

118TH CONGRESS
2D SESSION

S. 3680

To amend the Internal Revenue Code of 1986 to enhance the paid family and medical leave credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2024

Mrs. FISCHER (for herself and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to enhance the paid family and medical leave credit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Paid Family and Med-
5 ical Leave Tax Credit Extension and Enhancement Act”.

6 **SEC. 2. ENHANCEMENT OF PAID FAMILY AND MEDICAL**
7 **LEAVE CREDIT.**

8 (a) IN GENERAL.—Section 45S of the Internal Rev-
9 enue Code of 1986 is amended—

10 (1) in subsection (a)—

1 (A) by striking paragraph (1) and insert-
2 ing the following:

3 “(1) IN GENERAL.—For purposes of section 38,
4 in the case of an eligible employer, the paid family
5 and medical leave credit is an amount equal to ei-
6 ther of the following (as elected by such employer):

7 “(A) The applicable percentage of the
8 amount of wages paid to qualifying employees
9 with respect to any period in which such em-
10 ployees are on family and medical leave.

11 “(B) If such employer has an insurance
12 policy with regards to the provision of paid
13 family and medical leave which is in force dur-
14 ing the taxable year, the applicable percentage
15 of the total amount of premiums paid or in-
16 curred by such employer during such taxable
17 year with respect to such insurance policy.”,
18 and

19 (B) by adding at the end the following:

20 “(3) RATE OF PAYMENT DETERMINED WITH-
21 OUT REGARD TO WHETHER LEAVE IS TAKEN.—For
22 purposes of determining the applicable percentage
23 with respect to paragraph (1)(B), the rate of pay-
24 ment under the insurance policy shall be determined
25 without regard to whether any qualifying employees

1 were on family and medical leave during the taxable
2 year.”,

3 (2) in subsection (b)(1), by striking “credit al-
4 lowed” and inserting “wages taken into account”,

5 (3) in subsection (c), by striking paragraphs (3)
6 and (4) and inserting the following:

7 “(3) AGGREGATION RULE.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), all persons which are treated
10 as a single employer under subsections (b) and
11 (c) of section 414 shall be treated as a single
12 employer.

13 “(B) EXCEPTION.—

14 “(i) IN GENERAL.—Subparagraph (A)
15 shall not apply to any person who estab-
16 lishes to the satisfaction of the Secretary
17 that such person has a substantial and le-
18 gitimate business reason for failing to pro-
19 vide a written policy described in para-
20 graph (1) or (2).

21 “(ii) SUBSTANTIAL AND LEGITIMATE
22 BUSINESS REASON.—For purposes of
23 clause (i), the term ‘substantial and legiti-
24 mate business reason’ shall not include the
25 operation of a separate line of business,

1 the rate of wages or category of jobs for
2 employees (or any similar basis), or the ap-
3 plication of State or local laws relating to
4 family and medical leave, but may include
5 the grouping of employees of a common
6 law employer.

7 “(4) TREATMENT OF BENEFITS MANDATED OR
8 PAID FOR BY STATE OR LOCAL GOVERNMENTS.—For
9 purposes of this section, any leave which is paid by
10 a State or local government or required by State or
11 local law—

12 “(A) except as provided in subparagraph
13 (B), shall be taken into account in determining
14 the amount of paid family and medical leave
15 provided by the employer, and

16 “(B) shall not be taken into account in de-
17 termining the amount of the paid family and
18 medical leave credit under subsection (a).”,

19 (4) in subsection (d)—

20 (A) in paragraph (1), by inserting “(or, at
21 the election of the employer, for not less than
22 6 months)” after “1 year or more”, and

23 (B) in paragraph (2)—

1 (i) by inserting “, as determined on
2 an annualized basis (pro-rata for part-time
3 employees),” after “compensation”, and

4 (ii) by striking the period at the end
5 and inserting “, and”, and

6 (C) by adding at the end the following:

7 “(3) is customarily employed for not less than
8 20 hours per week.”, and

9 (5) by striking subsection (i).

10 (b) NO DOUBLE BENEFIT.—Section 280C(a) of the
11 Internal Revenue Code of 1986 is amended—

12 (1) by striking “45S(a)” and inserting
13 “45S(a)(1)(A)”, and

14 (2) by inserting after the first sentence the fol-
15 lowing: “No deduction shall be allowed for that por-
16 tion of the premiums paid or incurred for the tax-
17 able year which is equal to that portion of the paid
18 family and medical leave credit which is determined
19 for the taxable year under section 45S(a)(1)(B).”.

20 (c) OUTREACH.—

21 (1) SBA AND RESOURCE PARTNERS.—Each
22 district office of the Small Business Administration
23 and each resource partner of the Small Business Ad-
24 ministration, including small business development
25 centers described in section 21 of the Small Busi-

1 ness Act (15 U.S.C. 648), women’s business centers
2 described in section 29 of such Act (15 U.S.C. 656),
3 each chapter of the Service Corps of Retired Execu-
4 tives described in section 8(b)(1)(B) of such Act (15
5 U.S.C. 637(b)(1)(B)), and Veteran Business Out-
6 reach Centers described in section 32 of such Act
7 (15 U.S.C. 657b), shall conduct outreach to relevant
8 parties regarding the paid family and medical leave
9 credit under section 45S of the Internal Revenue
10 Code of 1986, including through—

11 (A) targeted communications, education,
12 training, and technical assistance; and

13 (B) the development of a written paid fam-
14 ily leave policy, as described in paragraphs (1)
15 and (2) of section 45S(c) of the Internal Rev-
16 enue Code of 1986.

17 (2) INTERNAL REVENUE SERVICE.—The Sec-
18 retary of the Treasury (or the Secretary’s delegate)
19 shall perform targeted outreach to employers and
20 other relevant entities regarding the availability and
21 requirements of the paid family and medical leave
22 credit under section 45S of the Internal Revenue
23 Code of 1986, including providing relevant informa-
24 tion as part of Internal Revenue Service communica-
25 tions that are regularly issued to entities that pro-

1 vide payroll services, tax professionals, and small
2 businesses.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to taxable years beginning after
5 the date of enactment of this Act.

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