



SOCIAL SECURITY
Office of the Chief Actuary

January 28, 2020

The Honorable Rosa DeLauro
United States House of Representatives
Washington, D.C. 20515

Dear Representative DeLauro:

This letter is in response to your request for our estimate of the level of a new payroll tax that would be needed to adequately finance benefits included under H.R. 1185, the “Family and Medical Insurance Leave Act”, or “FAMILY Act”, which you introduced on February 13, 2019. We have enjoyed working with Elizabeth Albertine of your staff in understanding the specifications and intent for the provisions of this Bill. The estimate provided here reflects the combined effort of many in the Office of the Chief Actuary, but particularly Karen Glenn, Chris Chaplain, Kyle Burkhalter, Daniel Nickerson, and Jacqueline Walsh.

H.R. 1185, hereafter referred to as the Bill, would establish a new trust fund for financing benefits specified. For workers who are eligible, specified benefits based on “qualified caregiving” would start in March 2022. Qualified caregiving is defined to include both caregiving for a family member and time off work to deal with the worker’s own medical condition, consistent with the definition under the Family and Medical Leave Act of 1993 (FMLA). Under the Bill, eligible workers could apply for up to 60 full days of family and medical leave benefits for each 365-day period starting with the first day of leave. The monthly benefit level would be based on the highest average monthly earnings among the three most recent calendar years. Caregiving benefits and administrative expenses would be paid out of a new dedicated trust fund that would be financed by a payroll tax applied to earnings that are taxable under the Social Security (OASDI) program. The Bill specifies a total payroll tax rate of 0.40 percent on OASDI taxable earnings, starting in January 2021. However, we estimate that a 0.62 percent payroll tax rate would be necessary to adequately finance benefits included under this Bill, under the intermediate assumptions of the 2019 Trustees Report.

The balance of this letter provides further description of our understanding of the specifications and intent of this Bill and the assumptions we used in estimating the necessary payroll tax rate.

Specifications of the Bill

To qualify for a caregiving benefit, a worker must be disability insured by the Social Security definition and have earned income during the 12 months prior to the application month. To acquire Social Security disability insured status, an individual must have earned at least 20

quarters of coverage¹ (QCs) during the most recent 40 calendar quarters; individuals younger than age 31 generally need QCs of at least one-half of the calendar quarters elapsed since attainment of age 21 with a minimum of six such quarters.

Qualifying conditions for eligibility include those activities covered in the FMLA, such as own disability or illness, bonding with a new child (biological, adopted, or primary caregiver), and care of a family member. Proof of one's own ailment or the ailment of a family member who requires caregiving must be provided in the form of a note from a licensed medical professional.

An eligibility waiting period would begin with the first leave day and would end with the earlier of the fifth leave day or the end of the month preceding the first month with at least 15 leave days. The eligible worker can submit a claim for benefits up to 60 days before the qualifying leave is expected to begin, and can receive retroactive benefits for leave days up to 90 days before application and receive benefits for a leave day up to 180 days after applying for the benefit and meeting all eligibility criteria. The eligible worker may apply for up to 60 full days of benefits in any 365-day period.

A leave day must be one where the beneficiary would normally be working. Benefits under this Bill cannot be taken for days of employer-paid sick leave, paid time off, or paid vacation. Individuals receiving benefits based on permanent disability from the Social Security Disability Insurance program, Supplemental Security Income, or a state plan are ineligible for benefits under this Bill. In addition, benefits under this Bill are reduced by any payments received from a Workers Compensation plan for disability or from unemployment insurance. Benefits under this Bill are to be coordinated with benefits for temporary disability or paid family leave provided by a state plan. Our understanding of the intent of the Bill is that benefits paid under the Bill will not be offset or reduced based on temporary disability or family leave benefits from a state plan. In addition, benefits under this Bill are not to diminish any benefits paid by an employer. Our understanding of the intent of the Bill is that benefits under this Bill cannot be used as a basis for reducing any benefits that would otherwise be provided by the employer.

The monthly benefit amount is set at two-thirds of the highest of the average monthly earnings among the three most recent calendar years. A minimum monthly benefit of \$580 and a maximum monthly benefit of \$4,000 apply in 2021, with these amounts indexed in future years based on changes in the national average wage index. Benefit payments would begin in 2022.

The Bill would assess a payroll tax on earnings covered under the Social Security program, up to the contribution and benefit base (\$137,700 in 2020). Earnings covered under Social Security but above this base, as well as earnings not covered under Social Security program, would not be taxed. Benefits under the Bill are not subject to personal income taxation. The Bill specifies a total payroll tax rate of 0.40 percent of taxable earnings. However, as indicated above, we estimate a total payroll tax rate of 0.62 percent of payroll would be required to adequately finance the scheduled benefits.

¹ A quarter of coverage equals \$1,410 in 2020. Individuals can earn up to four QCs each year (for 2020, for example, earnings of at least \$5,640). The threshold amount for one QC changes based on changes in SSA's average wage index.

Assumptions

For our estimates, we are assuming that 35 percent of parents with a new birth or adoption would qualify for and would choose to receive a parental leave benefit in the period of eligibility. We assume that these bonding benefits would be received for 2 months on average for each participating parent. We also assume that in each year, 4 percent of all insured workers would qualify for and receive benefits based on their own medical condition, and that 0.4 percent of all insured workers would qualify for and receive benefits to care for a family member with qualifying medical conditions, for an average of 2 months of benefit receipt.

We assume that the administrative expenses for the new program would equal about 7 percent of the total benefits paid. Finally, asset reserves of the new trust fund are assumed to be invested in the same manner as and to earn interest at the same rate as the OASI and DI Trust Fund reserves. All assumptions are consistent with the intermediate assumptions of the 2019 Trustees Report.

We hope these estimates are helpful. Please let us know if we may provide further assistance.

Sincerely,

A handwritten signature in black ink that reads "Stephen C. Goss". The signature is written in a cursive, flowing style.

Stephen C. Goss, ASA, MAAA
Chief Actuary

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UNITED STATES
HOUSE OF REPRESENTATIVES

ROSA L. DELAURO

3RD DISTRICT, CONNECTICUT

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COMMITTEE ON THE BUDGET

January 17, 2020

Stephen C. Goss
Chief Actuary
Social Security Administration
6401 Security Blvd.
2409 Robert M. Ball Building
Baltimore, Maryland 21235

Dear Mr. Goss,

I write to request an estimate of the level of payroll tax that would be needed to adequately finance benefits under H.R.1185, the FAMILY Act.

Please let me know if you need any further information or additional assistance.

Sincerely,

A handwritten signature in blue ink that reads "Rosa L. DeLauro".

ROSA L. DeLAURO
Member of Congress