THE COMMITTEE ON WAYS AND MEANS

Discussion Draft: Building an Economy for Families Act

Section by Section Summary

Division A – Universal Paid Family and Medical Leave

Section 101. Paid family and medical leave. This section amends the Social Security Act to create a new "***Title XXII—Paid Family and Medical Leave Benefits***."

Section 2201. Table of contents. This section provides a table of contents for Title XXII.

Section 2202. Paid family and medical leave benefit eligibility. This section describes who qualifies for paid family and medical leave, and under what circumstances they qualify.

Subsection (a). Entitlement. This subsection sets forth the requirements to qualify for a federal family and medical leave benefit, which include:

- Filing an application;
- Having one or more caregiving days (defined in subsection (c)) in the 90-day period prior to submitting the application (if the application is filed after caregiving begins), or up to 180 days after submitting the application (in advance of the anticipated need for paid leave);
- Having wages or self-employment income in the 30 days prior to your first caregiving day (or, if you had to take leave from work due to caregiving starting more than 90 days prior to application, then your 30-day period can end on your first day of qualified caregiving); and
- Having earnings in any calendar quarter within the most recent 8-calendar quarter period for which the Secretary has data that ends prior to the start of the individual's benefit period.

Subsection (b). Benefit period. This subsection specifies that an individual's benefit period (i.e. the period during which they may receive up to 60 days of paid leave) lasts for 12 months and starts on the first day of the first month in which the individual is eligible (which can be up to 90 days before an application is filed). It also specifies that benefits begin in January 2023.

Subsection (c). Caregiving days. This subsection defines a "caregiving day," which is a day for which an individual may receive federal benefits (subject to waiting periods, benefit periods, and limitations on eligibility).

A "caregiving day" is a day in which an individual engaged in at least 8 hours of qualified caregiving in one calendar day or more than 4 hours each day of caregiving over two calendar days. The activity must be performed instead of working for monetary compensation (including wages, paid time off or paid sick leave) and must be undertaken for a reason that would qualify for unpaid leave under the Family and Medical Leave Act (FMLA), i.e., to address a serious personal or family health issue; to care for a newborn, newly adopted child, or new foster child; or for circumstances arising from a loved one's military deployment or serious injury. However, the subsection expands the types of family relationships which allow individuals to seek caregiving leave beyond those in FMLA to include siblings, grandparents, and grandchildren; the spouses of family members; and any other association by blood or affinity that is equivalent to a family relationship, as defined in regulations of the Secretary of the Treasury.

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An individual does not need to be eligible for unpaid leave under the FMLA in order for a day to be considered qualified caregiving for the purposes of Title XXII. In addition, all workers would be covered: full-time and part-time, including gig workers and other self-employed workers, in both the public and private sector, and without regard to employer size or tenure on the job. They would be covered through the federal benefits program, or because their state or employer was reimbursed for equivalent benefit, as described in sections 2209 and 2210.

Individuals who are covered by a "legacy state" paid family and medical leave program as defined in Sec. 2209, or who are receiving employer-provided paid family or medical leave that is reimbursed under Section 2210 or is not reimbursed under Section 2210 but would, when combined with the public benefit, replace more than 100 percent of wages, are not eligible for benefits. Individuals are also ineligible for benefits in a month in which they die, and for five years after any finding that they used false statements to secure family and medical leave benefits.

Section 2203. Benefit amount. This section describes how the benefit amount is calculated.

Using the most recent 8 quarters available of wage data which ended prior to the calendar quarter when the individual's benefit period began, the Secretary of the Treasury will calculate the individual's average monthly earnings. In 2023, the first year in which benefits are available, the Secretary will then apply a formula which replaces 85 percent of the first $1,257 of average monthly earnings; plus 75 percent of average monthly earnings between $1,257 and $2,854; plus 55 percent of average monthly earnings between $2,854 and $6,000; plus 25 percent of average monthly earnings between $6,000 and $8,333; plus 5 percent of average monthly earnings between $8,333 and $20,833 in order to replace a greater share of wages for lower-paid workers. Those dollar amounts are indexed by the Social Security Average Wage Index in future years. For most workers, benefits will replace at least two-thirds of their average earnings.

The Secretary of the Treasury will then calculate a daily benefit amount which is 1/20th of the amount calculated above, and multiply it by the number of caregiving days taken in the month, in order to calculate the individual's monthly benefit.

Earnings determinations shall be based on quarterly wage data from the National Directory of New Hires (NDNH) and self-employment income data from tax returns, except that Treasury shall also consider any more recent or additional evidence of wages or self-employment income submitted by the individual or available from other sources.

An individual cannot be paid for more than 20 caregiving days in a month or 60 caregiving days in a benefit period and must complete a five-day waiting period before benefits can start.

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Section 2204. Benefit determination and payment. This section describes responsibilities of both workers and the Secretary of the Treasury regarding benefit determination and payment.

Subsection (a). In general. This subsection says that to be eligible for benefits, a worker must file an application.

Subsection (b). Required contents of initial application. This subsection describes required elements of the application, including a certification of the need for leave issued by a relevant authority (such as a doctor or other medical professional); an attestation that the worker's employer was provided with notice of the need to be absent from work for qualified caregiving, not later than 7 days after such need arises, except in case of hardship or extenuating circumstances or if the individual is self-employed; and pay stubs or other evidence of wages in the 30 days before the start of qualified caregiving. The subsection also sets out procedures for applications in advance of needed leave (for example, parental leave) and applications filed after leave begins (for example, sudden injury or accident).

Subsection (c). Monthly benefit claim report. This subsection explains that to be paid for a month, an individual who has been found eligible for benefits must file a monthly benefit claim report specifying their caregiving days during the month. The individual must file the report not later than 60 days after the end of a month (with exceptions for good cause). However, an individual who is applying for retroactive benefits may report on their prior caregiving days as part of their application and the 60-day time limit does not apply.

Subsection (d). Determination and notice requirements. This subsection requires the Secretary of the Treasury to notify individuals of the initial determination of eligibility not more than 15 days after the application has been filed, and to determine and provide notice of the number of caregiving days to be paid for the month within 15 days of the filing of that report. The notices must be written in clear and simple language, inform individuals of their rights, and inform individuals about how to request help from the State Worker Information Networks authorized in Division D.

Subsection (e). Certification of payment. This subsection requires benefits to be paid not later than 15 days after benefit determination for the month.

Subsection (f). Expedited benefit payment in cases of missing payment. This subsection requires the Secretary of the Treasury to expedite benefit payment in the event that a payment was due, but is missing.

Subsection (g). Submission of required information. This subsection states that an application for paid leave, a monthly benefit claim report, and related information may be submitted by phone, mail, or electronically. Information in support of an application, monthly benefit claim report, or appeal may be submitted by any person including the individual, their representative, their employer, or the relevant authority who must certify the need for caregiving for a qualified purpose.

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Section 2205. Appeals. This section provides individuals with the right to appeal a determination of family and medical leave eligibility or benefits to the Secretary of the Treasury, and to appeal a final decision of the Secretary to federal court. It requires the Secretary to ensure that appeals are heard in a timely manner using procedures similar to those for appeals of initial determinations of Medicare Low-Income Subsidy (LIS) eligibility by the Social Security Administration: the individual has the right to a timely, non-adversarial hearing presided over by a decisionmaker who is different from the initial decisionmaker. The section also gives the Secretary the power to issue and enforce subpoenas for the purpose of hearings, investigations, or other proceedings with regard to paid family and medical leave benefits under this bill.

Section 2206. Stewardship. This section describes required activities to prevent disparities, correct underpayment and overpayment errors, and limits overpayment recovery when it might cause hardship. The subsection also requires the Secretary to establish procedures and penalties for fraud related to family and medical leave benefits that are similar to the procedures and penalties under sections 1136 and 1632 of the Social Security Act, and to redetermine entitlement promptly if there is reason to believe fraud or similar fault was involved in an application for family and medical leave benefits.

Section 2207. Funding for benefit payments, grants, and program administration. This subsection directly appropriates funding for paid family and medical leave.

Subsection (a). Funding for benefit payments and grants. This subsection directly appropriates such sums as are necessary to pay the paid family and medical leave benefits under this bill, the grants to legacy states under section 2209, and the grants to eligible employers under section 2210. It also limits the total number of days eligible for federal payment or reimbursement, within each person's twelve-month benefit period, to 60.

Subsection (b). Funding for program administration. This subsection directly appropriates such sums as are necessary for administrative costs.

Section 2208. Funding for research grants. This section provides $200 million per year in each of FY2022 through 2026 for the Secretary to issue grants for research to ensure full access to paid family and medical leave benefits, including through the detection and prevention of disparities on the basis of race, color, ethnicity, religion, sex, sexual orientation, gender identity, disability, age, or national origin.

Section 2209. State administration option for legacy states. This section provides a "grandfathering" option for states with already-enacted paid leave laws which provide benefits equivalent to the new federal benefits to continue operating their own programs and be reimbursed by the Secretary of the Treasury.

Subsection (a). In general. This subsection describes the option for legacy states (defined below) to continue operating their programs and receive an annual grant from the Secretary of the Treasury that is equal to the lesser of the following: 1) the total amount of family and medical leave benefits that would otherwise have been paid to affected individuals under this title (including administrative costs), as estimated by the Secretary; or 2) the total cost of the state's paid leave program (including administrative costs).

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Grants would be issued annually for the prior calendar year, although the Secretary may issue estimated advance payments during the year.

Subsection (b). Legacy state. This subsection defines a legacy state as a state that: 1) had enacted a law providing paid family and medical leave benefits as of the date of enactment of this bill, and 2) beginning with the first calendar year that starts two years after the date of enactment of this bill, provides a comprehensive paid leave program that covers all workers in the state who would be covered under this Act, and provides at least 60 days of paid family and medical leave benefits per year in amounts that are actuarially equivalent to the benefits in this Act. Only states that have an enacted a paid family and medical leave law at the time of enactment of the Building an Economy for Families Act are eligible to be legacy states.

Subsection (c). Data sharing. This subsection requires legacy states to enter into data-sharing agreements with the Secretary to provide the necessary data on eligible individuals and on the total cost of the state program.

Section 2210. Reimbursement option for employer provided paid leave benefits. This section provides an option for employers to receive partial reimbursement for paid leave benefits they provide to their workers instead of the benefits their workers could receive from the Treasury program, under certain conditions.

Subsection (a). In general. This subsection describes the amount of the payments to eligible employers (defined below), which would be issued annually for the prior calendar year, starting with benefits paid in calendar year 2023. The grant amount would be determined as follows:

- For employers whose paid leave covers all of the leave reasons in the FMLA (with the expanded set of family relationships for caregiving defined in this Act), the payment would be the lesser of 40% of the employer's reimbursable benefits (defined below) in the prior year, or 40% of the total amount of federal benefits that would otherwise have been paid to those employees in the prior year.
- For employers whose paid leave covers fewer than all the leave reasons in the FMLA (with the expanded set of family relationships for caregiving defined in this Act), the payment would be the lesser of 28% of the employer's reimbursable benefits in the prior year, or 28% of the total amount of federal benefits that would otherwise have been paid to those employees in the prior year.

Subsection (b). Employer eligibility. This subsection lists the requirements for employer eligibility, which include:

- Having in place a written policy providing paid leave, which is approved by the Secretary of the Treasury as meeting these conditions:
    - Providing leave to all employees (other than those in a legacy state) with at least 1 year of cumulative service with the employer, regardless of job type, union membership, seniority, or any other classification;
    - Providing leave for one or more of the caregiving reasons defined above in Sec 2202, regardless of any pre-existing medical conditions;
        - Providing

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  - At least 15 days (or a prorated number for part-time workers) of leave at at least 50 percent of each individual's regular rate of pay.
  - The policy may also require a waiting period of up to 1 week, may be paid directly through the employer or via an insurer, may be paid intermittently, and must include a written non-interference policy.
- Paying an annual application fee of $50 (for employers with under 50 employees) or $250 (for all other employers).
- Submitting data required for the Secretary of the Treasury to determine the amount of their reimbursement payment by March 31 of the year after benefits are provided.

Subsection (c). Penalty for exceeding submission deadline. This subsection reduces the payment to an employer by 2% for every week they miss the March 31 deadline above.

Subsection (d). Reimbursable benefits. This subsection specifies that eligible paid leave benefits (which do not include sick pay, paid time off, or wages) are reimbursable whether they are paid directly by the employer or by an insurer on behalf of the employer. It also excludes benefits paid to employees in legacy states and payments that are eligible for other federal or state reimbursements (but does not exclude paid leave benefits which are mandated but not reimbursed).

Subsection (e). Greater benefits permitted. This subsection clarifies that employers providing paid leave benefits that exceed the requirements described here may receive reimbursement for the benefits paid, up to the limits in the Act. (For example, an employer may provide benefits using a progressive benefit formula that is more generous than the minimum requirement, and may provide paid leave to workers with less than 1 year of service, and those benefits would be reimbursable as long as they meet the requirements of subsection (d) above.)

Section 2211. Definitions. This section defines terms used within Title XXII.

Section 102. Access to Wage and Self-Employment Income Information. This Section provides the Secretary of the Treasury with access to wage data needed to administer paid family and medical leave.

Subsection (a). Disclosure of wage information from the National Directory of New Hires. This subsection amends Section 453(j) of the Social Security Act to require that NDNH provide the Secretary of the Treasury with all NDNH information relating to wages. The Secretary may use that information only for the purpose of administering the paid leave program, and shall maintain that information for as long as the Secretary deems necessary for that purpose.

Subsection (b). Disclosure of self-employment income information from tax return. This subsection amends Section 6103 of the Internal Revenue Code to allow disclosure to the Secretary of tax return information relating to self-employment income, for the purpose of administering the paid leave program.

Division B – Guaranteed Access to Child Care

Section 201. Child care innovation funds. This section creates a new Section 418A in Title IV of the *Social Security Act.*

Section 418A. Child care innovation funds. This section establishes a number of new funding opportunities for states to help parents identify child care options in their communities.

Subsection (a). Establishing state child care information networks. This subsection establishes a Child Care Information Network (CCIN) to provide parents and caregivers with frequently-updated information about child care in their communities, including information on availability and affordability, and new tools to access available child care.

Subsection (b). Funding state child care information networks. This subsection directly appropriates $200 million per year in FY2022 and FY2023 to provide startup funds to build the network or upgrade existing Child Care Resource and Referral systems, and then provides an open-ended 75 percent match on expenditures forFY2022 through 2026. The match is available to states, the District of Columbia, and U.S. territories, and includes expenditures for technology and other costs related to the network, developing a common application for slots, and, where needed, financial incentives to participating providers, with attention to the challenges faced by home-based providers. Providers would be required to provide information about average wait list times and update their inventory of available slots weekly for the state system to qualify for federal reimbursement.

Subsection (c). HHS participating child care provider certification. This subsection establishes the HHS Participating Child Care Provider Certification, which qualifies providers to receive worker wage credits described in Section 209 and gives them priority for grants under Section 204. To receive the certification, providers must be licensed or in a license-exempt category the Secretary deems to meet equivalent health and safety standards, offer child care to the general public (although they may have a priority system), participate in the CCIN, and accept federal reimbursement as payment for qualified low-income families.

For states that have not taken action to correct any excessive levels of errors in their reported list of qualifying providers, the State matching rates for costs related to the CCIN would be reduced from 75 percent to 70 percent.

The subsection also requires the Secretary to conduct accuracy checks, issue guidance on data privacy, and issue guidance on expenditures eligible for matching under Section 418A(b) . The subsection provides the Secretary with $100 million a year in each of FY 2022 – FY 2026 for administrative expenses in carrying out the requirements of Section 418A and exempts all payments for this and sections 418B, 418C, and 418D from the territory cap in section 1108(a) of the Social Security Act.

Section 202. Child care supply growth funds. This section creates a new Section 418B in Title IV of the *Social Security Act.*

Section 418B. This section provides two sources of funding for states to address child care shortages.

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Subsection (a). Initial supply growth funding. This subsection provides funding to address child care supply. Eligible states are those with at least one county with a demonstrated child care shortage and either 50 percent of licensed providers or 40 percent of all providers participating in the CCIN. Total funding for the grants is $200 million per year in FY2022 through 2026, and funds are distributed among eligible states, the District of Columbia, and the U.S. territories, and are allocated based on relative proportion of the population of children under age 13. Funds may be used for capacity building, including startup costs and funds for child care providers, technical assistance to providers, and help for providers who wish to become licensed.

Subsection (b). Child care shortage funding adjustment. Under this subsection, States that have obligated their federal Child Care Entitlement to States (CCES) funds for the prior year, have completed an assessment of counties experiencing a child care shortage and have at least 40 percent of children under age 13 living in a county with a child care shortage are eligible for additional funding, which is provided without an additional state match. The grant, which is in addition to CCES, is based on the share of children in the state who live in a county with a child care shortage, and is capped at 50 percent of the state's CCES annual funding level.

Shortage funds may be used for a wide array of supply-building activities, including directly subsidizing the cost of care through slot reservations and certificate vouchers, raising wages for child care providers, and providing technical assistance and support to providers. To continue receiving funds States must maintain the previously available level of child care slots in addition to slots created using the shortage adjustment. The funds must be spent to address the child care shortages identified in the shortage assessment submitted by the State, and may not supplant any other state or federal funds.

The section also requires states to maintain the number of slots available in the state at the time the State qualified for funding, plus any slots created using the new funding, in order to receive continuing funding (a "maintenance of effort," or MOE requirement). The HHS Secretary may use non-personally identifiable data to estimate and enforce the MOE, and shall work with states to calculate and annually publish available child care slot data.

States which disagree with the HHS Secretary's assessment of their level of child care shortage may propose, subject to the HHS Secretary's approval, alternative measures to calculate child care shortages and submit data to substantiate their accuracy.

The subsection provides a direct appropriation of such sums as are necessary to provide grants to eligible states in fiscal years 2023 through 2026, and also a direct appropriation of $100 million to HHS for agency administrative costs.

Section 203. Increase in child care entitlement funding. This section increases the funding level for the Child Care Entitlement to States (CCES) to $10 billion for FY2022 and indexes it to inflation and the change in population of children under age 13 in the state in future years.

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The section also reserves $250 million of the total CCES funds in FY2022 for payments to the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, with funds to be distributed based on relative need, and exempted from the Territory spending cap under section 1108(a) of the Social Security Act. In years after 2022, the $250 million would be increased based on inflation and the population of children under 13 in the territory.

The section also reserves $250 million for payments to tribes and tribal organizations in FY2022, and indexes the amount to inflation and the change in population of children under 13 in future years.

Section 204. Infrastructure grants to improve child care safety. This section creates a new section 418D in Title IV of the *Social Security Act.*

Section 418D. Infrastructure grants to improve child care safety. This section provides $15 billion in FY2022, to be available for expenditure through FY2026, to support child care providers in conducting infrastructure projects related to construction, remodeling, and other investments in the physical infrastructure of child care facilities. Funds are available for all states, the District of Columbia, and all U.S. Territories. Grants provided under the section are subject to prevailing wage requirements as outlined in the Davis-Bacon Act. $100 million is reserved for projects in U.S. territories, and $200 million is reserved for HHS administrative costs.

States shall submit a plan to the Secretary of Health and Human Services explaining how they plan to spend their child care infrastructure funds, which must be approved prior to state expenditure, and which includes an analysis of the state's need for child care infrastructure investments. If the submitted state plan is not approved within two years, states shall return unexpended funds. In determining state fund allocations, the Secretary shall consider certain elements of the plan, including prioritized consideration on certain priority criteria specified in the section. States must provide a 10 percent state match (which may include private donations and in-kind support). The maximum per-state allocation is $250 million. States are required to report to the Secretary on the activities and results of infrastructure grant spending. HHS will not retain a federal interest in any property, including any infrastructure project conducted on a privately-owned family child care home.

The Secretary may also award competitive grants of up to $10 million to intermediary organizations with experience in child care facility financing (such as Certified Community Development Financial Institutions), but no more than $2.25 billion of total funds may be used for this purpose. Intermediary organizations may spend their funds on activities related to capacity-building, technical assistance, and financial products, to develop or finance child care facilities, and must report annually on expenditure activities.

Section 205. Technical assistance. This section creates a new section 418C in Title IV of the *Social Security Act.*

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Section 418C. Technical assistance. This section provides $17.5 million in each of years FY2022 through 2026 for HHS to provide technical assistance to support the CCIN, investments in child care infrastructure, and other work to improve child care availability and affordability. These funds supplement existing HHS technical assistance.

Section 206. Tribal child care access, growth, and innovation fund. This section creates a new section 418E in Title IV of the *Social Security Act.*

Section 418E. Tribal child care access, growth, and innovation fund. This section provides $573 million per year for FY2022 through FY2026 for investments in addressing child care shortages, developing a Child Care Information Network, qualifying tribal providers for the Participating Provider Certification and associated child care worker wage credits, and physical infrastructure upgrades at child care facilities serving tribal communities. The section requires the Secretary of Health and Human Services to conduct tribal consultation to inform guidance and best practices before awarding funds, and to provide technical assistance after awarding. The Secretary may expend not more than $10 million to conduct tribal consultation, and shall award not less than $563 million to CCDF Tribal Lead Agencies based on relative need. Funds must supplement, not supplant, existing tribal child care spending.

Section 207. Common provisions. This section amends Section 419 of the Social Security Act to provide definitions for terms used throughout the division, including child care shortage, lead agency, and territory, and requires reports to Congress on expenditures.

Section 208. Technical corrections. This make two technical corrections, one to correct an outdated reference, and one to allow current Federal Medical Assistance Percentages (FMAP) rates to be used to calculate state CCES allotments.

Section 209. Payroll tax credit for certain wages paid to child care workers. This section creates a new section 3135 in Subchapter D of chapter 21 of the Internal Revenue Code.

Section 3135. Payroll credit for certain wages paid to child care workers. This section provides a refundable payroll tax credit against employer-side HI tax for 50 percent of qualified child care wages paid by an employer that operates a HHS Participating Child Care Provider, as provided by the Secretary of Health and Human Services.

Qualified child care wages are wages paid above the GS-3 step 1 rate for the applicable time period and locality, paid to employees other than highly compensated employees (the threshold for which starts at $130,000 and is adjusted for cost of living). The maximum wages that can be taken into account is $2,500 per quarter per employee. Health plan expenses allocable to qualified wages are included in wages.

The credit is not allowed to the Federal government, unless the taxpayer is a tax-exempt organization under 501(c)(1). Gross income is increased by the amount of the credit. This credit cannot be taken for wages that are covered under a forgiven PPP loan or a venue or restaurant grants in the American Rescue Plan.

Division C – Child and Dependent Care Tax Benefits

Section 301. Certain improvements to the child and dependent care credit made permanent. This section makes permanent the modifications to the child and dependent care tax credit ("CDCTC") made for 2021 in the American Rescue Plan. Those modifications make the credit fully refundable and increase the maximum credit rate to 50 percent. The phaseout threshold begins at $125,000 instead of $15,000. The amount of child and dependent care expenses that are eligible for the credit are increased to $8,000 for one qualifying individual and $16,000 for two or more qualifying individuals (such that the maximum credits are $4,000 and $8,000). At $125,000 the credit percentage begins to phase out, and plateaus at 20 percent. This 20 percent credit rate phases out for taxpayers whose AGI is in excess of $400,000, such that taxpayers with income in excess of $500,000 are not eligible for the credit. Both the maximum credit amount, and the phaseout threshold, are indexed for inflation.

This section provides for a reimbursement of mirror code territories for the costs of this refundable credit. Additionally, for non-mirror code territories (Puerto Rico and American Samoa), provides a reimbursement for the aggregate value of such a credit, provided the territory develops a plan, approved by the Secretary, to distribute these amounts to its residents.

Section 302. Increase in exclusion for employer-provided dependent care assistance made permanent. This section makes permanent the American Rescue Plan increase in the exclusion for employer-provided dependent care assistance. Thus, the maximum exclusion is permanently increased to $10,500 ($5,250 in the case of a separate return filed by a married individual). These dollar amounts are indexed for inflation.

Division D – National Grant Program for the Worker Information Network

Section 401. Establishment. This section amends Title XX of the Social Security Act to create a new Subtitle D, which provides funding and rules for the Worker Information Network.

Section 2071. Grants to states. This section creates a new grant program for states (defined to include the District of Columbia and the U.S. territories) to provide workers and families with free access to information, counseling, and assistance to ensure that they can fully access paid family and medical leave, unemployment compensation, and child care. The grant program is administered by the Secretary of Health and Human Services (HHS) in consultation with the Secretary of Labor and the Secretary of the Treasury.

Section 2072. Grant application and plan requirements. This section requires states to submit an application to the Secretary of Health and Human Services which includes a plan for establishing a Worker Information Network (WIN), which will provide free access to information, counseling, and assistance with respect to the supports listed in section 2071. It also specifies that grants are awarded for a period of 5 years, are renewable, and that the grant amounts will be based on population (with minimums).

The section also sets forth the requirements for the WIN grantees, including employing adequate trained staff, which may include some volunteers; providing help and information to workers who need paid leave, unemployment benefits, or child care, including help in languages other than English and assistance dealing with other state and federal agencies; referring to other state and federal programs for benefits and assistance; conducting education and outreach about available benefits and support; making recommendations to the Secretaries on common issues and complaints related to paid leave, unemployment compensation, and child care; and collecting data on workers served so the Secretary of HHS can ensure that they are being served equitably and effectively by the state program.

The section prohibits use of the funds to supplant existing state or federal funds or to replace merit staff with non-merit staff.

Section 2073. Criteria for issuing grants. This section requires the Secretary of HHS to ensure that states are committed to effective and equitable administration of the WIN before awarding or renewing a grant (see Section 2074 for consequences of insufficient commitment).

Section 2074. Nonapplication, lack of sufficient commitment, and noncompliance. This section requires that, in cases where the state does not apply operate a WIN, the Secretary should award the grant instead to an eligible local partner, which could be a nonprofit, a community organization, or a labor organization with expertise and a commitment to serving all workers in the state. The section also sets forth policies to assign or reassign the grant to an eligible local partner if the state demonstrates insufficient commitment and does not take corrective action after being notified by the Secretary that problems must be addressed.

Division D – National Grant Program for the Worker Information Network

Section 2075. Appropriations. This section provides a direct appropriation of $1.5 billion per year, starting in FY2022, to fund the WIN grants, and adjusts the funding to keep up with wage inflation in future years, in order to maintain staffing levels. The section also directly appropriates $5 million per year to the Department of Health and Human Services, and $2.5 million per year to each of the Department of Treasury and the Department of Labor to provide administrative support and technical assistance to WIN programs.

Section 2076. Definitions. This section defines several terms used in the division.

The term "eligible local partner" is defined as a non-profit organization or organizations, including a labor organization (i.e., labor union, legal aid agency, etc.), with a presence within the state, a history of knowledge of paid leave, unemployment compensation, and child care systems, and a demonstrated commitment to helping workers and families. The term "state" is defined as all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, Commonwealth of the Northern Mariana Islands, and American Samoa.

Division E – Child Tax Credit

Section 501. Certain improvements to the child tax credit made permanent. This section amends Section 24 of the Internal Revenue Code to include changes to the Child Tax Credit.

Section 24. Child tax credit. This section makes the child tax credit ("CTC") fully refundable and increases the amount to $3,000 per child ($3,600 for a child under age 6). This makes permanent the policy enacted in the American Rescue Plan. It also permanently increases the age of qualifying children by one year, such that 17-year-olds qualify for the credit. The excess of the CTC (i.e., the additional $1,000 or $1,600 per-child in excess of the present-law $2,000 per-child credit) is reduced by $50 for every $1000 in modified adjusted gross income in excess of a threshold amount, which for purposes of the discussion draft, is currently bracketed. Once the excess credit amount is so reduced, the credit plateaus at $2,000, and then phases out at $400,000 for joint filers, $300,000 for heads of household, and $200,000 for other filers. Both the values of the CTC, and the phaseout thresholds, are indexed for inflation.

The provision includes an election to allow the value of the CTC to be measured on a monthly basis in the event that a qualifying child has switched residences. In the case that both taxpayers (i.e., the taxpayer who could have previously claimed the child, and the taxpayer that can newly claim the child) agree, in a form and manner as provided by the Secretary, both the amount of the CTC and the flow of the monthly advance payments may adjust so as to match the respective residence of the child.

The Secretary of the Treasury is directed to continue providing the CTC through advance monthly payments, based on prior year tax return information. In the case of taxpayers who received an overpayment of the advance credit due to a child for whom the advance was paid, when in fact the child was no longer that taxpayer's dependent, the provision includes a reduced repayment obligation. Under this provision, a taxpayer below the provided income threshold ($40,000 for a single taxpayer, $50,000 for a head of household, and $60,000 for a joint filer) will be protected from repaying up to a certain amount (currently bracketed in the discussion draft) in overpayments per child that was incorrectly taken into account. The amount protected from a repayment obligation is decreased to $0 as the taxpayer's income rises to double the threshold amount. Advance payments are generally not subject to administrative offset for past due federal or state debts, including offset for past-due child support. Additionally, the advance payments are also exempt from bank garnishment or levy by private debt collectors.

The Secretary is directed to maintain the previously established online portal to allow taxpayers to opt-out of receiving advanced payments and provide information regarding changes in income, marital status, and number of qualifying children for purposes of determining each taxpayer's maximum eligible credit.

The provision extends the fully refundable CTC to the territories. As with the present-law CTC, with respect to mirror code territories (i.e., the USVI, Guam, and CNMI), the Treasury Department will fully reimburse these territories the cost of the CTC.

Division E – Child Tax Credit

With respect to American Samoa, which does not have a mirror code, Treasury is instructed to make payments in an amount estimated by Treasury as being equal to the aggregate amount of benefits that would have been provided if American Samoa had a mirror code in place. Puerto Rico, which does not have a mirror code, will receive the refundable credit by having its residents file for the CTC directly with the IRS. Additionally, the Secretary is directed to issue a report to Congress two years after the date of enactment regarding the ability to extend the advance payments of the CTC to Puerto Rico, including legislative recommendations for such a program.

The provision retains the $500 nonrefundable tax credit for dependents other than child dependents, and indexes the value of this credit for inflation. Additionally, for taxable years beginning after 2025, the personal exemption for qualifying children is $0. However, for dependents other than children, a taxpayer may elect to claim the personal exemption if the taxpayer's income is below the second phaseout threshold of the CTC.

Division F – Earned Income Tax Credit

Section 601. Certain improvements to the earned income tax credit made permanent. This section makes the temporary expansion the eligibility and the amount of the earned income tax credit for taxpayers with no qualifying children (the "childless EITC") enacted in the American Rescue Plan permanent. In particular, the minimum age to claim the childless EITC is reduced from 25 to 19 (except for certain full-time students) and the upper age limit for the childless EITC is eliminated. This section also increases the childless EITC amount by increasing the credit percentage and phaseout percentage from 7.65 to 15.3 percent, increasing the income at which the maximum credit amount is reached to $9,820, and increasing the income at which phaseout begins to $11,610 for non-joint filers. Under these parameters, the maximum credit amount increases from $543 to $1,502. The provision contains special rules regarding the application of the credit for former foster youth and homeless youth. As with all other parameters of the EITC, these amounts are indexed for inflation, and will be indexed beginning in 2022.

Additionally, the provision makes permanent the temporary provision included in the American Rescue Plan allowing a taxpayer to use the taxpayer's prior-year earned income for purposes of computing the EITC, in the event that a taxpayer's earned income in the current taxable year has fallen. This provision allows consistency in the value of the EITC for taxpayers who may have lost a job, or whose income has fallen temporarily.