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

IN THE SENATE OF THE UNITED STATES

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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Strong Families Act”.

SEC. 2. EMPLOYER CREDIT FOR PAID FAMILY AND MEDICAL LEAVE.

(a) IN GENERAL.—

(1) ALLOWANCE OF CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal
Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 45S. EMPLOYER CREDIT FOR PAID FAMILY AND MEDICAL LEAVE.

“(a) Establishment of Credit.—

“(1) In general.—For purposes of section 38, in the case of an eligible employer, the paid family and medical leave credit is an amount equal to the applicable percentage of the amount of wages paid to qualifying employees during any period in which such employees are on family and medical leave.

“(2) Applicable percentage.—For purposes of paragraph (1), the term ‘applicable percentage’ means 12.5 percent increased (but not above 25 percent) by 0.25 percentage points for each percentage point by which the rate of payment (as described under subsection (c)(1)(B)) exceeds 50 percent.

“(b) Limitation.—

“(1) In general.—The credit allowed under subsection (a) with respect to any employee for any taxable year shall not exceed an amount equal to the product of the normal hourly wage rate of such employee for each hour (or fraction thereof) of actual services performed for the employer and the number
of hours (or fraction thereof) for which family and medical leave is taken.

“(2) NON-HOURLY WAGE RATE.—For purposes of paragraph (1), in the case of any employee who is not paid on an hourly wage rate, the wages of such employee shall be prorated to an hourly wage rate under regulations established by the Secretary, in consultation with the Secretary of Labor.

“(3) MAXIMUM AMOUNT OF LEAVE SUBJECT TO CREDIT.—The amount of family and medical leave that may be taken into account with respect to any employee under subsection (a) for any taxable year shall not exceed 12 weeks.

“(c) ELIGIBLE EMPLOYER.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible employer’ means any employer who has in place a policy that meets the following requirements:

“(A) The policy provides—

“(i) in the case of a qualifying employee who is not a part-time employee (as defined in section 4980E(d)(4)(B)), not less than 2 weeks of annual paid family and medical leave, and
“(ii) in the case of a qualifying employee who is a part-time employee, an amount of annual paid family and medical leave that is not less than an amount which bears the same ratio to the amount of annual paid family and medical leave that is provided to a qualifying employee described in clause (i) as—

“(I) the number of hours the employee is expected to work during any week, bears to

“(II) the number of hours an equivalent qualifying employee described in clause (i) is expected to work during the week.

“(B) The policy requires that the rate of payment under the program is not less than 50 percent of the wages normally paid to such employee for services performed for the employer.

“(2) Special rule for certain employers.—

“(A) In general.—An added employer shall not be treated as an eligible employer unless such employer provides paid family and
medical leave in compliance with a policy which ensures that the employer—

“(i) will not interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under the policy, and

“(ii) will not discharge or in any other manner discriminate against any individual for opposing any practice prohibited by the policy.

“(B) Added employer; added employee.—For purposes of this paragraph—

“(i) Added employee.—The term ‘added employee’ means a qualifying employee who is not covered by title I of the Family and Medical Leave Act of 1993, as amended.

“(ii) Added employer.—The term ‘added employer’ means an eligible employer (determined without regard to this paragraph), whether or not covered by that title I, who offers paid family and medical leave to added employees.

“(3) Aggregation rule.—All persons which are treated as a single employer under subsections
(a) and (b) of section 52 shall be treated as a single taxpayer.

“(4) **Treatment of benefits mandated or paid for by state or local governments.**—For purposes of this section, any leave which is paid by a State or local government or required by State or local law shall not be taken into account in determining the amount of paid family and medical leave provided by the employer.

“(5) **No inference.**—Nothing in this subsection shall be construed as subjecting an employer to any penalty, liability, or other consequence (other than ineligibility for the credit allowed by reason of subsection (a) or recapturing the benefit of such credit) for failure to comply with the requirements of this subsection.

“(d) **Qualifying employees.**—For purposes of this section, the term ‘qualifying employee’ means any employee (as defined in section 3(e) of the Fair Labor Standards Act of 1938, as amended) who—

“(1) has been employed by the employer for 1 year or more, and

“(2) for the preceding year, had compensation not in excess of an amount equal to 60 percent of
the amount applicable for such year under clause (i) of section 414(q)(1)(B).

“(e) FAMILY AND MEDICAL LEAVE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this section, the term ‘family and medical leave’ means leave for any 1 or more of the purposes described under subparagraph (A), (B), (C), (D), or (E) of paragraph (1), or paragraph (3), of section 102(a) of the Family and Medical Leave Act of 1993, as amended, whether the leave is provided under that Act or by a policy of the employer.

“(2) EXCLUSION.—If an employer provides paid leave as vacation leave, personal leave, or medical or sick leave (other than leave specifically for 1 or more of the purposes referred to in paragraph (1)), that paid leave shall not be considered to be family and medical leave under paragraph (1).

“(3) DEFINITIONS.—In this subsection, the terms ‘vacation leave’, ‘personal leave’, and ‘medical or sick leave’ mean those 3 types of leave, within the meaning of section 102(d)(2) of that Act.

“(f) WAGES.—For purposes of this section, the term ‘wages’ has the meaning given such term by subsection (b) of section 3306 (determined without regard to any dol-
lar limitation contained in such section). Such term shall not include any amount taken into account for purposes of determining any other credit allowed under this subpart.

“(g) Election To Have Credit Not Apply.—

“(1) In general.—A taxpayer may elect to have this section not apply for any taxable year.

“(2) Other rules.—Rules similar to the rules of paragraphs (2) and (3) of section 51(j) shall apply for purposes of this subsection.

“(h) Termination.—This section shall not apply to wages paid in any taxable year beginning after the date which is 5 years after the date of the enactment of the Strong Families Act.”.

(b) Credit Part of General Business Credit.—

Section 38(b) of the Internal Revenue Code of 1986 is amended by striking “plus” at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting “, plus”, and by adding at the end the following new paragraph:

“(37) in the case of an eligible employer (as defined in section 45S(c)), the paid family and medical leave credit determined under section 45S(a).”.

(c) Credit Allowed Against AMT.—Subparagraph (B) of section 38(c)(4) of the Internal Revenue
Code of 1986 is amended by redesignating clauses (vii) through (ix) as clauses (vii) through (x), respectively, and by inserting after clause (vi) the following new clause:

“(vii) the credit determined under section 45S,”.

(d) Conforming Amendments.—

(1) Denial of double benefit.—Section 280C(a) of the Internal Revenue Code of 1986 is amended by inserting “45S(a),” after “45P(a),”.

(2) Election to have credit not apply.—Section 6501(m) of such Code is amended by inserting “45S(g),” after “45H(g),”.

(3) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

“Sec. 45S. Employer credit for paid family and medical leave.”.

(e) Effective Date.—The amendments made by this section shall apply to wages paid in taxable years beginning after the date of the enactment of this Act.

SEC. 3. GAO STUDY OF IMPACT OF TAX CREDIT TO PROMOTE ACCESS TO PAID FAMILY AND MEDICAL LEAVE.

(a) Study.—Not later than 4 years after the date of enactment of this Act, the Comptroller General of the
United States, in consultation with the Secretary of the Treasury and the Secretary of Labor, shall—

(1) complete a study that—

(A) examines the effectiveness of the tax credit for paid family and medical leave authorized under section 45S of the Internal Revenue Code of 1986 (as added by this Act) in terms of—

(i) increasing access to paid family and medical leave among qualifying employees;

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

(iii) increasing the generosity of existing paid family and medical leave policies among eligible employers; and

(iv) incentivizing employee or employer behavior that might not otherwise have occurred in the absence of the credit;

(B) provides recommendations for ways to modify or enhance the tax credit to further promote access to paid family and medical leave for qualifying employees;
(C) provides suggestions of alternative policies that Federal and State governments could implement to increase access to paid family and medical leave, particularly among qualifying employees; and

(2) prepare and submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives setting forth the conclusions of the study conducted under paragraph (1) in such a manner that the recommendations included in the report can inform future legislative action. Such report shall also be made publicly available via the website of the Government Accountability Office.

(b) PROHIBITION.—In carrying out the requirements of this section, the Comptroller General of the United States may request qualitative and quantitative information from employers and employees claiming the credit under section 45S of the Internal Revenue Code of 1986, but nothing in this section shall be construed as mandating additional reporting requirements for such employers or employees beyond what is already required by law.