

CONGRESSIONAL TESTIMONY

Why a National Paid Family and Medical Leave Program Could Not Meet Workers' and Employers' Needs Better Than Employer-Provided Programs

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Paid family leave is a great thing. It benefits workers and employers alike, and it supports families in their roles of caring for one another across generations, even as in the majority of households in America, both adults participate, or the only adult participates, in the formal labor force.

As a mother of six young children, and with both my mother and my grandmother diagnosed with cancer in recent years, I understand the need and desire for workers to take leave. I believe that families are the foundation of society, and it is important that family members be able to care for one another.

While paid family leave has many benefits, it is not without cost or consequence for workers, for employers, for consumers, and for the entire economy. When considering the government's role in paid family leave, it is crucial that policymakers take the time to truly think through how the types of programs they are considering will affect individuals and families across all walks of life. Most important is how those policies will affect low-income and less-advantaged individuals who are more concerned about making ends meet and finding opportunities to improve their family's outlook than they are about the government enacting a new entitlement program that they may never use.

In my testimony today, I would like to focus on three points. First, is to explain why employer-provided paid family leave programs are the optimal way for workers to receive paid family leave. Second, is to examine the lessons we can learn from existing government-provided paid family leave programs. And third, is to look at

how the strong economy and tight labor market have produced widespread gains and which additional policies could increase workers' options for paid family leave without reducing their paychecks and choices.

1. How Employer-Provided Paid Family Leave Minimizes Costs and Consequences and Maximizes Flexibility for Workers and Employers

The most flexible and beneficial, as well as least costly and consequential, way for workers to receive paid family leave is for it to come through their employer. There are many reasons for this reality.

Many Workers Take Leave, for Many Different Reasons.

In a given year, about 23 million individuals—15 percent of workers—will have a need to take paid family or medical leave. Surveys show that virtually all workers who have a need for leave take it, and nearly three out of every four who take leave receive full or partial pay.¹

While the need and desire for paid leave is widespread, no single situation is identical to any other. The most commonly considered leave is to care for a new child, and these leaves are more predictable, but they only account for one out of every five leaves taken.² More than half of all leaves are taken by workers based on their own medical needs, with the remaining quarter taken by workers to care for family members. Many of those leaves can be unpredictable and require varying lengths of leave. Moreover, while some workers are not able to perform any work while on leave, others can and may want to maintain some level of work while on leave.

¹ See additional information on paid family leave in the U.S. at the end of this testimony, including statistics on leave from multiple survey sources.

² Ben Gitis, "Paid Family and Medical Leave in the United States: Using Data to Guide Public Policy,"

A Federal Bureaucracy Could Not Meet Workers' Needs for Flexibility and Expediency.

Many leave situations are not predictable in advance and they often involve both immediate and ongoing treatments and hospitalizations. A worker whose spouse is diagnosed with cancer will likely need to take time off immediately. She will not have time to file a formal claim with a government agency (including obtaining and submitting medical documentation and likely receiving employer sign-off), and then wait multiple weeks to learn whether or not her leave request was approved by a government official who knows very little about her circumstances.

It is hard to conceive of how a singular program administered by a bureaucratic federal agency could meet most workers' needs, and evidence from existing eligibility-based social insurance programs is not encouraging. At a recent March 7, 2019, House Ways and Means Committee hearing on "Challenges and Opportunities for Working Families," Ms. Tameka Henry explained how her family waited six years from when her husband became ill to when he began receiving his disability insurance benefits. If a federal paid family leave insurance program comes within even a fraction of the burden and delays contained in the federal disability insurance program, it will not meet workers' needs in a timely or efficient way.

Most workers would prefer to talk to their boss or work with their HR manager than to navigate a federal agency, and unlike a federal program that requires waiting for benefits, with employer-provided paid leave policies, the default for employer-provided programs is for paychecks to keep coming while workers and employers figure out their leaves.

February 22, 2018, <https://www.americanactionforum.org/research/paid-family-medical-leave-united-states-using-data-guide-public-policy/#ixzz67d47HvE6> (accessed December 9, 2019).

A Government Program Would Likely Prevent People from Working During Leaves.

Based on an individual's family or medical leave, as well as the nature of his or her work, many individuals may be able to—and want to—remain connected to work in some capacity while on leave. A new mom may prefer to stretch out three months of leave over four or five months by working part-time from home over her leave. A worker undergoing cancer treatment may not need to take time off entirely, but may want a flexible arrangement that allows him to work from home when he has doctor appointments or when he's not feeling well.

Those scenarios would likely not be possible through a federal program, as the purpose of such programs is to provide income while people are not working and it would be extremely difficult for the federal government to monitor individuals' work. In the U.S., fear of lawsuits for potentially violating government paid family leave laws has already caused some employers to cut their workers off from access to all work networks while on leave.

In Europe, limits and outright restrictions often hurt business continuity, negatively affect customers, and result in gender inequities in leave use and career advancement. A study of the British system criticized its restrictions on work while on leave, stating, "This antiquated system not only creates significant costs for businesses, in red tape and uncertainty, but creates an either/or choice on whether to work or stay at home. Parents on leave are prevented from staying in touch with the workplace or doing occasional shifts and casual work—with the exception of a small number of prescribed 'keep in touch' days."³

Most workers do not want to be cut off completely from their jobs, particularly if keeping in touch or working part-time can increase their incomes and opportunities. When employers provide paid family leave, they can easily provide paid leave as well as compensate workers for the work they perform while they are on leave, resulting in higher income and more leave availability for workers, as well as better business continuity for employers.

One-Size-Fits-All Programs Are Either Too Exclusive or Too Inclusive.

A federal paid family leave program has to be singular in nature, including: one eligibility criteria, one schedule for leave allotment, one tax or funding source to pay for it, and one federal agency to administer the program across 28 million unique businesses and 159 million diverse workers. If the parameters are relatively narrow, they will exclude many individuals who need benefits, and if they are inclusive, they will lead to excessive leave-taking that drives up costs and unfairly burdens workers who do not take leave.

Benefits less than 100 percent—such as the 66 percent proposed by the Family And Medical Insurance Leave (FAMILY) Act—would exclude many low-income workers from accessing benefits because an individual who makes \$15 per hour (\$600 per week) is unlikely to be able to pay the bills with only \$396 per week.

Yet, with a more inclusive program, providing 100 percent of benefits and expansive leave allowances, such as caring for friends and neighbors, so many people might take leave that everyone's paychecks would suffer significantly and economic output would decline. The balance between restrictions and inclusiveness is difficult, if not impossible, to

³ Thomas Cawston, Andrew Haldenby, Patrick Nolan, Laura Taylor, and Elizabeth Truss, "Productive Parents," Reform, July 2009,

<http://www.fatherhoodinstitute.org/uploads/publications/434.pdf> (accessed December 7, 2019).

achieve with a one-size-fits-all government program.

A Federal Government Program Would Require Significant Resources to Monitor Compliance and Prevent Fraud and Abuse.

Based on all the eligibility criteria, reporting, and tax withholding requirements associated with a government paid family and medical leave program, the federal government would need to monitor compliance and prevent fraud and abuse in the system, as it does with other eligibility-based programs, such as Social Security's Disability Insurance (SSDI) Program and Medicaid. The SSDI program has 43 Cooperative Disability Investigations Units to identify, investigate, and prevent fraud and abuse within the system.⁴ Yet both SSDI and Medicaid are plagued with fraud, misuse, and significant improper payments.

Although most claims are likely to represent legitimate reasons for taking leave, a federal program could create strong incentives for misuse and abuse, particularly the more inclusive it becomes. For example, businesses with seasonal sales could misuse a federal paid family leave program as a way to reduce their payrolls during certain periods by encouraging workers to file paid family leave claims. And while most self-employed individuals would be less likely to take leave as it would be disruptive to their businesses, some could turn to a federal program as a means of sustaining income during slow periods of work.

⁴ Social Security Administration, "FY 2020 Budget Justification," Office of the Inspector General, p.235, https://www.ssa.gov/budget/FY20Files/2020OIG_1.pdf (accessed November 25, 2019).

⁵ Austin O'Connor, "Be Your Own Boss, Be Happy," AARP, February 27, 2018, <https://www.aarp.org/work/small-business/info-2018/self-employed-numbers-fd.html> (accessed May 5, 2019).

⁶ Based on a recent economic analysis that showed a 60 percent crowd-out rate of privately provided health

The application of a federal paid family leave program is particularly important for self-employed or independent workers as they already represent about 10 percent of the U.S. workforce, and forecasts project that this figure could triple over the coming years.⁵ Independent workers would likely find it more difficult to navigate a federal program without employer assistance, and the government would have a harder time monitoring independent workers' use of the program.

A Federal Program Would Crowd Out Existing Paid Family Leave Programs.

Employer-provided paid family leave is on the rise in the U.S., with significant growth among large employers of lower-wage workers, as well as a race to the top among employers of middle- and upper-income workers (see additional information at the end for statistics on increased access). Moreover, nine states have already enacted their own state-based paid family leave programs (covering 29 percent of workers) and many more are considering their own programs.

It is peculiar that policymakers are pushing for a new national paid family leave entitlement at the same time that access is rising among private employers and state governments because a national paid family leave program will most certainly cause employers to eliminate or reduce their current programs, shifting employer-provided costs onto taxpayers.⁶ This is what private employers have done already where state-based programs

insurance due to government provision, policymakers can expect significantly higher crowd-out from a federal paid family leave program; such benefits would be less valuable, as they would lack the special tax benefit for employer-provided health insurance. Jonathan Gruber and Kosali Simon, "Crowd-Out Ten Years Later: Have Recent Public Insurance Expansions Crowded Out Private Health Insurance?" National Bureau of Economic Research *Working Paper* No. 12858, January 2007,

exist. At a July 11, 2018, Senate Finance Subcommittee hearing, Carolyn O’Boyle, representing Deloitte, explained what Deloitte does (and what we can expect other employers to do) for employees who live in states with their own state-based paid family leave programs. She said that Deloitte instructs its workers first to use the state-provided paid leave benefits, and then Deloitte tops those benefits off to meet Deloitte’s maximum benefits. That is a straight transfer of costs from private-sector businesses and workers to state taxpayers, and the same thing would happen at the national level for federal taxpayers.

This shift in costs could disproportionately harm lower- and middle-income workers who currently lack access to paid family leave, because they would pay not only for the costs of their own access to paid family leave, but also for a portion of the costs of workers who already have access to privately provided paid family leave programs. Taking the various measures of paid family leave that Americans take today, I estimate that employers provide between \$125 billion and \$275 billion worth of paid family and medical leave to workers each year.⁷ Even if a federal program only covered 40 percent of existing costs, this implies that each worker would face between \$300 and \$700 in new taxes to cover paid leaves that employers already provide.

Low-income workers would be hard-pressed to give up hundreds or thousands of dollars more per year in taxes in exchange for a federal paid family leave program that they might or might not use.

Moreover, the nine states that already have their own paid family and medical leave

programs would be foolish to maintain those programs amidst a national program because that would require workers to pay both federal and state taxes when they would likely only qualify for one benefit or the other. Forcing businesses to abide by both programs would be an administrative and legal nightmare.

Now is not the time to stifle growth in employer-provided and state-based paid family leave programs by enacting a federal paid leave program. Doing so would almost certainly leave many workers with more restrictive, costly, and consequential programs.

2. Lessons From Existing Government Paid Family Leave Programs.

With the U.S. being the only industrialized country without a federal paid family leave program, and with nine state-based programs now enacted, many lessons can be learned from existing government paid family leave programs.

Government Paid Leave Programs Are Regressive, Redistributing Money from Low-Income Earners to Middle- and Upper-Income Earners.

Despite the intent of federal paid family leave proposals—namely, particularly to benefit lower-income individuals who are more likely to lack access to paid leave—the exact opposite has been the result. Across foreign countries and in the U.S. states, economic analyses of paid family leave programs find significant redistribution from low-income families to middle- and upper-income families.⁸ Some highlights from those studies include:

100 percent of pay, and workers’ annual earnings in the range of \$50,000 to \$75,000.

⁸ Kristen Shapiro, “Expanding Paid Family Leave Without Disadvantaging Low-Income Families,” Independent Women’s Forum, July 2019, http://pdf.iwf.org/PFL_For_Low-Income_Families.pdf (accessed December 7, 2019).

<http://www.nber.org/papers/w12858.pdf> (accessed March 9, 2018).

⁷ This estimate is based on a workforce of 150 million, between 12.6 percent and 18.5 percent of workers taking leave each year with an average leave length of 6.95 weeks, benefits equal to between 66 percent and

California. Although California’s program increases leave-taking among low-income individuals, it does so at a highly disproportionate cost to low-income workers. According to a 2013 analysis by the California Senate’s Research Office, fewer than 4 percent of workers in the lowest income bracket (below \$12,000) filed paid family leave claims with the state, compared to nearly 21 percent of workers in the highest income bracket (above 84,000).⁹ Another study by PhD candidates at the University of California Davis, found that, “Although a large majority of the California workforce is eligible for PFL [paid family leave], only a quarter of new mothers use the benefit.”¹⁰ Those who use it, have disproportionately high incomes; the median wage of women taking leave was \$10,000 higher than the median of all California women.¹¹ This means that the highest-income earners are over five times more likely than the lowest-income earners to use California’s paid family leave program. In San Francisco, which has its own paid family leave law in addition to California’s, a 2016 survey of women who took leave found that only 36 percent of those with earnings below \$32,000 received paid family leave benefits from the government, compared

⁹ Leonor Ehling, “California’s Paid Family Leave Program, Ten Years After the Program’s Implementation, Who Has Benefited and What Has Been Learned?,” California Senate Office of Research, July 1, 2014, <https://sor.senate.ca.gov/sites/sor.senate.ca.gov/files/Californias%20Paid%20Family%20Leave%20Program.pdf> (accessed December 7, 2019).

¹⁰ Ariel Pihl and Gaetano Basso, “Paid Family Leave, Job Protection, and Low Take-up among Low-Wage Workers,” University of California Davis Center for Poverty Research *Policy Brief*, Vol. 3, No. 12, https://poverty.ucdavis.edu/sites/main/files/file-attachments/cpr-pihl_basso_pfl_brief.pdf (accessed December 7, 2019).

¹¹ Ibid.

¹² Julia M. Goodman, William H. Dow, and Holly Elser, “Evaluating the San Francisco Paid Parental Leave Ordinance: Employer Perspectives,” February 2019,

to 79 percent of women with earnings above \$97,000.¹²

New Jersey. Although New Jersey does not yet track paid family leave data by income level, news reports indicate that the program is largely unhelpful to low-income earners who nevertheless must pay taxes into the system. One report characterized New Jersey’s program as “simply unaffordable, even for middle-class families, many of whom still live paycheck to paycheck in high-cost New Jersey.” That report purported that, “The state’s paid family leave policy puts many workers below the poverty level for the duration of their leaves, and pushes people who are already struggling deeper into poverty.”¹³ New Jersey has attempted to remedy this situation by recently raising benefits and spending more money on outreach, both of which will result in higher taxes for workers.

Canada. In Canada, government paid family leave programs have exacerbated class inequality.¹⁴ A 2016 study found that only about 45 percent of Canadian mothers with household incomes below C\$30,000 receive paid family leave benefit from the government, compared to between 75 percent to 85 percent of Canadian mothers with household incomes above

<https://www.populationsciences.berkeley.edu/sites/default/files/PPLO%20Issue%20Brief%202%20FINAL.pdf> (accessed December 7, 2019).

¹³ Amy Dunford, “Boosting Families, Boosting the Economy: How to Improve New Jersey’s Paid Family Leave Program,” New Jersey Policy Perspective, April 27, 2017,

<https://www.njpp.org/reports/boosting-families-boosting-the-economy-how-to-improve-new-jerseys-paid-family-leave-program> (accessed December 7, 2019).

¹⁴ Lindsey McKay, Sophie Mathieu, and Andrea Doucet, “Parental-Leave Rich and Parental-Leave poor: Inequality in Canadian Labour Market Based Leave Policies,” *Journal of Industrial Relations*, Vol. 0, No. 0 (2016), pp. 1–20, http://www.andreadoucet.com/wp-content/uploads/2016/11/Doc-10_McKay-Mathieu-Doucet-2016-JIR-FINAL.pdf (accessed December 7, 2019).

C\$60,000. The authors noted that, “Despite proportionate and obligatory contributions of all employers and employees to these programs, the distribution of benefits is unbalanced and aids the social reproduction of higher-income families, especially outside of Québec.” While Quebec, which operates its own program, has taken action to increase government benefits, they “are still not equally used by mothers with lower socio-economic status.”¹⁵

Norway. In Norway, even with 100 percent income replacement rates for nearly all mothers, researchers who estimated the impact of increased leave provisions found that “paid maternity leave has negative redistribution properties,” and that “the extra leave benefits amounted to a pure leisure transfer, primarily to middle and upper income families.”¹⁶ The authors concluded that “the generous extensions to paid leave were costly, had no measurable effect on outcomes and poor redistribution properties.”¹⁷

U.K. In the U.K., mothers who have a partner with earnings in the top income group are nearly twice as likely to take more than 26 weeks of leave as those who have a partner with earnings in the lowest income group (68 percent versus 36 percent).¹⁸ When analyzing the impact of the U.K.’s program among low-income workers, one study concluded that, “Too little support is directed to those families that need it most, and too much to those who do not.”¹⁹

Multiple factors contribute to the regressive nature of government-provided paid family leave programs across the world, including:

- **Low awareness.** In California, only 35 percent of families with incomes below \$35,000 were aware of California’s program, compared to 65 percent of families with incomes above 80 percent.²⁰ In New Jersey, overall awareness is extremely low, with only 12 percent of eligible new parents and only 1 percent of eligible caregivers even aware that the program exists.²¹ Although not measured by the state, a poll found that, “Lack of awareness is more prevalent among populations that could need paid leave the most, including people of color and young adults.”²²
- **Inability to make ends meet with partial benefits.** Low-income families face tighter budgets and are less likely to be able to pay their bills and meet basic needs with only partial benefit replacements.
- **Lower eligibility.** Low-income workers are more likely to work in part-time or temporary jobs where they do not qualify for benefits.
- **More concerns over rules.** Most government paid family leave programs come with significant rules, such as a prohibition on performing any work while on leave, which can be a greater deterrent to low-income earners.²³

¹⁵ Ibid.

¹⁶ Gordon B. Dahl, Katrine V. Løken, Magne Mogstad, and Kari Veia Salvanes, “What Is the Case for Paid Maternity Leave?” April 20, 2015, <https://econweb.ucsd.edu/~gdahl/papers/paid-maternity-leave.pdf> (accessed December 7, 2019).

¹⁷ Ibid.

¹⁸ Thomas Cawston, Andrew Haldenby, Patrick Nolan, Laura Taylor, and Elizabeth Truss, “Productive Parents.”

¹⁹ Ibid.

²⁰ Eileen Appelbaum and Ruch Milkman, “Leaves the Pay, Employer and Worker Experiences with Paid

Family Leave in California,” Center for Economic and Policy Research, 2011,

<http://cepr.net/documents/publications/paid-family-leave-1-2011.pdf> (accessed December 7, 2019).

²¹ Dunford, “Boosting Families, Boosting the Economy: How to Improve New Jersey’s Paid Family Leave Program.”

²² Ibid.

²³ Jennifer Robson, “Parental Benefits in Canada, Which Way Forward?” IRPP Study No. 63, March 2017, <http://irpp.org/wp-content/uploads/2017/03/study-no63.pdf> (accessed December 7, 2019).

- **Shorter leave durations.** Even with similar benefit provisions, and even when benefits are 100 percent, low-income workers are less likely to take the maximum amount of leave available to them.
- **Job protection concerns.** Low-income workers are more likely to be employed by very small employers to whom Family and Medical Leave Act (FMLA) job-protected leave does not apply. Moreover, even when low-income workers are eligible for job-protected and paid leave, they may be more likely to fear losing their jobs or future opportunities as a result of taking leave.

Government Programs Exacerbate Gender Inequities.

It is no coincidence that America is both the only industrialized nation without a federal paid family leave policy and also the nation with the highest proportion of women in top-level and management positions. This is because mandatory paid family leave programs can lead to subtle or overt discrimination against women. As professor and scholar Harry Holzer of the AEI–Brookings Project on Paid Family Leave has noted, “A mandatory paid leave policy might well lead employers to begin discriminating in hiring against less-educated women in the child-bearing ages, especially

minority women.”²⁴ Moreover, long periods out the workplace have been shown to hurt women’s career trajectories and subsequent earnings.

Both California’s and New Jersey’s state-based paid family leave programs had the unintended consequence of increasing the unemployment rate and the duration of unemployment for young women.²⁵ Even with low awareness and up-take rates, researchers estimated that New Jersey’s paid family leave program reduced young women’s employment rates by an estimated 8 percent to 9 percent.²⁶ And a recent analysis of California’s program using administrative data from the IRS found that new mothers who used California’s paid family and medical leave program had 7 percent lower employment and 8 percent lower annual earnings six years to ten years after giving birth than new mothers who did not use the program. (That study also has the surprising finding that California’s paid family leave program reduces women’s fertility rates).²⁷

Super-sized government programs in Europe have produced more widespread adverse impacts for women. A study of Great Britain’s paid leave and job-protected leave concluded that the policies reduced highly educated women’s prospects of being promoted or holding management positions,²⁸ and a study of parental leave mandates in Europe found

²⁴ Harry J. Holzer, “Paid Family Leave: Balancing Benefits and Costs,” AEI-Brookings Project on Paid Family Leave *Social Mobility Memo*, January 30, 2017, <https://www.brookings.edu/blog/social-mobility-memos/2017/01/30/paid-family-leave-balancing-benefits-and-costs/> (accessed June 12, 2017).

²⁵ Tirthatanmoy Das and Solomom W. Polachek, “Unanticipated Effects of California’s Paid Family Leave Program,” Institute of Labor Economics *Discussion Paper* No. 8023, March 2014, <http://ftp.iza.org/dp8023.pdf> (accessed May 7, 2019).

²⁶ Joshua Reed and Donald Vandegrift, “The Effect of New Jersey’s Paid Parental Leave Policy on Employment,” Munich Personal RePEc Archive *Paper*

No. 74794, October 28, 2016, https://mpra.ub.uni-muenchen.de/74794/1/MPRA_paper_74794.pdf (accessed March 5, 2018).

²⁷ Martha J. Bailey, Tanya S. Byker, Elena Patel, and Shanthi Ramnath, “The Long-Term Effects of California’s 2004 Paid Family Leave Act on Women’s Careers: Evidence from U.S. Tax Data,” NBER *Working Paper* No. 26426, October 2019.

²⁸ Jenna Stearns, “The Long-Run Effects of Wage Replacement and Job Protection: Evidence from Two Maternity Leave Reforms in Great Britain,” University of California, Davis, January 14, 2017, <http://economics.ucdavis.edu/events/papers/28Stearns.pdf> (accessed March 5, 2018).

that they reduced women’s relative wages.²⁹ Moreover, generous paid family leave policies can cause a disjointed labor force, with many women working in part-time positions while most men work full-time.³⁰ Data comparing wage gaps across countries often underestimate such gaps to the disadvantage of the U.S., because they only compare the earnings of full-time workers.³¹

On the other hand, when employers voluntarily provide paid family leave benefits, they are unlikely to discriminate against workers who take leave, and more likely to work with those workers to accommodate their leaves in ways that make workers more likely to remain with their employers long-term.

Government Programs Are Costly and Ever-Expansive

Paid family leave provides significant benefits, but not without substantial costs, and costs are almost always higher when benefits come

through a government program instead of an employer-provided program.

The most direct cost of paid family leave programs is the tax used to finance the program’s benefits and administration. Current state-based paid leave payroll taxes range from 0.15 percent in New York³² to 1.32 percent in Rhode Island. On a per-worker basis, the maximum paid family leave payroll taxes for 2019 are \$108 in New York,³³ \$354 in New Jersey,³⁴ \$770 in Rhode Island, and \$936 in California.³⁵

State-based program costs are relatively low due to a lack of public awareness, significant underutilization, and the newness of some programs. A federal policy would almost certainly have greater awareness and utilization, and thus higher costs.

The American Action Forum estimated that the FAMILY Act would cost \$31 billion per year if take-up rates were as small as they have been in state-based programs; \$68 billion per year if

²⁹ Christopher J. Ruhm, “The Economic Consequences of Parental Leave Mandates: Lessons from Europe,” National Bureau of Economic Research *Working Paper* No. 5688, July 1996, <http://www.nber.org/papers/w5688.pdf> (accessed March 5, 2018).

³⁰ Sven R. Larson, “A Fork in the Road of the American Welfare State,” SSRN Research Paper 2019, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3467127 (subscription required).

³¹ *Ibid.*

³² New York’s rate changes annually to reflect costs. In its second year of inception in 2019, with the program not fully phased in until 2021, the rate increased by 21.4 percent, from 0.126 percent to 0.153 percent. The program is estimated to cost workers just \$73 per year once fully phased in, but it will almost certainly cost significantly more considering that it provides about 33 percent higher benefits for two to three times as many weeks compared to existing state programs.

ShelterPoint, “Difference Between PFL Premium Payments and Payroll Deductions,” October 30, 2018, <https://pfl.shelterpoint.com/blog/paid-family-leave-premium-vs-payroll-deductions> (accessed May 4, 2019), and Betsy McCaughey, “How You End Up Paying for ‘Paid Family Leave,’” *New York Post*, April

12, 2016, <http://nypost.com/2016/04/12/how-you-end-up-paying-for-paid-family-leave/> (accessed June 12, 2017).

³³ ShelterPoint, “Difference Between PFL Premium Payments and Payroll Deductions.”

³⁴ New Jersey recently passed an expansion in benefit levels and the maximum length of leave. The state labor department estimated that the maximum combined payroll deduction for the state’s temporary disability and family leave insurance programs will rise from \$86 this year to \$354 when the program is fully implemented next year. Samantha Marcus, “Here’s How Much Murphy’s Expansion of Paid Family Leave and Temporary Disability Will Cost You in Higher Taxes,” NJ.com, updated April 7, 2019, <https://www.nj.com/politics/2019/04/heres-how-much-murphys-expansion-of-paid-family-leave-and-temporary-disability-will-cost-you-in-higher-taxes.html> (accessed May 4, 2019).

³⁵ Montana Budget and Policy Center, “Paid Leave in Four States: Lessons for Montana Policymakers and Advocates,” December 2015, <https://www.dol.gov/wb/media/Paid%20Family%20Medical%20Leave%20in%20Four%20States%20FINAL.pdf> (accessed June 12, 2017).

take-up rates resemble workers' use of the FMLA (including unpaid leave); and \$225 billion per year if workers responded as indicated by their paid family leave needs in a recent Cato Institute poll.³⁶ A \$225 billion per year paid family leave program would require a 2.9 percent payroll tax—more than seven times the FAMILY Act's proposed tax.³⁷ That would amount to over \$900 per year for a worker earning \$15 per hour, and about \$1,500 for an average working making \$50,000.

In my own analysis, I estimated that the cost of a federal program that provided Social Security-level benefits (roughly 50 percent of wages) would be \$85.5 billion, or an additional \$569 per year in taxes for the average worker. The same program with 100 percent benefit levels would cost an estimated \$193 billion per year, or \$1,286 per worker.³⁸ These estimates assume that about 18.5 percent³⁹ of workers would access the benefit and that they would take an average of 6.95 weeks of leave.⁴⁰

For a more generous national paid family leave program that provided 16 weeks of paid leave, the American Action Forum estimated annual

costs ranging from \$307 billion to \$1.9 trillion per year, depending on how many people would use the program and for how long they would take leave.⁴¹ Although this estimate models a paid family leave plan that is more expansive than existing state-based ones, it is not unrealistic to project that a federal paid family leave program in the U.S. could expand to this size.

Already, state-based programs have expanded by raising benefit levels, increasing the number of weeks of leave available, and loosening the eligibility criteria. New Jersey recently expanded its paid leave program (most notably in response to relatively low awareness and take up), including doubling the maximum length of leave to 12 weeks; increasing the maximum payment level from 66 percent to 85 percent of earnings; broadening the group of employers to whom New Jersey's FMLA law applies to include those with 30 or more employees; and expanding eligibility criteria to include anyone with whom the employee has "the equivalent of a family relationship."⁴² It is estimated that these changes will more than quadruple the maximum payroll tax

³⁶ Ben Gitis, "The Fiscal Implications of the FAMILY Act: How New Paid Leave Benefits Increase Leave-Taking and Drive Up Estimated Program Costs," American Action Forum, March 21, 2019, https://www.americanactionforum.org/research/the-fiscal-implications-of-the-family-act-how-new-paid-leave-benefits-increase-leave-taking-and-drive-up-estimated-program-costs/#_ftn27 (accessed May 4, 2019).

³⁷ Ibid.

³⁸ Author's estimates based on Social Security's benefit calculation formula and a national average wage of \$52,651.

³⁹ The 18.5 percent take up rate comes from a reported 27.5 million total "leaves" out of 148.834 million workers. This includes some workers who take multiple leaves, meaning the actual percentage of workers who take leave is lower than 18.5 percent. Impaq International, LLC, and Institute for Women's Policy Research, "Estimating Usage and Costs of Alternative Policies to Provide Paid Family and Medical Leave in the United States," Worker Leave Analysis and Simulation Series *Issue Brief*, January 2017,

<https://www.dol.gov/asp/evaluation/completed-studies/IMPAQ-Family-Leave-Insurance.pdf> (accessed January 2, 2019).

⁴⁰ The average leave length of 6.95 weeks comes from Abt Associates, Inc., *Family and Medical Leave in 2012: Technical Report*, Exhibit 4.4.5, "Nature of illness and duration of most recent leave taken in the past 12 months," revised April 18, 2014, <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf> (accessed January 2, 2019). Study prepared for the U.S. Department of Labor.

⁴¹ Ben Gitis, "The Cost of Paid Family Leave Law," American Action Forum, October 2015, <https://www.americanactionforum.org/research/the-cost-of-paid-family-leave-law/> (accessed May 6, 2019).

⁴² Evandro Gigante, Arielle E. Kobetz, and Vanessa P. Avello, "New Jersey's New Paid Family Leave Law Provides Greater Benefits for Employees," Proskauer Rose LLP, February 19, 2019, <https://www.lawandtheworkplace.com/2019/02/new-jerseys-new-paid-family-leave-law-provides-greater-benefits-for-employees/> (accessed May 6, 2019).

contribution for workers, but it is yet to be seen whether this expansion will benefit low-income workers.⁴³

European programs have had more time to expand than U.S. state programs. Between 1980 and 2011, the median amount of paid leave for mothers among Organization for Economic Cooperation and Development (OECD) countries increased from 14 weeks to 42 weeks.⁴⁴ Similarly, between 1980 and 2013, Canada's paid leave program expanded from providing 17 weeks of paid maternity leave to providing 35 weeks of paid parental leave (52 weeks including home care payments), while the program's costs roughly quadrupled from 0.07 percent to 0.28 percent of gross domestic product.⁴⁵

Across the OECD, countries spend an average of \$12,300 in public expenditures for every child born, and some countries spend upwards of \$35,000 per child born. (These figures exclude the costs of employer-mandated benefits.)⁴⁶ If the U.S. were to spend between \$12,300 and \$35,000 per child born, this would result in \$50 billion to \$140 billion in new taxpayer costs. That would only be for parental leaves, which account for only one of every five family and medical leaves that workers take. Covering the other 80 percent of family and medical leaves would cost substantially more.

⁴³ Marcus, "Here's How Much Murphy's Expansion of Paid Family Leave and Temporary Disability Will Cost You in Higher Taxes."

⁴⁴ Gordon B. Dahl et al., "What Is the Case for Paid Maternity Leave?" National Bureau of Economic Research *Working Paper* No. 19595, October 2013, <http://www.nber.org/papers/w19595.pdf> (accessed March 5, 2018).

⁴⁵ Organization for Economic Cooperation and Development, "PF 2.5 Annex: Detail of Change in Parental Leave by Country," OECD Family Database, Social Policy Division, last updated October 26, 2017, https://www.oecd.org/els/family/PF2_5_Trends_in_leave_entitlements_around_childbirth_annex.pdf (accessed February 12, 2018).

The United States does not have a paid family leave program, but it has multiple other entitlement programs that have exploded in size, scope, and costs over time. That out-of-control spending growth is the driving source behind America's unsustainable and increasingly threatening debt. A new federal paid family leave entitlement would only exacerbate this crisis and increase the likelihood of future austerity.

Government Programs Impose Significant Costs on Employers and Customers.

Although workers would pay the direct tax under most paid family leave proposals, employers and customers will also incur direct and indirect costs.

For example, providing continued family health insurance to workers for a 12-week leave would cost \$4,500.⁴⁷ Less-direct costs would come from employees' absences, which require employers to either hire temporary workers or shift additional work to existing employees. Such shifts can reduce the quality and reliability of the company's products and services and negatively affect customers and clients.

An economic study examined the impact of Denmark's implementation of a one-year paid parental leave program on the nursing industry and found that the generous paid leave policy

⁴⁶ Organization for Economic Co-operation and Development, "Data for Chart PF 2.1.D: Public Expenditure on Maternity and Parental Leave, 2013," OECD Family Database, Social Policy Division, last updated October 26, 2017,

<http://www.oecd.org/els/family/database.htm> (accessed March 6, 2018). Data reported at current 2013 prices and in current purchasing power parity, in U.S. dollars.

⁴⁷ Henry J. Kaiser Family Foundation, "Premiums for Employer-Sponsored Family Health Coverage Rise 5% to Average \$19,616; Single Premiums Rise 3% to \$6,896," October 3, 2018, <https://www.kff.org/health-costs/press-release/employer-sponsored-family-coverage-premiums-rise-5-percent-in-2018/> (accessed December 17, 2018).

led to a rapid and persistent 12 percent decline in nursing employment, a 17 percent increase in inpatient readmissions, an 89 percent increase in newborn readmissions, a delay in technology adoption, and a 13 percent increase in nursing home mortality over the three-year period following enactment. This is not to say that leave should not be allowed, but leave decisions should be left to employers and workers so that workers' needs can be met with minimal cost and consequence for others.⁴⁸

In addition to dealing with workers' absences, employers incur significant costs to comply with government programs. Those costs burden small employers the most. Large employers have more resources to hire lawyers to help them comply with federal laws and the can more easily spread increased costs across their workers, customers, and shareholders. Small employers, however, can find it extremely difficult to understand and comply with federal regulations and programs, and they are more likely to have to lay off workers, reduce compensation, or forego planned investments as a result of added compliance costs.

Not only would employers have to track and report employees' hours and leave use and collect and remit a new payroll tax, they would also likely be called on to help the federal government with fraud and abuse detection. The employer page of New York's paid family leave program states, "As an employer, you play a key role in preventing insurance fraud."⁴⁹

Any company or state that would want to maintain its own program in addition to a federal program would face significant

⁴⁸ Maya Rossin-Slater, Christopher J. Ruhm, and Jane Waldfogel, "The Effects of California's Paid Family Leave Program on Mothers' Leave-taking and "Subsequent Labor Market Outcomes," National Bureau of Economic Research *Working Paper* No. 17715, December 2011, <http://www.nber.org/papers/w17715> (accessed June 13, 2017).

complications and costs. San Francisco has its own separate Paid Parental Leave Ordinance (PPLO) in addition to California's paid family leave program. A study from the University of California Berkeley, which included in-depth surveys and interviews with employers in the city, reported that, "many firms—particularly those with fewer than 50 employees—reported difficulty understanding legal requirements and administratively complying with the PPLO."⁵⁰ Moreover, "even some of the most supportive firms described compliance challenges they had faced, including problems communicating and coordinating benefits with the California Employment Development Department."⁵¹

In my own conversation with HR representatives from large companies, these employers expressed frustrations and reported significant compliance costs from state-based paid family leave programs. They noted that they were often unable to help employees understand which benefits they could receive, that some employees had to pay benefits back, and that complying with state-based paid family leave programs left them with fewer resources to devote to employee compensation. Moreover, when asked if a federal program would make things easier for them, employers unanimously said that it would make things more difficult for them.

3. The Strong Economy and Tight Labor Market Are Doing More to Expand Paid Family Leave Than a Federal Program Could.

The strong economy, and, in particular, the tight labor market, are doing more for families than any federal entitlement program could.

⁴⁹ New York State Paid Family Leave Website, "Employers: Handling Requests," <https://paidfamilyleave.ny.gov/handling-requests> (accessed May 4, 2019).

⁵⁰ Goodman, Dow, and Elser, "Evaluating the San Francisco Paid Parental Leave Ordinance: Employer Perspectives."

⁵¹ *Ibid.*

Workers have experienced huge financial gains and increased opportunities as a result of the strong labor market, and those gains have come without any new taxes or burdensome rules and regulations. A federal paid family leave program would disrupt all this by regressively redistributing incomes, generating deadweight losses, and reducing jobs and opportunities.

Paid Family Leave is Irrelevant without a Job, and a Government Paid Family Leave Program will Cost Jobs and Incomes.

Just as a family that is homeless is not concerned about the fact that it does not have a big-screen TV or high-speed Internet, workers who are unemployed are not concerned about their lack of access to paid family leave. They need the opportunity to earn income before they can even think of the opportunity to receive paid family leave.

This is an important fact to remember, because the costs and consequences of a federal paid family leave program would almost certainly lead to job losses and reduced incomes. Proponents of a federal paid family leave program contend that families lose out on an estimated \$21 billion in lost wages as a result of unpaid family leave.⁵² They argue that a federal government program could prevent such lost wages, but they fail to recognize that the government cannot provide \$21 billion out of thin air. It must first tax workers (adding on administrative costs) and then redistribute the money. To provide just the estimated \$21 billion in lost wages incurred by the relatively small subset of workers who take unpaid leave, each of the 159 million workers in the U.S. would have to give up \$130 in wages each year. Alternatively, that \$21 billion is equal to the

entire paychecks of more than 496,000 average-wage workers.

Record-Low Unemployment Is Providing Opportunities, Particularly for Marginalized Workers.

The increased availability of jobs has brought millions more people into the labor force—including many disadvantaged, disabled, and discouraged workers. Over just the past year, the number of marginally attached workers plummeted 26 percent while the number of discouraged workers fell 28 percent.⁵³ (Marginally attached workers are those who want a job, have looked for work within the past year and are available for work, but who are not counted as unemployed because they have not looked for work in the past four weeks. Discouraged workers are a subset of the marginally attached workers and includes those who list no available work, inability to find work, insufficient schooling or training, or suspected discrimination, as reasons for not looking for work.)

Strong Wage Growth Is Benefitting Low-Income Workers the Most.

A tight labor market not only means more job options, but also that employers have to provide higher pay and benefits to attract and retain the workers they need. Median wage growth among full-time wage and salary workers over the past year was 3.4 percent.⁵⁴ This marks a significant increase from the past decade as, prior to 2018, wage growth had not reached 3 percent since 2009.

Most notably, the lowest earners experienced tremendous gains, equal to twice those of

⁵² Sarah Jane Glynn, “The Cost of Work-Family Policy Inaction,” The Center for American Progress, September 22, 2016, <https://www.americanprogress.org/issues/women/report/s/2016/09/22/143877/the-cost-of-inaction/> (accessed December 8, 2019).

⁵³ Ibid., Table A-16. Persons not in the labor force and multiple jobholders by sex, not seasonally adjusted.

⁵⁴ Data available for download at: Bureau of Labor Statistics, Data Retrieval: Labor Force Statistics, <https://www.bls.gov/webapps/legacy/cpswktab5.htm>

median workers. Over the past year, workers at the 10th percentile of wage earners (who make about \$12 an hour) received 7 percent wage growth. That is about \$1,500 more for someone who earns less than \$25,000 a year. It is also enough to finance 3.5 weeks of paid family leave, and if those workers do not need that leave, they have \$1,500 more to spend or save based on what they know is best for their own families' unique needs.

Wage growth has also been particularly pronounced among certain minorities. Wage growth for low-wage African-American workers (at the 25th percentile of earnings) was 8.5 percent over the past year, with low-wage black women experiencing wage gains above 10 percent.⁵⁵

There has also been a reversal in income trends contributing to inequality. According to the President's Council of Economic Advisors, "From the start of the current expansion through the end of 2016, average wage growth for production and nonsupervisory workers lagged that of managers, the bottom 10 percent of wage earners lagged that of the top 10 percent, those without a college degree lagged that of college graduates, and African Americans lagged that of white Americans. Since President Trump took office, each of these trends has been reversed, contributing to lower income inequality."⁵⁶

Paid family leave is something that we all want workers to have access to, but it is far from a primary concern of families who face the most struggles and disadvantages. As evidenced by the regressive nature of government-provided paid family leave programs across the world, the costs and consequences of a federal paid

family leave program would likely exacerbate the struggles of lower-income and disadvantaged families by taking away significant financial resources and opportunities while delivering few benefits. The strong economy and tight labor market are benefitting all workers—and particularly low-wage workers—far more than a federal paid family leave program could, and they are doing so by creating more income and more opportunities for families instead of smaller paychecks and less-flexible paid family leave policies.

Policymakers Can Increase Access to Paid Family Leave Without a Costly, Burdensome, and Inflexible New Federal Entitlement.

In addition to continuing pro-growth economic policies that have contributed to huge financial gains and opportunities for families—including substantial expansion in the number of companies providing paid family leave to their workers—policymakers can take additional steps to help increase access to paid family leave for workers who currently lack it. Such policies include:

The Working Families Flexibility Act. The Working Families Flexibility Act, which was most recently introduced by Senator Mike Lee (R-UT), would allow private employers to give their workers the same option that state and local workers receive—to choose between time-and-a-half pay and time-and-a-half paid leave in exchange for overtime hours.⁵⁷ For example, an employee who worked five hours of overtime every week for one year could accumulate 10 weeks of paid leave. Even working just two hours of overtime each week

⁵⁵ Ibid.

⁵⁶ The White House Council of Economic Advisors, "November Job Gains Once Again Smash Expectations," December 6, 2019, <https://www.whitehouse.gov/articles/november-job-gains-smash-expectations/> (accessed December 8, 2019).

⁵⁷ Rachel Greszler, "Mike Lee's Bill Would Boost Paid Family Leave Without Growing the Government," The Daily Signal, April 11, 2019, <https://www.dailysignal.com/2019/04/11/mike-lees-bill-would-boost-paid-family-leave-without-growing-government/>.

for a year could result in four weeks of paid leave.

This proposal would be particularly helpful to the low-wage workers who lack access to paid family leave because it would apply to hourly employees who currently earn below about \$35,600 per year.

Payroll Tax Credit for Qualified Disability Insurance Policies. Private disability insurance provides individual medical leave benefits as well as pregnancy and maternity-related benefits. Although 47 percent of full-time private-sector workers have access to temporary disability insurance, some policymakers, employers, and workers undercount private disability insurance as a source of personal medical and maternity leave.⁵⁸ Policymakers should consider providing a payroll tax credit to employers who provide their workers with qualified disability insurance policies. I have advocated for such a proposal to improve the federal disability insurance program, and this policy would have the added benefit of increasing access to medical and maternity leave benefits.⁵⁹

Congress could also increase workers' enrollment in employer-sponsored temporary disability insurance policies by clarifying in legislation that employers have the same legal authority to automatically enroll employees (providing they are allowed to opt out) into their temporary disability insurance policies as they have to automatically enroll them in their retirement plans.

⁵⁸ U.S. Department of Labor, Bureau of Labor Statistics, National Compensation Survey, Table 16, "Insurance benefits: Access, participation, and take-up rates, private industry workers," March 2017, <https://www.bls.gov/ncs/ebs/benefits/2017/ownership/private/table16a.pdf> (accessed February 12, 2018).

⁵⁹ Rachel Greszler, "Private Disability Insurance Option Could Help Save SSDI and Improve Individual Well-being," Heritage Foundation *Backgrounder* No. 3037,

Universal Savings Accounts (USAs). By double-taxing savings (once when the money is first earned, and a second time after it generates investment gains) and by limiting tax-preferred savings accounts to purposes such as education and retirement savings, the U.S. discourages individuals from saving for other purposes. USAs would allow workers to save money for any purpose while paying taxes only once. This would make it easier for workers to accumulate higher savings that could be used for a variety of life's circumstances, including family and medical leave.

Penalty-Free Withdrawals from Retirement Accounts. Although this is not as beneficial as USAs, policymakers could help to increase workers' access to affordable paid family leave by allowing workers to make penalty-free withdrawals from their IRAs or 401(k)s and use that money to pay for family leave. The Setting Every Community Up for Retirement Enhancement (SECURE) Act, which the Ways and Means committee recently advanced, would allow workers to make penalty-free withdrawals from their retirement plans for the birth or adoption of a child.

Lower Taxes. Lower taxes on individuals and businesses would free up income and resources to apply toward paid family leave—whether through higher personal savings or through new employer-provided paid family leave. Recent reports on new and expanded paid family leave policies from large companies, such as Lowe's and Chipotle, after the Tax Cuts and Jobs Act of 2017 show that lower taxes have contributed to greater **[more?]** paid family leave benefits⁶⁰

July 20, 2015, http://thf_media.s3.amazonaws.com/2015/pdf/BG3037.pdf.

⁶⁰ Patrice Lee Onwuka, "5 Companies Expanding Parental Leave Thanks to Tax Cuts," Independent Women's Forum, February 15, 2018, <http://www.iwf.org/blog/2805845/5-Companies-Expanding-Parental-Leave-Thanks-to-Tax-Cuts> (accessed March 5, 2018).

Reducing Regulations. Another component of employers' ability to add and expand paid family leave policies has been the Administration's success in reducing unnecessary but costly regulations. Further regulatory relief could free up even more resources to go toward paid family leave.

Conclusion

Americans want paid family leave, and policymakers want to help them achieve it. But Americans do not want just any policy at any cost. They want a program that meets their needs with as little cost, burden, and disruption as possible. A one-size-fits-all federal government program simply cannot achieve this. Not only would it crowd out existing programs and leave many workers with inferior and burdensome policies, it would, like all existing government-funded family leave programs, redistribute resources from low-income workers to middle- and higher-income workers, and would fail to provide the flexibility that workers and employers increasingly want and need in our changing labor market.

The current expansion in employer-provided (as well as state-based) paid family leave programs, along with the strong labor market, suggests that policymakers should let such growth continue instead of halting it with a federal paid family leave program. Policymakers should focus on expanding options for workers who currently lack access to paid family leave. In addition to continued pro-growth economic policies, this includes enacting policies like the Working Families Flexibility Act and allowing workers to use their tax-preferred savings to pay for their leave. In the long run, workers, employers, taxpayers, and the American economy will all be far better off with individually tailored paid family leave programs through employers

instead of another costly and unsustainable federal entitlement program.

ADDITIONAL INFORMATION ON PAID FAMILY LEAVE IN THE U.S.

Below is some information on the status of paid family leave in the United States, much of which is an updated version of previous testimony submitted to the Ways and Means Committee of the House of Representatives in May 2019.

Access Is Growing and Often Understated.

The official Bureau of Labor Statistics figure shows that only about 15 percent of workers have access to paid family leave. That figure only includes workers who were offered a distinct paid family leave benefit to care for a new child or a seriously ill family member, and thus leaves out a significant percentage of workers who have access to, and use, alternative forms of paid family leave, such as sick leave, short-term disability insurance, or paid-time off.

After all, 21 percent of workers live in states with already active state-based paid family leave programs, and once the five enacted but not-yet-fully-implemented state-based paid family leave programs take effect, that figure will rise to 29 percent of workers.⁶¹ Moreover, 24 percent⁶² of workers report having access to employer-provided paid caregiving leave, 34 percent report access to paid maternity leave,⁶³

⁶¹ Employment in California, New York, Rhode Island, and New Jersey totaled 32.080 million in October 2019 out of total U.S. employment of 152.408 million. Adding in the District of Columbia, Connecticut, Massachusetts, Washington, and Oregon brings the number of workers in states with paid family leave programs to 43.731 million. U.S. Department of Labor, Bureau of Labor Statistics, “Economic News Release,” Table 3, “Employees on nonfarm payrolls by state and select industry indicator, seasonally adjusted, October 2019,” last modified November 19, 2019, <https://www.bls.gov/news.release/laus.t03.htm> (accessed December 6, 2019).

⁶² Society for Human Resource Management, *2019 Employee Benefits: Executive Summary*, June 2019, <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Documents/SHRM%20Employee%20Benefits%202019%20Executive%20Summary.pdf> (accessed December 6, 2019).

and 47 percent⁶⁴ of full-time workers have access to short-term disability insurance, which typically covers maternity and personal medical leave.

Moreover, access to paid family leave appears to be expanding rapidly as employers respond to workers’ desires for paid family leave by starting new programs and expanding existing ones. A recent survey from the Society for Human Resource Management found that the percent of companies offering paid maternity leave rose rapidly from 12 percent in 2014 to 34 percent in 2019.⁶⁵ Over that same period, more than 100 large, name-brand companies announced new or expanded paid leave policies, and the 20 largest employers in the U.S. now provide paid family leave.⁶⁶ Moreover, some large employers report a race to the top to provide paid family leave.

The strong economy, tight labor market, and additional resources freed up by the Tax Cuts and Jobs Act have helped to make this increase in access to paid family leave and leave-taking possible.

How Many Workers Take Leave? According to a 2012 study commissioned by the Department of Labor, 12.6 percent of all

⁶³ *Ibid.*

⁶⁴ U.S. Department of Labor, Bureau of Labor Statistics, “National Compensation Survey: Employee Benefits in the United States,” March 2019, Table 16, “Insurance benefits: Access, participation, and take-up rates, private industry workers,” <https://www.bls.gov/ncs/ebs/benefits/2019/employee-benefits-in-the-united-states-march-2019.pdf> (accessed December 6, 2019).

⁶⁵ Society for Human Resource Management, *2019 Employee Benefits: Executive Summary*.

⁶⁶ National Partnership for Women & Families, “Leading on Leave: Companies with New or Expanded Paid Leave Policies (2015–2018),” April 2018, <http://www.nationalpartnership.org/research-library/work-family/paid-leave/new-and-expanded-employer-paid-family-leave-policies.pdf> (accessed May 6, 2019).

workers and 15.6 percent of workers with access to FMLA protections⁶⁷ took family or medical leave.⁶⁸ The most common reason for taking family or medical leave was for a personal medical reason (56 percent), followed by caring for a family member (25 percent), and then by caring for a new child (19 percent). This means that only one out of every five leaves taken in the U.S. is to care for a new child.

Two out of every three workers who took leave (66.2 percent) and almost four out of every five who were eligible for FMLA protections and took leave (77.9 percent) were paid by their employers during their leave.⁶⁹ The majority of those who were paid did not receive a specific paid family and medical leave benefit, but rather used a general paid time off (PTO) benefit, personal days, or a temporary disability insurance benefit instead.⁷⁰

Other surveys have found even higher rates of leave-taking. A 2018 Cato Institute poll found that 24 percent of workers took leave within the past year (with 75 percent receiving full or partial pay⁷¹ and a Pew Research Center poll found that 27 percent of workers took leave within the past two years.⁷² According to the Pew poll, 62 percent of Americans either have taken, or expect to take, family or medical leave at some point in their working careers.

⁶⁷ The Family and Medical Leave Act of 1993, which provides workers with up to 12 weeks of job-protected, unpaid parental, family, and medical leave provided the employee has worked for the employer for at least one continuous year and at least 1,250 hours and that the individual works for an employer who has 50 or more employees within a 75-mile radius. About 60 percent of workers qualify for FMLA leave.

⁶⁸ Ben Gitis, “Paid Family and Medical Leave in the United States: Using Data to Guide Public Policy,” American Action Forum, February 22, 2018, <https://www.americanactionforum.org/research/paid-family-medical-leave-united-states-using-data-guide-public-policy/> (accessed May 3, 2019).

⁶⁹ Ibid.

⁷⁰ Ibid.

Americans’ Opinions on Paid Family Leave.

According to a Pew Research Center poll, upwards of 80 percent of Americans support paid family leave for workers’ own medical issues and for maternity leave. Among those who support paid family leave, a majority (62 percent) believe employers should pay for it; 13 percent thought state governments should pay for it; and 11 percent thought the federal government should fund it (the remaining 18 percent presumably believed workers should save on their own for leave).⁷³

According to the Cato poll, Americans overwhelmingly support a federal paid family leave program (with 74 percent in favor), but support plummeted when it came to the various ways to pay for it. At a price tag of \$450 more in taxes each year—the minimum cost for a modest program—fewer than half of Americans (48 percent) supported a national paid leave program. Forty percent of Americans supported paid family leave if it meant higher deficits. Only 38 percent supported federal paid family leave if it meant lower pay raises for them, and even fewer—29 percent—were willing to accept fewer benefits for themselves or a reduced likelihood of promotions for women. At the bottom of the support meter was a mere 21 percent of Americans who were willing to trade lower funding for education, Social Security, and

⁷¹ Emily Elkins, “Poll: 74% of Americans Support Federal Paid Leave Program When Costs Not Mentioned—60% Oppose If They Got Smaller Pay Raises in the Future: Results from the Cato 2018 Paid Leave Survey,” Cato Institute, December 11, 2018, <https://www.cato.org/survey-reports/cato-institute-2018-paid-leave-survey> (accessed December 9, 2019).

⁷² Juliana Menasce Horowitz, Kim Parker, Nikki Graf, and Gretchen Livingston, “Americans Widely Support Paid Family and Medical Leave, But Differ Over Specific Policies,” Pew Research Center, March 23, 2017, <http://www.pewsocialtrends.org/2017/03/23/americans-widely-support-paid-family-and-medical-leave-but-differ-over-specific-policies/> (accessed December 17, 2018).

⁷³ Ibid.

Medicare in order to implement a national paid family leave program.⁷⁴

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⁷⁴ Ekins, “Poll: 74% of Americans Support Federal Paid Leave Program When Costs Not Mentioned.”