

LEGISLATIVE TOOLKIT

Paid Family & Medical Leave

This toolkit highlights the need for a paid family and medical policy to support working families as they navigate complex and increasing caregiving needs.











Introduction

We are a nation of caregivers. It is the inevitable experience shared by all regardless of their race or socio-economic standing. Our continued longevity and the rising rate of Alzheimer's disease demands the care of aging parents and loved ones, resulting in both financial and emotional challenges. For many, caring for aging parents happens after the challenges of raising children, when affordable childcare and responsible family leave policies are not widely available, resulting in [nearly 1 in 4 employed mothers](#) returning to work within two weeks of childbirth.

For some, these two demanding stages of care occur simultaneously. The act of caregiving falls far more frequently on women. In fact, 6 out of 10 caregivers are women. The average caregiver is a 49-year-old woman and current research shows there are 48 million home caregivers in this country. But increasingly, caregivers are younger and more diverse—indeed, one in four millennials between the ages of 26-41 are caregivers. When the lens is widened on this family challenge, it is easy to see how caregiving impacts our nation's workforce and economy.

This toolkit is intended to highlight the need for a paid family and medical policy to support new parents, caregivers and their families, the scope of work ahead and various proposals being offered by many committed policymakers and thought leaders. While the challenge of caregiving is not new, COVID shone a much brighter light on the insecurity experienced by millions of people caring for their loved ones. As a candidate for office or elected official, it is important to understand the profound toll caregiving is taking on your constituents. There is tremendous work being done at both the federal and state level toward responsible public policy solutions; however, much work remains to be done.

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SECTION I

Paid Family and Medical Leave 101

The three main categories of paid family and medical leave

Paid family and medical leave is temporary paid time off from work for caregiving and personal medical needs. While state laws vary, there are generally three main categories of family and medical leave.

- **Parental Leave** – Time to bond with a newborn, newly adopted, or newly fostered child. Parental leave includes both maternity leave (for mothers) and paternity leave (for fathers).
- **Family Caregiving Leave** – Time off to care for a family member with a serious medical condition.
- **Personal Medical Leave** – Time off to recover from a serious personal medical condition that temporarily prevents an employee from working for an extended period of time.

Existing Paid Family and Medical Leave Laws across the United States

The United States does not guarantee that workers receive paid family and medical leave. However, federal law does provide a large portion of workers unpaid, job-protected leave. Additionally, a newly enacted business tax credit helps employers afford providing paid family and medical leave benefits for certain employees. Several states have also implemented their own paid family and medical leave laws.

Federal Laws

There are currently only two federal laws that impact leave in the workplace.

1) Family and Medical Leave Act - enacted in 1993

The Family and Medical Leave Act (FMLA) provides many workers with the right to take 12 weeks of unpaid, job-protected leave each year. Although FMLA does not guarantee paid benefits, it does provide workers with the peace of mind that they can be away from work for up to 12 weeks and return to their job (or an equivalent job at the same compensation level).

Under the FMLA, covered employers must provide eligible employees unpaid leave for the following reasons:

- **Parental**
 - To care for a newborn, adopted, or newly placed foster child.
- **Family Caregiving**
 - To care for a spouse, child, or parent who has a serious health condition.
 - Caregiving needs related to a family member's military service, including up to 26 weeks to care for a service member with a serious injury or illness.
- **Personal Medical**
 - To recover from one's own serious health condition.

However, FMLA only guarantees job-protected leave for workers who meet a certain set of eligibility requirements. To qualify for FMLA, a worker must:

- Have worked for their employer for at least one year;
- Have worked at least 1,250 hours for their employer in the past year; and
- Work for an employer that has at least 50 employees within a 75-mile radius.

As a result of these eligibility requirements, FMLA covers only 56% of employees. Lawmakers have modified FMLA only a few times since its enactment in 1993. A recent Bipartisan Policy Center report provides an overview of a number of ways that lawmakers could modernize FMLA so that it more effectively meets the needs of today's businesses and workers.¹

2) 45S Employer Credit for Paid Family and Medical Leave - enacted in 2017

The 45S Employer Credit for Paid Family and Medical Leave is available for businesses of all sizes that provide their employees with paid parental, family caregiving, and/or personal medical leave. To qualify, employers must provide at least two weeks of paid leave that compensates their employees with at least 50% of their regular earnings. The size of the tax credit depends on the generosity of the paid leave benefits, ranging from 12.5% of the cost of paid leave that replaces 50% of earnings to 25% of the cost of paid leave benefits replacing 100% of earnings. The credit is only available for leave taken by workers who have been employed for at least one year and who make less than \$78,000 annually.

Originally proposed by U.S. Senators Deb Fischer (R-NE) and Angus King (I-ME) and Representatives Mike Kelly (R-PA) and Terri Sewell (D-AL) as the [Strong Families Act](#), this bipartisan tax credit was enacted as a two-year pilot in the [Tax Cuts and Jobs Act of 2017 \(TCJA\)](#).

After subsequently receiving a 1-year extension at the end of 2019 and then a 5-year extension at the end of 2020, the tax credit is currently authorized through 2025.

How does paid family and medical leave in the United States compare to other developed countries? The United States is the only developed nation in the world to not guarantee paid maternity leave. It is also one of only a few countries that does not provide support for family caregiving or personal medical leave.

State Laws

A growing number of states are enacting paid family and medical leave laws.

Thirteen states and the District of Columbia have enacted paid family and medical leave laws. California, Connecticut, the District of Columbia, Massachusetts, New Jersey, New York, Rhode Island, Virginia, and Washington have laws that are currently in effect. Colorado, Delaware, Maryland, New Hampshire, and Oregon enacted laws that have not yet been implemented. These states tend to have a paid family leave program that provides parental and family caregiving leave as well as a related temporary disability insurance program that provides paid personal medical leave. With some exceptions, state programs tend to follow a social insurance policy design that pays for benefits by creating a pooled fund through payroll taxes on employees, employers, or both.ⁱⁱ

New York, New Hampshire, and Virginia, however, enacted laws that provide paid family and medical leave through private insurance on a mandatory (New York) or voluntary (New Hampshire and Virginia) [basis](#). See below for more details on how lawmakers could provide paid family leave through private insurance.

Paid family and medical leave in the private sector

Only a minority of workers receive paid family and medical leave from their employers. As of 2022, 25% of employees had access to employer-provided paid parental or family caregiving leave, and 41% had paid personal medical leave (often as short-term disability insurance).ⁱⁱⁱ Moreover, low-wage earners and those working for small companies are the least likely to receive paid family and medical leave from their employers.

Table. Employer-provided paid family and medical leave by wage level, 2022^{iv}

Wage Group	Parental and Family Caregiving Leave	Short-term Disability Insurance (Personal Medical Leave)
1 st Quartile (Bottom 25%)	13%	22%
2 nd Quartile	24%	40%
3 rd Quartile	27%	49%
4 th Quartile (Top 25%)	38%	57%
Bottom 10%	8%	12%
Top 10%	44%	64%

Table. Employer-provided paid family and medical leave benefits by employer size, 2022^v

Business Size	Parental and Family Caregiving Leave	Short-term Disability Insurance (Personal Medical Leave)
1 to 49 workers	18%	28%
50 to 99 workers	22%	37%
100 to 499 workers	29%	50%
500 or more workers	33%	54%



SECTION II

Why Paid Family and Medical Leave?

Caregiving demands lead many women out of the workforce, harming their careers and weighing down the economy. Paid family and medical leave can help women continue their careers, increasing labor force participation and supporting economic growth.

Women regularly experience career interruptions as a result of caregiving that can have long-term negative consequences for their professional lives. Women also tend to value job attributes that support caregiving, such as job security and workplace flexibility, over more demanding and riskier jobs with faster wage growth. The combination of these factors contributes to the “motherhood wage penalty.”^{vi}

In particular, throughout their careers, mothers tend to work fewer hours and earn lower wages than fathers and adults without children. Among new mothers working in STEM, over 4 in 10 leave full-time employment after having their first child, nearly double the rate of new fathers.^{vii}

These challenges were particularly problematic during the pandemic. According to a May 2022 Morning Consult – Bipartisan Policy Center poll, since the onset of the COVID-19 pandemic, caregiving led roughly one-third of working moms to scale back their professional lives in some way:¹

- 33% reduced their work hours
- 29% changed jobs to have more flexible hours
- 35% chose not to pursue career opportunities
- 37% modified their career ambitions

The same poll found that should a job opportunity arise that aligns with their career interests, working moms are not comfortable taking that job should it entail any of the following:¹

- A significant pay cut (83%)
- More demanding and unpredictable hours (73%)
- Less workplace flexibility and inability to work from home (61%)
- Less job security (79%)
- Fewer benefits (73%)

The benefits of paid leave in supporting women in the economy are clear.

✓ Paid family leave helps women stay in the workforce.

Expanding access to paid family and medical leave would support economic growth by increasing labor force participation, particularly among women. Studies show that state-level paid family and medical leave programs increase labor force participation, hours worked, and earnings among new mothers.

- California's paid leave program increased weekly work hours of moms by 10% to 17%.^{viii}
- California's program also increased the probability that a mother is employed 1 year after childbirth by 23%.^{ix}
- Women who take paid family leave after giving birth are 40% more likely to return to work than those without the benefit.^x
- A decade after childbirth, the labor force participation rate of mothers who used paid family leave is 82%, compared to 64% among moms who quit their jobs during pregnancy.^{xi}
- State paid family leave programs are associated with a 20% decrease in the number of working women who leave their jobs in the first year after childbirth, and up to a 50% decrease in the number who leave their careers 5 years following childbirth.^{xii}

✓ Paid family leave helps working moms navigate work-life needs.

The onset of the COVID-19 pandemic resulted in school and child care center closures, placing heightened caregiving responsibilities on working moms who had to juggle working from home and caring for children amidst COVID-related lockdowns. Even today when schools are largely operating in-person, parents must still deal with unpredictable schedules and unplanned remote learning.

Throughout all these challenges, working moms continually cited paid family leave as a benefit that they need in order to fulfill responsibilities at work and at home.

- Over half (53%) of working moms say that paid family leave would help them stay in the workforce and improve their financial security, including nearly two-thirds (63%) of working moms with children under 6.^{xiii}
- Over one-third of unemployed adults (37%) say they would be more likely to return to work sooner if their employer offered paid family leave.^{xiv}

✓ **Paid family leave supports women's careers.**

- About 2 out of 5 working moms say that paid family leave would also help them advance their careers in multiple ways.^{xv}
- 44% say that paid family leave would advance their careers.
- 41% report that paid family leave would increase their comfort levels in switching jobs.
- 39% indicate that paid family leave would enable them to work longer hours.

Additionally, paid leave supports infant development and parent health.

✓ **Paid family leave for new parents is critical for the healthy development of children.**

- 12 weeks of job-protected, paid parental leave reduces infant mortality rates by 850 infant and post-neonatal deaths per year.^{xvi}
- When mothers have paid parental leave, their newborn children are 6.6% less likely to be born pre-term and 10% less likely to be underweight.^{xvii}
- California's paid family leave program increased the typical duration of breastfeeding by 18 days, and the likelihood of breastfeeding for at least six months by 5 percentage points.^{xviii}
- When mothers are at home for 12 weeks following childbirth, their newborn children are more likely to have had regular medical check-ups and to have all necessary immunizations during their first 18 months of life.^{xix}
- California's paid family leave program may have improved ADHD, weight, and hearing-related outcomes among elementary school children.^{xx}
- When women take paid parental leave, their infants are 47% less likely to be re-hospitalized and they themselves are 51% less likely to be re-hospitalized postpartum.^{xxi}

✓ **Paid family leave results in better physical and mental health outcomes for parents.**

- Each week of paid family leave up to 12 weeks reduces the chances that a new mother experiences symptoms associated with postpartum depression.^{xxii}
- When fathers take parental leave following childbirth, new mothers are 14% less likely to require a medical appointment for childbirth-related complications, 11% less likely to need antibiotic prescriptions, and 50% less likely to require anti-anxiety prescriptions.^{xxiii}
- 55% of working moms say that paid family leave would positively influence their mental health and stress levels, including 66% of those with children under 6.^{xxiv}

✓ **Paid family leave supports infant bonding and strengthen families.**

- Fathers who take parental leave are more likely to dress, bath, feed, and diaper their children.^{xxv}
- Over half (56%) of working moms say that paid family leave would help them fulfill their family responsibilities and one-third (33%) say it would positively influence their future plans to have children.^{xxvi}

Lastly, paid family leave supports other working caregivers.

✓ **Access to paid family and medical leave would support the more than 48 million Americans caring for an adult over the age of 18, allowing them to remain in the workforce.**^{xxvii}

- 60 percent of caregivers are also employed, and a little more than half of employed caregivers are working full time.^{xxviii}
- The majority of caregivers say that it has impacted their jobs in one or more ways by, for instance, requiring them to go into work late, leave early, or take time off.^{xxix}
- 54% of caregivers feel “a partially paid leave of absence from work” would be a helpful caregiver support policy, and this number rises to 62% among caregivers who work 30 hours or more each week.^{xxx}
- Nearly 25% of caregivers are Millennials.^{xxxi}
- Millennial caregivers are the most diverse generation of caregivers and have lower household incomes than older generation caregivers.^{xxxii}
- Nearly 60% of employed dementia caregivers reported that paid family and medical leave enabled them to attend doctors’ appointments and provide care for their loved ones.^{xxxiii}
- 62% of caregivers working over 30 hours per week say paid leave would help them financially.^{xxxiv}
- 13% of Black adults have left the workforce to provide care for an adult family member.^{xxxv}



SECTION III

Public Opinion Polling

Momentum continues to grow, as support for paid leave increases across the political spectrum.

- **Morning Consult 2022:** [About 3 in 4 adults](#) back paid family leave, increased funding to access child care, more access to subsidies.
- **CBS News / You Gov Poll 2021:** [73% of adults](#) in the U.S. said they support federal funding for paid leave.
- **Morning Consult/Politico 2021:** [77% of voters](#) said they support "paid family and medical leave for new parents."
- **Commissioned by the Clapham Group, results from the 2022 Echelon Insights survey:** [Over 1 in 4 voters](#) say paid leave is at least a major issue when considering for whom they will cast their vote.
- [Over two-thirds of Americans](#) believe that most parents with children should be eligible for some form of paid leave benefits. And even larger majorities say it is important to give people the ability to stay home if they feel sick or to care for a sick loved one.
- **Global Strategy Group/Paid Leave for All Action 2021:** [84% of likely voters](#) support paid leave programs.
- **Pew Research 2017:** Americans [widely support](#) paid family and medical leave but differ over specific policies.
- **Morning Consult 2021:** [62% of Republican women](#) support paid family leave.



SECTION IV

Business Community Support

A growing number of companies, small businesses and employer groups are calling for policymakers to act on paid leave.

Although federal law does not require private sector employers to offer paid family and medical leave, many employers, especially large businesses, voluntarily offer generous paid leave benefits as they compete for talent in an increasingly competitive marketplace. Offering paid leave helps support employees as they navigate personal and work responsibilities, resulting in bottom-line business benefits for organizations. Studies have linked providing paid leave with company profitability and workforce productivity.^{xxxvi} Research has also shown that paid leave policies have resulted in positive impacts on employers such as improved employee engagement and morale, increased productivity and retention of workers.^{xxxvii, xxxviii}

While large businesses with greater resources are more likely to offer paid family and medical leave programs than small employers, these companies often operate nationwide or in multiple states and report challenges interpreting and complying with federal and state leave laws.^{xxxix} Dedicating resources to compliance can be expensive for organizations and the cost of offering paid leave is the most often cited reason why employers of all sizes do not offer these benefits.^{xl}

Financing and administering paid leave are also concerns for small businesses, as is the practical challenge of backfilling employees when someone is on leave. Yet, as noted below, small business

support for paid leave has increased in states with active paid leave programs, suggesting a positive experience for small employers.

Leaving paid leave benefits up to the free market and competition, however, means that not all workers receive the benefit, and the generosity of benefits can fluctuate with economic cycles. The positive impact of paid leave on business performance can outweigh cost concerns, but not for all employers, leaving only a minority of workers with access to paid family and medical leave. As a result, business groups representing both large and small employers are supportive of finding public policy solutions. This is what they are saying:

- “American Benefits Council (Council) member companies and many other employers provide valuable paid leave benefits to millions of employees to help them meet parental and family caregiving **responsibilities** as well as their own personal health needs. That is why more than a year ago, the Council called-for universal paid leave.” – **American Benefits Council**
- “To provide employers with relief from the widespread PFL administrative burdens, federal legislation should create a national platform that establishes a single set of criteria and requirements.” – **U.S. Chamber of Commerce**
- “Paid leave for all will take all of us. Together, we can ensure every worker who doesn’t have it has access, and the 62 million Americans who do can keep the coverage they know and trust. America’s life insurance companies are eager to help make it happen.” – **American Council of Life Insurers**
- “Business Roundtable supports federal legislation to ensure paid family and medical leave benefits are available to as many working Americans as possible.” – **Business Roundtable**
- “Federal paid family and medical leave policy is one of the critical solutions to our nation’s economic recovery.” – **350+ Business Signatories**
- “We are no longer in the ‘just say no’ mode, which we had been for a long time,” said **Marc Freedman, vice president of employment policy at the Chamber**. “We are now in the ‘can we find a deal?’ mode.”
- “Let me say it unequivocally on the record that IBM and the Council believe that all workers in United States deserve access to paid leave benefits.” – **Marianne McManus, Vice President of Health and Benefits, IBM, on behalf of the American Benefits Council** in testimony to the Senate Committee on Health, Education, Labor and Pensions.

More and more small business owners support paid family leave as it benefits their workers, families and communities.

According to Small Business for America's Future 2021, [more than half](#) (59%) of the small employers want to see a solution on paid family and medical leave, rising to 81% support among Black small employers. In New York and New Jersey, two states with paid family leave laws, small employer support for paid family leave [rose 9%](#) during the COVID-19 pandemic (2019-2020) to 70%.

Here are some of the stories of small business owners we are hearing:

"As a business owner who employs 7 people and recently started my own doula practice I see first-hand how child care and paid leave investments will actually impact families in need. I have the unique experience of seeing how paid leave programs can help a business grow and retain talent while also learning firsthand what women go through after the birth of a child. Permanent, comprehensive federal paid leave investments are actually what families need to have real choices, options and opportunity, and what women, families, people of color and small business owners need to thrive"

QuTiara Flynn, President and CEO of Sumnu Marketing, Las Vegas, NV. Tiara is black women veteran business owner. She also recently started her own doula practice, [Phenomenal Mama](#).

"A big part of our success as a restaurant has been investing ourselves within our community. We have many long-term employees, some of which have been with us for over 30 years. I value my employees and it is important for me to provide them with support. A federal paid leave policy would allow me to better provide for my employees and compete for top talent. It's important that when thinking about paid leave, especially for small businesses, that we recognize that for many families, their family responsibilities are broader than just caring for a new child. The pandemic has brought to light the many responsibilities we face as multi-generational caregivers."

Mas Torito, owner of Kokoro Restaurant, a family-owned business that opened in 1986 in Denver Colorado. Kokoro Restaurant is an Asian American Pacific Island owned restaurant with 52 employees.

"Access to affordable paid leave programs is crucial for hardworking families and small business owners across the country," said Rowen. "Employees, Main Street businesses, and communities all require affordable, accessible, and reliable paid leave policies to thrive. Small business owners like me recognize this and they see and support the federal government taking a role in helping to provide it. We know this would be a smart investment in our nation's economic success."

Walt Rowen, President of Susquehanna Glass Co., a family-owned manufacturing business in Columbia, PA. Susquehanna Glass Co. is over 100 years old and is a staple in the community of the small town it is located in. They employ 65-100 employees per year. Walt is also a Co-Chair for Small Business for America's Future.

Paid family leave proposals have been offered from the left and the right.

Numerous policy proposals to address the needs of working caregivers in maintaining income and attachment to work during periods of caregiving have been proposed by both Democrats and Republicans. These proposals include:

- Social insurance-based models
- Employer-based models
- Individual-based models
- Other income support models

It's important to note that regardless of the type of proposal, there are members on both sides of the aisle working to address the challenges around our nation's lack of paid family and medical leave. That said, more bipartisan proposals are needed. See the Appendix for the various policy solutions proposed to date.

SECTION V

Paid Leave Resources

To learn more about the diverse organizations working on paid leave policy, visit these partners:

[American Enterprise Institute](#)

- Angela Rachidi, Angela.Rachidi@aei.org

[Bipartisan Policy Center](#)

- Adrienne Schweer, aschweer@bipartisanpolicy.org
- Ben Gitis, bgitis@bipartisanpolicy.org

[Center for Public Justice](#)

- Rachel Anderson, rachel.anderson@cpjustice.org

[Humanity Forward](#)

- Paolo Mastrangelo, paolo@movehumanityforward.com

[McCloskey Policy](#)

- Abby McCloskey, abby.mccloskey@gmail.com

[National Partnership for Women and Families](#)

- Lelaine Bigelow, lbigelow@nationalpartnership.org

[Niskanen Center](#)

- Joshua McCabe, jmccabe@niskanencenter.org

[One Country](#)

- Tessa Gould, (tessa@onecountryproject.org)

[Public Private Strategies](#)

- Katie Vlietstra Wonnenberg, katie@publicprivatestrategies.com

[Third Way](#)

- Zach Moller, zmoller@thirdway.org

[USAgainstAlzheimer's](#)

- Stephanie Monroe, smonroe@usagainstalzheimers.org

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- ^{xiv} “Morning Consult Poll: The Value of Paid Family Leave,” Bipartisan Policy Center, September 7, 2021, <https://bipartisanpolicy.org/blog/morning-consult-poll-value-of-paid-family-leave/>.
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Paid Leave Policy Options





SECTION VI

Paid Leave Policy Options

The FAMILY Act

Following the approach of several states, the FAMILY Act – proposed by Senator Kirsten Gillibrand (D-NY) and Representative Rosa DeLauro (D-CT) – would use a social insurance approach to provide paid family and medical leave. In particular, the FAMILY Act would provide up to 12 weeks of paid leave by creating a trust fund that would be financed with a 0.4% payroll tax, split between employers and employees. For those 12 weeks, the federal government would provide benefit payments equal to two-thirds of regular earnings, with a minimum monthly benefit of \$580 and a maximum of \$4,000. The program would have expansive coverage and provide benefits for the three main types of leave covered by the FMLA – parental, family caregiving, and personal medical.

- FAMILY Act, S. 248, 117th Congress, <https://www.congress.gov/bill/117th-congress/senate-bill/248>

Social Security Pull-Forward (Sens. Rubio, Lee, Ernst, and Romney)

Senators Rubio (R-FL), Lee (R-UT), Ernst (R-IA), and Romney (R-UT) have proposed to provide paid parental leave with Social Security retirement benefits. Under the proposal, workers would take paid parental leave by claiming up to 12 weeks of Social Security benefits directly following the birth or adoption of a child. In return, those workers would delay their collection of Social Security

retirement benefits by a period commensurate with the cost of their leave benefits. The retirement deferral is intended to offset the cost of the paid parental leave benefits, so that the workers effectively pay for their own leave and over a lifetime there is no impact on the Social Security Trust Funds or rise in government spending.

- New Parents Act, Senators Marco Rubio and Mitt Romney, <https://www.rubio.senate.gov/public/index.cfm/2021/9/rubio-romney-reintroduce-bill-giving-new-parents-option-for-paid-leave>
- CRADLE Act, Senators Joni Ernst and Mike Lee, <https://www.ernst.senate.gov/news/press-releases/ernst-lee-put-forward-paid-parental-leave-plan-that-is-budget-neutral-and-flexible-for-parents>

Unemployment Insurance (Trump Administration)

In his Fiscal Year 2021 budget, President Trump proposed six weeks of paid leave for new parents, including adoptive parents. While the plan would require states to establish leave programs through the joint Federal - State Unemployment Insurance System, states would have broad latitude to design and finance the program.

- Trump Administration UI-Paid Family Leave Proposal, <https://www.govinfo.gov/content/pkg/BUDGET-2021-BUD/pdf/BUDGET-2021-BUD.pdf>

“Baby UI” (Clinton Administration)

During the Clinton Administration, the Department of Labor issued a rule, referred to as “Baby UI,” to allow states to amend their unemployment insurance programs to provide benefits to individuals for parental leave or who otherwise leave employment after the birth or adoption of a child. No state enacted such a change before the rule was rescinded by a Bush Administration regulation in 2003.

- Clinton Administration DOL rule, <https://www.govinfo.gov/content/pkg/FR-2000-06-13/pdf/00-14801.pdf>

Short-Time Compensation Reform (Work Share/UI for Reduced Hours)

Currently, a handful of states offer Short-Time Compensation (also known as work share) as part of their unemployment insurance programs. Typically, unemployment insurance is reserved for workers who are permanently laid off by their employers due to no fault of their own. In states with Short-Time Compensation, workers are able to receive partial unemployment benefits should their employer reduce their hours. To be eligible, a worker’s employer must choose to participate in the program and enter into agreement with the state unemployment insurance offices.

While lawmakers seek broader adoption of work share, they could consider ways the program could also support workplace flexibility for those with family and caregiving needs. In particular, state workforce agencies could include work-preventing caregiving demands as a qualifying reason for an employee to reduce their hours and receive benefits through Short-Time Compensation.

- Bipartisan Policy Center analysis of Short-Time Compensation, 2021, <https://bipartisanpolicy.org/blog/as-the-economy-continues-to-struggle-can-short-time-compensation-offer-relief/>

Family Leave Insurance Act (Dodd-Stevens)

Sponsored by former Senators Dodd (D-CT) and Stevens (R-AK), this legislation provides up to eight weeks of paid leave to care for a newborn or recently adopted child; to care for a child, spouse, or parent with a serious illness; or to care for one's own serious illness. The bill would establish the Family Leave Insurance Fund and employers would pay leave benefits through their regular payroll and be reimbursed by the Fund. Employees and employers would both be required to pay a premium into the Fund and the benefits would be tiered based on the employee's earned wages. Businesses with over 50 employees would be required to participate in the program, although firms with equivalent or better benefits could choose to self-insure. Employers with less than 50 employees could opt into the program at a 50% discount.

- Family Leave Insurance Act, S. 1681, 110th Congress, <https://www.congress.gov/bill/110th-congress/senate-bill/1681/text>

Parental-only proposal with traditional social insurance (AEI-Brookings working group)

In 2017, the American Enterprise Institute-Brookings Institution Working Group on Paid Family Leave proposed a new federal social insurance program that would provide paid parental leave (to care for a newborn or adopted child), as opposed to a more comprehensive benefit that also provides leave for family caregiving and personal medical leave. The program would otherwise parallel that of the paid family leave social insurance programs that are currently in states like California and Rhode Island. For instance, under the AEI-Brookings proposal, leave benefits would replace 70% of pay, up to \$600 per week, and workers would receive benefits for up to 8 weeks. Those benefits would be paid for with a combination of a new payroll tax on employees and reductions in spending elsewhere in the federal budget.

- AEI-Brookings Working Group Report, 2017, <https://www.brookings.edu/research/paid-family-and-medical-leave-an-issue-whose-time-has-come/>

Employer-Based Proposals

Proposals that enable more workers to receive paid family and medical leave through their employers.

Expansions to 45S Employer Credit for Paid Family and Medical Leave (Fischer-King Strong Families Act)

Originally proposed by Senators Deb Fischer (R-NE) and Angus King (I-ME) and Representatives Mike Kelly (R-PA) and Terri Sewell (D-AL) as the [Strong Families Act](#), the tax credit was enacted as a two-year pilot in the [Tax Cuts and Jobs Act of 2017 \(TCJA\)](#). After subsequently receiving a 1-year extension at the end of 2019 and then a 5-year extension at the end of 2020, the tax credit is currently authorized through 2025. The tax credit is available for businesses of all sizes that provide their employees with paid parental, family caregiving, and personal medical leave. To qualify, employers must provide at least two weeks of paid leave that compensates their employees with at least 50% of their regular earnings. The size of the tax credit depends on the generosity of the paid leave benefits, ranging from 12.5% of the cost of paid leave that replaces 50% of earnings to 25% of the cost of paid leave benefits replacing 100% of earnings. The credit is only available for leave

taken by workers who have been employed for at least one year and who make less than \$78,000 annually.

Some are considering ways to strengthen the tax credit to increase take-up and expand access to paid family and medical leave. Options to do so include making it permanent, increasing its size, and allowing businesses to apply it toward other costs related to paid family and medical leave such as hiring temp workers.

- Strong Families Act, S.1716, 115th Congress, <https://www.congress.gov/bill/115th-congress/senate-bill/1716>

Building on Private Insurance

Rather than providing paid family and medical leave benefits through a public social insurance program, lawmakers could seek to provide benefits using private insurance markets. Under a private insurance system, companies and/or workers would pay premiums to private insurers that would pay out benefits for paid parental, family caregiving, and/or personal medical leave.

To date, three states have enacted laws using this approach. Most prominently, New York established a mandatory statewide program that requires businesses to purchase insurance either through the state fund or a private insurer, with the state government strictly regulating benefit levels, coverage, and premium rates. New Hampshire recently enacted a voluntary program that gives employers in the state the option to purchase paid leave insurance from a private insurer, with the state establishing a risk pool by purchasing automatic coverage to its 10,000 state employees. Lastly, Virginia recently enacted a bill that establishes paid family leave as a class of insurance. As a result, private insurers will be able to provide paid leave products for newborn or adopted children and for other forms of family caregiving, and employers can participate on a voluntary basis.

- BPC report on Paid Family Leave in New York, 2022, <https://bipartisanpolicy.org/report/new-york-paid-family-leave/>
- Virginia law, <https://www.governor.virginia.gov/newsroom/news-releases/2022/may/name-933728-en.html>
- SHRM blog post about New Hampshire's law, 2021, <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/new-hampshire-adopts-paid-leave-program.aspx>

Working Families Flexibility Act (Overtime Pay)

The Working Families Flexibility Act, originally proposed by former Congresswoman Martha Roby (R-AL) and most recently reintroduced by Representative Mary Miller (R-IL) and Senator Mike Lee (R-UT), would allow workers to accrue paid time off for working overtime in lieu of additional pay. In particular, it would allow employers to offer workers the option to receive time-and-a-half paid time off rather than time-and-a-half pay for any overtime hours worked. An employee would be able to accrue up to 160 hours of paid time off each year and the employer would be required to provide monetary compensation for any unused paid leave. A similar proposal was also included in the Protecting Worker Paychecks and Family Choice Act, a series of paid family leave proposals released by GOP members of the House Ways and Means Committee.

- Working Families Flexibility Act, Senator Mike Lee, <https://www.lee.senate.gov/working-family-flexibility>

- Protecting Worker Paychecks and Family Choice Act, 2021, <https://gop-waysandmeans.house.gov/brady-walorski-unveil-new-family-leave-and-child-care-package/>

Workflex in the 21st Century Act

This legislation, sponsored by Representative Miller-Meeks (R-IA), creates a new type of benefit plan under the Employee Retirement Income Security Act (ERISA). Employers that choose to offer the ERISA-covered plan that must include a minimum standard of paid leave based on firm size and at least one of six possible flexible work arrangements, would be granted a safe harbor from state and local paid leave requirements.

- Workflex in the 21st Century Act, H.R. 4248, 117th Congress, <https://www.congress.gov/bill/117th-congress/house-bill/4248/text?r=20&s=1>

National Platform

Many large businesses already offering generous leave benefits operate in multiple states and localities with various paid family leave programs and paid sick leave requirements. This patchwork of inconsistent requirements creates significant compliance challenges for multi-state employers. As a result, many business organizations have called for a federal paid leave policy that allows employers to opt-in into a national platform to provide a uniform paid leave benefit to all employees regardless of the state in which they work.

- U.S. Chamber of Commerce report on Paid Family Leave, https://www.uschamber.com/assets/documents/023871_empl_paid_family_leave_report_jan_web1.pdf

Small Business Pooling

As part of the Protecting Worker Paycheck and Family Choice Act, GOP members of the House Ways and Means Committee proposed to allow small business pooling for paid family and medical leave. In particular, it would adjust definitions of “welfare benefits” related to existing pooling mechanisms to include paid family and medical leave as an eligible benefit. In effect, it would allow small businesses to pool resources together when providing paid family and medical leave.

- Protecting Worker Paychecks and Family Choice Act, 2021, <https://gop-waysandmeans.house.gov/brady-walorski-unveil-new-family-leave-and-child-care-package/>

Individual-Based and Other Income Support Proposals

Proposals that provide paid leave and/or income support to new parents using tax credits or other means-tested programs.

Working Parents Flexibility Act (Savings Accounts)

The Working Parents Flexibility Act, originally proposed by Representative John Katko (R-NY) and then-Representative Kyrsten Sinema (D-AZ), would allow employers to offer workers the option to divert a portion of their pretax earnings into a parental leave savings account similar to a 401(k)

retirement savings account. Within one year of the birth or adoption of a child, workers would be able to withdraw funds (tax-free) from the account in order to pay for expenses associated with welcoming a new child. So, if a new parent goes on leave, rather than receiving a paid benefit from their employer or the government, they could rely on their own savings in this account. A similar proposal was also included in the Protecting Worker Paychecks and Family Choice Act, a series of paid family leave proposals released by GOP members of the House Ways and Means Committee.

- Working Parents Flexibility Act, <https://katko.house.gov/media-center/press-releases/joined-local-business-owners-working-parents-and-chambers-commerce>
- Protecting Worker Paychecks and Family Choice Act, 2021, <https://gop-waysandmeans.house.gov/brady-walorski-unveil-new-family-leave-and-child-care-package/>

Targeting Low-Income Workers (AAF-AEI)

In a 2017 American Action Forum – American Enterprise Institute report, Ben Gitis and Angela Rachidi outline an option for a means-tested paid parental leave program that would provide low-income workers the ability to take up to 12 weeks of paid parental leave (to bond with a newborn or adopted child). Modeled after the Earned Income Tax Credit (but administered through an agency like the Social Security Administration), the proposed program would base parental leave benefits and eligibility on household income relative to the federal poverty level. Benefits would replace up to 80% of weekly income and phase out at 325% of the federal poverty level (\$76,600 in household income for a family of three). They also illustrate a more expansive option that would use a slower phase-out rate and be available to those below 450% of the federal poverty level (\$98,600 for a family of three). The first option would cover 40% of workers, while the second would cover over half the workforce.

- AAF-AEI report, 2017, <https://www.americanactionforum.org/solution/affordable-targeted-paid-parental-leave-us-work/>

Child Tax Credit Pull-Forward (Cassidy-Sinema)

As a way of increasing resources for new parents, Senators Bill Cassidy (R-LA) and Krysten Sinema (D-AZ) proposed to give parents the option to receive a larger Child Tax Credit (CTC) payment upon the birth or adoption of a new child. In particular, their proposal would allow parents to receive a \$5,000 CTC benefit after welcoming a new child. In return, parents would pay back this benefit by agreeing to reduce their subsequent CTC benefits by \$500 (from \$2,000 to \$1,500) for each of the next 10 years.

- Cassidy-Sinema proposal, 2019, <https://www.cassidy.senate.gov/newsroom/press-releases/cassidy-sinema-release-bipartisan-paid-leave-proposal>

Expanding the CTC for Parents with Young Children

To increase resources to new parents and provide a form of a “baby bonus,” some have proposed to increase the CTC specifically for parents with young children. Perhaps most prominently, the Family Security Act 2.0 – proposed by Senators Romney (R-UT), Burr (R-NC), and Daines (R-MT) in 2022 – would replace the CTC and other federal programs with a new, monthly cash benefit for families with children. In particular, it would provide families with \$350 per month for each child under age 6 and \$250 per month for each school-age child. Under the latest iteration of the proposal, the benefit

phases in on the first dollar of earnings and families must earn at least \$10,000 in the prior year to receive the full benefit.

- The Family Security Act 2.0, 2022, https://www.romney.senate.gov/wp-content/uploads/2022/06/updated_family-security-act-2.0_one-pager_appendix.pdf

Amending the CCES

As part of the Protecting Worker Paycheck and Family Choice Act, GOP members of the House Ways and Means Committee proposed to amend the Child Care Entitlement to States (CCES) to give low-income parents the option of receiving a child care subsidy as partial wage replacement to stay home with a newborn child for up to 12 weeks. New parents meeting income requirements would receive this benefit rather than child care assistance.

- Protecting Worker Paychecks and Family Choice Act, 2021, <https://gop-waysandmeans.house.gov/brady-walorski-unveil-new-family-leave-and-child-care-package/>

Job Protection

FMLA Modernization and Expanding Job Protection

The Family and Medical Leave Act (FMLA) provides many workers with 12 weeks of unpaid, job-protected family and medical leave annually. However, current law leaves over 40% of workers ineligible for job protection, meaning that a large portion of the workforce does not have the right to keep their job if they take parental, family caregiving, or personal medical leave. In addition, the law poses a number of compliance challenges to employers. To be eligible for FMLA, a worker must be employed by a company that has at least 50 workers within a 75-mile radius, work for that employer for at least 1 year, and work at least 1,250 hours within that year. There have been a number of proposals to expand access to job protection, by lowering the business size threshold so that more companies must comply with FMLA or reducing the tenure and work hours requirements. In addition, business groups have proposed several incremental reforms to ease compliance burdens on employers.

- Bipartisan Policy Center report on FMLA Modernization, 2022, <https://bipartisanpolicy.org/report/reforming-fmla-to-expand-employee-coverage-and-reduce-employer-burdens/>