

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

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

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**A BILL**

To amend the Internal Revenue Code of 1986 to extend the employer credit for paid family and medical leave, 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 Leave  
5 Pilot Extension Act”.

1 **SEC. 2. EXTENSION OF EMPLOYER CREDIT FOR PAID FAM-**  
2 **ILY AND MEDICAL LEAVE.**

3 (a) PROGRAM EXTENSION.—Section 45S(i) of the In-  
4 ternal Revenue Code of 1986 is amended by striking “De-  
5 cember 31, 2019” and inserting “December 31, 2022”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2019.

9 **SEC. 3. EMPLOYER REQUIREMENTS FOR RATE OF PAY-**  
10 **MENT.**

11 (a) IN GENERAL.—Subsection (c) of section 45S of  
12 the Internal Revenue Code of 1986 is amended—

13 (1) in paragraph (1)(B), by inserting after the  
14 first sentence the following: “For purposes of deter-  
15 mining the rate of payment under the program, any  
16 family and medical leave which is paid by a State or  
17 local government or required by State or local law,  
18 determined as a percentage of the wages normally  
19 paid to such employee for services performed for the  
20 employer, shall be taken into account.”, and

21 (2) in paragraph (4)—

22 (A) by striking “For purposes of this sec-  
23 tion, any” and inserting “Any”, and

24 (B) by striking “amount of paid family  
25 and medical leave provided by the employer”

1           and inserting “wages taken into account under  
2           subsection (a)”.

3           (b) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall take effect as if included in section  
5 13403 of Public Law 115-97.

6 **SEC. 4. TECHNICAL CORRECTIONS.**

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

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

11          (2) in subsection (c), by striking paragraph (3)  
12          and inserting the following:

13               “(3) **AGGREGATION RULE.**—

14                       “(A) **IN GENERAL.**—Except as provided in  
15                       subparagraph (B), all persons which are treated  
16                       as a single employer under subsections (b) and  
17                       (c) of section 414 shall be treated as a single  
18                       employer.

19                       “(B) **EXCEPTION.**—

20                               “(i) **IN GENERAL.**—Subparagraph (A)  
21                               shall not apply to any person who estab-  
22                               lishes to the satisfaction of the Secretary  
23                               that such person has a substantial and le-  
24                               gitimate business reason for failing to pro-

1           vide a written policy described in para-  
2           graph (1) or (2).

3                       “(ii) SUBSTANTIAL AND LEGITIMATE  
4           BUSINESS REASON.—For purposes of  
5           clause (i), the term ‘substantial and legiti-  
6           mate business reason’ shall not include the  
7           operation of a separate line of business,  
8           the rate of wages or category of jobs for  
9           employees (or any similar basis), or the ap-  
10          plication of State or local laws relating to  
11          family and medical leave, but may include  
12          the grouping of employees of a common  
13          law employer.”, and

14                   (3) in subsection (d)(2), by inserting “, as de-  
15          termined on an annualized basis (pro-rata for part-  
16          time employees),” after “compensation”.

17          (b) EFFECTIVE DATE.—The amendments made by  
18          this section shall take effect as if included in section  
19          13403 of Public Law 115-97.

20   **SEC. 5. GAO STUDY OF IMPACT OF TAX CREDIT TO PRO-**  
21                   **MOTE ACCESS TO PAID FAMILY AND MED-**  
22                   **ICAL LEAVE.**

23                   (a) STUDY.—Not later than June 30, 2022, the  
24          Comptroller General of the United States, in consultation

1 with the Secretary of the Treasury and the Secretary of  
2 Labor, shall—

3 (1) complete a study that—

4 (A) examines the effectiveness of the tax  
5 credit for paid family and medical leave author-  
6 ized under section 45S of the Internal Revenue  
7 Code of 1986 in terms of—

8 (i) increasing access to paid family  
9 and medical leave among qualifying em-  
10 ployees;

11 (ii) promoting the creation of new  
12 paid family and medical leave policies  
13 among eligible employers;

14 (iii) increasing the generosity of exist-  
15 ing paid family and medical leave policies  
16 among eligible employers; and

17 (iv) incenting employee or employer  
18 behavior that might not otherwise have oc-  
19 curred in the absence of the credit;

20 (B) provides recommendations for ways to  
21 modify or enhance the tax credit to further pro-  
22 mote access to paid family and medical leave  
23 for qualifying employees; and

24 (C) provides suggestions of alternative  
25 policies that Federal and State governments

1           could implement to increase access to paid fam-  
2           ily and medical leave, particularly among quali-  
3           fying employees; and

4           (2) prepare and submit a report to the Com-  
5           mittee on Finance of the Senate and the Committee  
6           on Ways and Means of the House of Representatives  
7           setting forth the conclusions of the study conducted  
8           under paragraph (1) in such a manner that the rec-  
9           ommendations included in the report can inform fu-  
10          ture legislative action.

11 Such report shall also be made publicly available via the  
12 website of the Government Accountability Office.

13          (b) PROHIBITION.—In carrying out the requirements  
14 of this section, the Comptroller General of the United  
15 States may request qualitative and quantitative informa-  
16 tion from employers and employees claiming the credit  
17 under section 45S of the Internal Revenue Code of 1986,  
18 but nothing in this section shall be construed as man-  
19 dating additional reporting requirements for such employ-  
20 ers or employees beyond what is already required by law.