect during the whole of such calendar year (or, in the case of a program not in effect at the beginning of such calendar year, an attestation that such program will re-
main in effect until the end of such
calendar year); and

“(II) with respect to each em-
ployee of the employer covered by the
program for such calendar year, the
employee’s name, information to es-
establish the employee’s identity, and in
the case of a part-time employee (for
purposes of determining the number
of employees (pro-rated for part-time
employees) covered under the program
for such calendar year under sub-
section (a)(1)(B)), the number of
hours the employee regularly works in
a week; and

“(ii) agrees to submit information to
the Secretary as described in subsection
(e).

“(E) MAINTENANCE OF RECORDS.—The
employer agrees to retain all records relating to
the employer’s paid family and medical leave
benefit program for not less than 3 years.

“(F) JOB PROTECTIONS AND OTHER EM-
PLOYEE RIGHTS.—As a condition of the grant,
the employer agrees—
“(i) that, on return from leave under
the program described in subparagraph
(B), the individual taking such leave will—
“(I) be restored by the employer
to the position of employment held by
the individual when the leave com-

“(II) be restored to an equivalent
position with equivalent employment
benefits, pay, and other terms and
conditions of employment;
“(ii) to maintain coverage for the in-
dividual under any ‘group health plan’ (as
defined in section 2212) for the duration
of such leave at the level and under the
conditions coverage would have been pro-
vided if the individual had continued in
employment continuously for the duration
of such leave;
“(iii) in any case in which an em-
ployee receives an adverse determination
from the employer (or administering enti-
ty) with respect to paid family and medical
leave benefits under the program described
in subparagraph (B)—
“(I) to provide opportunity for
the employee to appeal such adverse
determination to the employer (or ad-
ministering entity); and

“(II) in any case in which the
employee elects to appeal the results
of such initial appeal to the Secretary
pursuant to section 2205(a)(1)(B)
and the final decision of the Secretary
is in the employee’s favor, to provide
for the payment of such paid family
and medical leave benefits in addition
to the costs to the Secretary of such
secondary appeal;

“(iv) to provide annual notice to all
employees of the availability of paid family
and medical leave benefits under the pro-
gram described in subparagraph (B) and
of the right to appeal any adverse deter-
mination with respect to such benefits; and

“(v) not to impose any fee on any em-
ployee related to the receipt of paid family
and medical leave benefits under the pro-
gram described in subparagraph (B).
“(G) ADDITIONAL ASSURANCES.—The employer provides assurances that the employer (or administering entity)—

“(i) will not interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under such policy;

“(ii) will notify an employee in any case in which the employee is provided reimbursable benefits; and

“(iii) will not discharge, or in any other manner discriminate against, any individual for opposing any practice prohibited by such policy.

“(H) SPECIAL CONDITIONS IN THE CASE OF CERTAIN EMPLOYERS.—

“(i) SELF-INSURED PRIVATE EMPLOYERS.—In the case of a paid family and medical leave benefit program of an employer (other than a State or political subdivision thereof) with respect to which benefits are awarded and paid directly by the employer (or by a third party administrator on behalf of the employer)—
“(I) such employer employs at least 50 employees described in subparagraph (A);

“(II) such benefits are guaranteed by a surety bond held by the employer; and

“(III) such employer (or administering entity) holds funds in a dedicated account for such benefits not used for any other business purpose.

“(ii) SELF-INSURED STATE AND LOCAL EMPLOYERS.—In the case of a paid family and medical leave benefit program of an employer that is a State (or political subdivision thereof) with respect to which benefits are awarded and paid directly by the employer (or by a third party administrator on behalf of the employer), such benefits are negotiated pursuant to a collective bargaining agreement.

“(2) TIMING OF APPLICATION.—

“(A) CERTIFICATION.—The certification deadline specified in this subparagraph for a calendar year is—
(i) for calendar year 2023, March 31, 2023; and

(ii) for any calendar year after 2023,

90 days before the beginning of such calendar year,
or, if later, the date that is 90 days before a plan described in paragraph (1)(B) first goes into effect.

“(B) Submission of documentation.—
The submission deadline specified in this sub-
paragraph for a calendar year is—

(i) for calendar year 2023, May 15,

2023; and

(ii) for any calendar year after 2023,

45 days before the beginning of such calendar year,
or, if later, the date that is 45 days before a plan described in paragraph (1)(B) first goes into effect.

“(c) Employer Program Requirements.—

“(1) In general.—A paid family and medical leave benefit program shall not be considered to meet the requirements of this subsection unless such program consists of a written employer policy that provides for the payment, through one or more em-
ployee benefit plans, of family and medical leave benefits, which may be guaranteed through an insurer and which may be administered by an insurer or by another third-party entity, that includes each element in the model template described in paragraph (2), and that provides for each of the following:

“(A) The provision of such benefits to all employees described in subsection (b)(1)(A), regardless of length of service, job type, membership in a labor organization, seniority status, or any other employee classification.

“(B) Each of the job protections and other employee rights described in subsection (b)(1)(F).

“(C) Each of the assurances described in subsection (b)(1)(G).

“(D) Submission of information to the Secretary as described in subsection (e).

“(2) MODEL TEMPLATE.—Not later than July 1, 2022, the Secretary shall make available to eligible employers a model template of a written policy providing paid family and medical leave benefits—

“(A) at a wage replacement rate that is at least as great as the wage replacement rate that
an employee would receive under the program under this title (without regard to section 2202(c)(2)(C));

“(B) for a total number of weeks of paid leave that is at least as great as the total number of weeks of paid leave that an employee would receive under the program under this title (without regard to such section);

“(C) for all of the reasons for which an individual would be considered to be engaged in qualified caregiving under section 2202(c)(2)(A), regardless of any pre-existing medical conditions;

“(D) for leave which may be taken intermittently or on a reduced leave schedule;

“(E) that does not impose any fee on any employee related to the receipt of such benefits.

“(F) which must be paid not less frequently than monthly;

“(G) for which applications must be processed and notifications provided at least as quickly as is provided under section 2204 for benefits provided under section 2202(a); and

“(H) for which any information contained in an application for such benefits shall be pre-
sumed to be true and accurate, unless the em-
ployer (or administering entity) demonstrates
by a preponderance of the evidence that infor-
mation contained in the application is false;

“(3) NATIONAL AVERAGE COST.—Not later
than October 1 of the calendar year before each cal-
endar year beginning with 2023, the Secretary shall
determine the projected national average cost per in-
dividual for such calendar year of a paid family and
medical leave benefit program that meets the re-
quirements of paragraph (2) (assuming administra-
tive costs no greater than the average or projected
average administrative costs of providing benefits
under section 2202), taking into account projected
benefit levels, duration of benefits, and frequency of
use of the program in such calendar year.

“(d) TIMING OF PAYMENT; PENALTY FOR LATE FIL-
ING.—

“(1) INSURED EMPLOYERS.—A grant paid
under this section for a calendar year to an eligible
employer described in subsection (a)(1) shall be paid
by the Secretary not later than 30 days after the be-
ginning of such calendar year, except that in the
case of a grant under this section for calendar year
2023, such grant shall be paid by the Secretary not later than August 1, 2023.

“(2) SELF-INSURED EMPLOYERS.—A grant paid under this section for a calendar year to an eligible employer described in subsection (a)(2) shall be paid by the Secretary not later than March 31 of the calendar year succeeding such calendar year.

“(3) PENALTY FOR LATE FILING.—In any case in which an eligible employer seeking a grant under this subsection for a calendar year fails to submit all required documentation by the submission deadline for such calendar year as required under subsection (b)(1)(B)(ii)—

“(A) the grant for such calendar year for such employer shall not be paid until 45 days after the date of payment otherwise specified in paragraph (1) or (2), as applicable; and

“(B) the amount of such grant shall be reduced by 2 percent for each 7 days by which such submission deadline is exceeded.

“(e) INFORMATION SUBMISSION.—As a condition of receiving a grant under subsection (a) for a calendar year, an employer shall provide the Secretary with information, at such times and in such manner as determined by the Secretary, concerning individuals who received a paid
leave benefit under the paid family and medical leave benefit program of the employer, including each individual’s name, information to establish the individual’s identity, dates for which such paid leave benefits were paid, the amount of such paid leave benefit, and, to the extent available, such other information concerning such individuals as the Secretary may require for the purpose of carrying out this section and section 2202(c)(2)(C), and for otherwise carrying out the provisions of this title, including for the purposes of promoting equity as described under section 2206(a) and for research described under section 2208(b).

“(f) ENFORCEMENT.—

“(1) IN GENERAL.—The Secretary shall conduct periodic reviews of employers receiving grants under this section (and of entities administering such grants). The Secretary may withdraw approval of the paid family and medical leave benefit program of an employer in any case in which the Secretary finds that the employer (or administering entity) has violated any requirement of this section, and may disqualify an employer (or administering entity) from receiving (or administering) subsequent grants under this section in the case of repeated violations.
“(2) Penalties relating to appeals.—In any case in which the Secretary determines that a pattern exists with respect to an employer (or administering entity) in which the employer (or administering entity) has incorrectly denied claims for paid leave benefits under the employer-sponsored program and such claims have subsequently been approved by the Secretary pursuant to an appeal described in section 2205(a)(2), the Secretary may impose such penalties on the employer (or administering entity) as the Secretary deems appropriate, which may include a reduction in, or disqualification from receiving (or administering), subsequent grants under this section.

“(3) Penalties on administering entities.—In the case of a third-party entity administering a paid family and medical leave benefit program of an employer, such entity shall notify such employer in any case in which a penalty is imposed under this subsection on the administering entity not later than 30 days after the date on which such penalty has been imposed. In any case in which the Secretary determines that a pattern of misconduct exists with respect to an entity administering benefits under this section for multiple employers, the
Secretary may disqualify such entity from administering employer-sponsored programs receiving subsequent grants under this section.

“(4) Employer and Administrator Appeals.—An employer (or administering entity) with respect to which a penalty is imposed under this subsection may appeal such decision to the Secretary only if such appeal is filed with the Secretary not later than 60 days after the date of such decision.

“(g) Greater Benefits Permitted.—Nothing in this section shall be construed to prohibit an eligible employer from providing paid family and medical leave benefits that exceed the requirements described in this section.

“SEC. 2211. FUNDING FOR SMALL BUSINESS ASSISTANCE.

“(a) In General.—There are appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary for grants in accordance with this section.

“(b) Small Business Assistance Grants.—The Secretary shall make a grant to each eligible employer (as defined in subsection (g)) who employs a covered individual (as so defined) if such eligible employer satisfies the requirements of subsection (e).
“(c) GRANT REQUIREMENTS.—An eligible employer seeking a grant under this section with respect to a covered individual described in subsection (b) shall—

“(1) not later than 90 days after such individual returns from qualified leave from the employer, submit an application to the Secretary in such manner as the Secretary shall provide;

“(2) attest to the Secretary that the employer reasonably expects to, during the period in which such individual is taking such qualified leave, incur costs attributable to replacing the labor of such individual during such period in excess of the wages that would be paid to the individual during such period if such leave were not taken;

“(3) agree that, on return from such qualified leave, the individual will—

“(A) be restored by the employer to the position of employment held by the individual when the leave commenced; or

“(B) be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment;

“(4) agree to maintain coverage for the individual under any ‘group health plan’ (as defined in section 2212) for the duration of such qualified leave
at the level and under the conditions coverage would have been provided if the individual had continued in employment continuously for the duration of such leave;

“(5) upon the award of such grant, notify the individual of their rights under paragraphs (3) and (4).

“(d) AMOUNT OF GRANT.—The amount of a grant to an eligible employer with respect to a covered individual shall be an amount equal to the product of 2.5 multiplied by the average weekly wage of the State in which the individual’s worksite is located for the most recent calendar year. For purposes of this subsection, the average weekly wage of a State for a calendar year shall be determined and annually published by the Secretary on the basis of data prepared by the Bureau of Labor Statistics that is based on a quarterly census of employers in the State of wages paid for unemployment insurance-covered employment.

“(e) LIMITATIONS.—In no case may an eligible employer—

“(1) receive more than 1 grant under this section with respect to the same covered individual in a single calendar year; or
“(2) receive more than 10 total grants under this section in a single calendar year.

“(f) ENFORCEMENT.—In any case in which—

“(1) an employer’s attestation with respect to costs incurred made pursuant to subsection (c)(2) is not made in good faith; or

“(2) an employer who receives a grant under this section with respect to a covered individual fails to satisfy the requirements of paragraph (3) or (4) of subsection (c) with respect to such individual, the Secretary may require the employer to repay the full amount of such grant (including any applicable interest) and may permanently prohibit the employer from applying for any subsequent grants under this section.

“(g) DEFINITIONS.—For purposes of this section—

“(1) COVERED INDIVIDUAL.—For purposes of this section, the term ‘covered individual’ means an individual employed by an eligible employer who takes 4 or more weeks of leave from such employer, or anticipates taking 4 or more weeks, during the individual’s benefit period for which the individual receives paid family and medical leave benefits—

“(A) under section 2202(a);

“(B) under the law of a legacy State (as defined in section 2209(b)); or
“(C) under an eligible employer-sponsored plan under section 2210,
but only if the eligible employer has received no other State or Federal grant intended to cover the costs described in subsection (c)(2) with respect to such individual.

“(2) ELIGIBLE EMPLOYER.—The term ‘eligible employer’ means any person (other than a governmental agency) who regularly employs at least 1 and not more than 50 employees.

“(3) QUALIFIED LEAVE.—The term ‘qualified leave’ means leave taken by an individual with respect to which the individual is eligible for paid family and medical leave benefits under section 2202, under the law of a legacy State (as defined in section 2209(b)), or under an eligible employer-sponsored plan under section 2210.

“SEC. 2212. DEFINITIONS.

“For purposes of this title the following definitions apply:

“(1) GROUP HEALTH PLAN.—The term ‘group health plan’ has the meaning given such term in section 5000(b)(1) of the Internal Revenue Code of 1986.
“(2) NATIONAL AVERAGE WAGE INDEX.—The term ‘national average wage index’ has the meaning given such term in section 209(k)(1).

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(4) SELF-EMPLOYMENT INCOME.—The term ‘self-employment income’ has the meaning given the term in section 1402(b) of the Internal Revenue Code of 1986 for purposes of the taxes imposed by section 1401(b) of such Code. For purposes of section 2202(a) and 2203(b)(3), the Secretary shall determine rules for the crediting of self-employment income to calendar quarters, under which—

“(A) in the case of a taxable year which is a calendar year, self-employment income shall be credited equally to each quarter of such calendar year; and

“(B) in the case of any other taxable year, such income shall be credited equally to the calendar quarter in which such taxable year ends and to each of the next three or fewer preceding quarters any part of which is in such taxable year.

“(5) STATE.—The term ‘State’ means any State of the United States or the District of Colum-
bia or any territory or possession of the United States.

“(6) WAGES.—The term ‘wages’ has the meaning given such term in section 3121(a) of the Internal Revenue Code of 1986 for purposes of the taxes imposed by sections 3101(b) and 3111(b) of such Code, except that such term also includes—

“(A) compensation, as defined in section 3231(e) of such Code for purposes of the Railroad Retirement Tax Act; and

“(B) unemployment compensation, as defined in section 85(b) of such Code.

“(7) WEEK.—The term ‘week’ means a 7-day period beginning on a Sunday.”.

SEC. 130002. ACCESS TO WAGE INFORMATION FROM THE NATIONAL DIRECTORY OF NEW HIRES FOR THE PURPOSE OF ADMINISTERING PAID LEAVE.

(a) IN GENERAL.—Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended—

(1) by redesignating paragraphs (5) through (11) as paragraphs (6) through (12), respectively;

and

(2) by adding after paragraph (4) the following:
“(5) Provision of new hire information for purposes of family and medical leave program.—

“(A) In general.—The National Directory of New Hires shall provide the Secretary of the Treasury with all information in the National Directory relating to wages paid to individuals.

“(B) Use and maintenance of information by the Secretary of the Treasury.—The Secretary of the Treasury may use information provided under this paragraph only for purposes of administering the paid family and medical leave benefit program under title XXII, and shall maintain such information in the records of the Secretary of the Treasury for such time as the Secretary of the Treasury deems necessary for the administration of such program.”.

(b) Conforming Amendment.—Section 453(i)(2)(C) of such Act (42 U.S.C. 653(i)(2)(C)) is amended by striking “(j)(5)” and inserting “(j)(6)”.