



February 13, 2020

Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Re: Budgetary Effects of H.R. 1185, the FAMILY Act

Dear Congressman:

In response to your request, the Congressional Budget Office and the staff of the Joint Committee on Taxation (JCT) have analyzed the budgetary effects of H.R. 1185, the FAMILY Act, as introduced on February 13, 2019.

Summary

H.R. 1185 would provide family and medical leave benefits for eligible people and impose a 0.4 percent payroll tax that would be split evenly between employers and employees. CBO estimates that enacting the bill would increase direct spending by \$547 billion over the 2020-2030 period—\$521 billion for benefits and \$27 billion for program administration (see Table 1). JCT estimates that enacting the payroll tax would increase net federal revenues by \$319 billion over the 2020-2030 period. (The new payroll tax would raise a total of \$361 billion over the period, but that amount would be offset by a reduction of \$42 billion in income tax revenues.) In total, we estimate that the bill would increase the deficit by \$228 billion over the 2020-2030 period.

For this estimate, we assume that H.R. 1185 will be enacted by April 1, 2020. CBO and JCT expect that the increase in revenues under the bill would outpace spending increases in fiscal years 2020 through 2022 because the payroll tax would be collected before benefits would be paid and because we expect that spending on benefits would be lower in the beginning but rise over time. CBO and JCT estimate that spending would exceed revenues in all years after 2022.

The estimates described in this letter are subject to significant uncertainty, and the effects of the legislation on spending and revenues could be larger or smaller than described here.

Bill Summary

Beginning 18 months after enactment, H.R. 1185 would provide payments for up to three months at a time to eligible people who take leave from work for one of four reasons:

- They have a serious health condition,
- They are caring for an immediate family member with a serious health condition,
- They have experienced the birth or adoption of a child, or
- They face a “qualifying exigency” arising from the foreign deployment of a family member in the armed forces.

To qualify, a beneficiary must have had earnings in the preceding 12 months at the time of application and meet certain other work history requirements.¹ Current recipients of Social Security Disability Insurance benefits or Supplemental Security Income would be ineligible.

Under H.R. 1185, benefits would equal about two-thirds of a recipient’s highest earnings over the preceding three years, with a minimum benefit of \$580 per month and a maximum of \$4,000 per month in calendar year 2021. After 2021, the minimum and maximum benefit amounts would be indexed to wage growth. After a five-day waiting period, an eligible person could receive benefits that would continue for as long as the condition persists, up to a maximum of three months. Benefits would be reduced by the amount a recipient was receiving in workers’ compensation or unemployment benefits.²

The payroll tax would take effect 120 days after enactment. The 0.4 percent tax would apply to earnings subject to the Social Security tax, which is applied on earnings up to a maximum amount, equal to \$137,700 in

1. The other work history requirements are the same as those for Social Security Disability Insurance. Generally, beneficiaries over age 30 must have worked during one-quarter of the years since the age of 21 and during 5 of the preceding 10 years; younger workers are subject to slightly different rules.

2. The Federal Employee Paid Leave Act, part of the National Defense Authorization Act for Fiscal Year 2020 as enacted on December 20, 2019, made federal employees eligible for up to 12 weeks of paid parental leave for the birth or placement of a child on or after October 1, 2020. As it was introduced on February 13, 2019, H.R. 1185 would not limit benefits for federal employees. CBO expects that federal employees would be eligible for benefits provided by H.R. 1185 in addition to any parental leave benefits they could receive under current law.

calendar year 2020 and adjusted annually based on the national average wage index. Payment of the 0.4 percent tax would be split evenly between employers and employees; self-employed workers would pay the full amount on the basis of net income.

The bill also would establish a Federal Family and Medical Leave Trust Fund, from which benefits and associated administrative expenses would be paid. Gifts and bequests to the trust fund would be deposited automatically. Payroll tax collections would not be deposited directly. Instead, H.R. 1185 would authorize those receipts to be appropriated into the trust fund.

In CBO's view, the bill would establish an entitlement by creating a legal obligation for the federal government to provide benefits to applicants who apply and are deemed eligible. Therefore, outlays to cover benefits would constitute direct spending. Although H.R. 1185 also would limit program outlays to amounts in the trust fund, in keeping with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, CBO's estimates show the full costs of providing payments to all eligible recipients. Payroll taxes would be deposited to the trust fund only by appropriation (unlike gifts and bequests, which would be deposited automatically). CBO anticipates that even if payroll tax receipts were appropriated into the fund, they would be insufficient to cover the cost of paying full benefits to all eligible applicants over the 2020-2030 period.

Changes in Direct Spending

CBO anticipates that benefits would be provided beginning in fiscal year 2022 and estimates that providing benefits as outlined in the bill would increase direct spending by \$521 billion over the 2020-2030 period. Direct spending for the Social Security Administration (SSA) to administer the program would increase by \$27 billion over the same period.

Family and Medical Leave Benefits. CBO estimates that over the 2022-2030 period, nearly 150 million people each year would meet the work history requirements of the program and would therefore be eligible for benefits if they experienced a qualifying event.

To estimate how many of those people would claim benefits for medical or caregiving leave, CBO relied primarily on public-use data from a 2012 survey about the Family and Medical Leave Act (FMLA).³ CBO also relied on data from states with temporary disability and family leave programs—notably California, Rhode Island, and New Jersey. (Several other states

3. See Department of Labor, Wage and Hour Division, "FMLA Surveys: FMLA Is Working" (accessed February 11, 2020), www.dol.gov/whd/fmla/survey.

have implemented similar programs recently or enacted legislation to establish programs, but available data were insufficient for this analysis.)

The FMLA survey asked respondents whether they had taken time off in the previous year for themselves or a family member. It also asked whether they needed to take time off, but were unable to do so. CBO considered the sum of the two responses to be the total “need” for leave in each year. Survey responses were compared by gender and age, and estimates were adjusted on the basis of CBO’s detailed population projections.

On the basis of the survey data, CBO estimates that about 11 percent of eligible workers would need leave each for their own serious health condition; about 5 percent would need leave in each year to care for a family member.

Primarily using information from the survey—including data on the duration of leave and the reasons for not taking leave—CBO estimated the number of people with a need for leave who would claim benefits under H.R. 1185. Overall, CBO anticipates, people who take shorter leave would be less likely to claim benefits under the bill than those whose leave was of longer duration, and those who took five days or less would not claim benefits because their leave would not exceed the waiting period established by the bill. CBO also expects that those who needed leave but did not take it for a nonfinancial reason (such as concern about losing a job) would be unlikely to claim benefits under the bill.

CBO also considered participation in state programs. Participation in most state programs for medical and caregiving leave is low compared with the need for leave reported by workers in the FMLA survey. However, CBO anticipates that awareness would be greater for a federal program than for a state program, so participation would generally be higher under H.R. 1185 than under the state-based programs.

Based on information from states that recently implemented family leave programs, CBO estimates that the share of eligible people claiming benefits would be low at first but would increase over time. Eventually, about half of the people who needed leave in any year because of their own health would claim benefits, as would about one-sixth of those who needed to care for a family member, CBO estimates.

CBO’s estimates of need for parental leave are based on projections of the number of births in a year, with a small addition for adoptions and foster care placements. CBO expects that about 70 percent of new parents would meet the work history requirements to qualify for benefits, and that

ultimately, most eligible women and about half of eligible men would claim parental leave benefits under H.R. 1185. To arrive at that estimate, CBO evaluated reported international experience with parental leave programs, survey research on current parental leave patterns in the United States, and participation in state programs. As for the other types of claims, we anticipate that awareness would be greater for a federal program than for a state program, so participation would be higher under H.R. 1185 than under the state-based programs. Again, we expect that participation would be lower when the program is first implemented.

In total, CBO estimates that approximately 3.9 million people would claim benefits in 2022; the number would rise to about 13.5 million people in 2030.

To estimate the costs of benefits under the bill, CBO used data on earnings from the Census Bureau's Current Population Surveys for 2018 and 2019. Overall, CBO estimates that average monthly benefits would be roughly \$2,800 in 2022 and would increase to over \$3,700 per month in 2030. Because wages tend to rise with age, benefits probably would be lower, on average, for new parents; they would be higher for people who cannot work because of their own health conditions or because of the need to care for a family member.

Using information from state programs and data from the FMLA survey, CBO estimates that people would claim benefits for about seven weeks, on average, although the duration would depend on the reason for taking leave. Longer periods would be needed for medical and parental leave and shorter periods for caregiving, CBO expects.

In total, benefits under H.R. 1185 would cost \$521 billion over the 2022-2030 period, CBO estimates. About 63 percent would be for people who need leave for their own conditions, 30 percent would be for the birth or adoption of a child, 5 percent would involve caregiving for family members, and 1 percent would be paid for a qualifying exigency involving a family member on active duty in the armed forces.

Administrative Costs. CBO estimates that soon after enactment of the bill, the Social Security Administration would incur start-up costs of \$700 million to build new computer systems, hire and train staff, write regulations and operations procedures, and conduct outreach to employers and employees, among other activities. Using information from state programs, CBO estimates that the administrative costs for a fully operational program would be 5 percent of the amount spent on benefits, for a total of \$26 billion over the 2020-2030 period. In total, CBO

estimates, SSA will spend \$27 billion on administration over the 2020-2030 period.

Changes in Revenues

JCT estimates that the bill would increase federal revenues by \$319 billion over the 2020-2030 period. The new payroll tax would raise a total of \$361 billion, which would be offset by a reduction of \$42 billion in income tax revenues over that same period.⁴

Uncertainty

The estimates described in this letter are subject to significant uncertainty. Section 5(a) of the bill would establish an entitlement to benefits for eligible people who apply. However, section 6 of the bill would limit benefit payments to amounts in the Federal Family and Medical Leave Insurance Trust Fund but, apart from gifts and bequests, would not directly appropriate money to the trust fund. (Section 6(b) would authorize the appropriation of payroll tax revenue into the trust fund.) CBO's estimate shows the full costs of providing payments to all eligible recipients, in keeping with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985. However, actual payment of benefits would depend on amounts appropriated.

In addition, CBO cannot precisely project program costs even under an assumption that benefits would be paid according to the formulas specified in the bill. In particular, there is a substantial difference between the number of people who report in surveys that they need leave for a qualifying reason and the number who actually claim benefits in states with temporary disability and family leave programs. Although CBO's estimate is based on the assumption that participation in a federal program would fall somewhere in the middle of that range, the number claiming benefits could fall elsewhere within or even outside the range. Average benefit amounts also could be greater or less than CBO estimates if wages grow at a different rate than projected or if the makeup of claimants differs from expectations.

The estimates of tax revenues under the bill also are uncertain; they rely on underlying projections and other estimates that are themselves uncertain. Specifically, they are based in part on CBO's economic projections for the

4. JCT and CBO assume that changes to payroll taxes paid by employers affect cash wages such that total compensation is held constant. Therefore, an increase in employer payroll tax liabilities will generally result in an equivalent decrease in employee wages and benefits, which causes a decrease in expected income tax receipts.

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next decade under current law and on estimates of changes in taxpayers' behavior in response to changes in tax rules.

I hope this information is helpful to you. If you have any questions, please contact me or Emily Stern.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip L. Swagel", with a long, sweeping flourish extending to the right.

Phillip L. Swagel
Director

Enclosure

cc: Honorable Richard Neal
Chairman

Honorable Danny Davis
Chairman
Subcommittee on Worker and Family Support

Identical letter sent to the Honorable Jackie Walorski, Ranking Member,
Subcommittee on Worker and Family Support.

Table 1.
Estimated Budgetary Effects of H.R. 1185, the FAMILY Act, as introduced on February 13, 2019

	By Fiscal Year, Billions of Dollars											2020-2025	2020-2030
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
Increases in Direct Spending (Outlays)													
Family and Medical Leave Benefit Payments	0	0	19.4	34.0	42.4	51.2	60.5	69.4	77.9	81.4	84.3	147.0	520.5
Administrative Expenses	*	0.5	1.1	1.7	2.1	2.6	3.0	3.5	3.9	4.1	4.2	8.0	26.7
Total Changes in Direct Spending	*	0.5	20.5	35.7	44.5	53.8	63.5	72.9	81.8	85.5	88.5	155.0	547.2
Increases or Decreases (-) in Revenues													
Payroll Tax	4.9	28.3	31.1	32.3	33.6	35.0	36.3	37.7	39.2	40.7	42.3	165.2	361.4
Reduction in General Revenues	-0.7	-2.3	-3.4	-3.5	-3.7	-3.9	-4.3	-4.8	-5.0	-5.2	-5.4	-17.5	-42.3
Total Changes in Revenues	4.3	26.0	27.7	28.8	29.9	31.1	32.0	32.9	34.2	35.5	36.8	147.7	319.0
Net Increase or Decrease (-) in the Deficit From Changes in Direct Spending and Revenues													
Total Effect on the Deficit	-4.3	-25.5	-7.2	6.9	14.6	22.7	31.5	40.0	47.6	50.0	51.7	7.3	228.2
Family and Medical Leave Program and Payroll Tax	-4.9	-27.8	-10.6	3.4	10.9	18.8	27.2	35.2	42.6	44.8	46.2	-10.2	185.8
Other	0.7	2.3	3.4	3.5	3.7	3.9	4.3	4.8	5.0	5.2	5.4	17.5	42.3

Components may not sum to totals because of rounding, * = between zero and \$50 million.

For this estimate, CBO and JCT assume that the bill will be enacted by April 1, 2020. The payroll tax would apply to earnings beginning 120 days after enactment (July 30, 2020) and benefits would begin 18 months after enactment (October 1, 2021).

In CBO's view, the bill would establish an entitlement by creating a legal obligation for the federal government to provide benefits to applicants who apply and are deemed eligible. Although H.R. 1185 also would limit program outlays to amounts in the trust fund established by the bill, in keeping with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, CBO's estimates show the full costs of providing payments to all eligible recipients.