119TH CONGRESS
1ST SESSION

S. _____

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

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 enhance the paid family and medical leave credit, 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 ''Paid Family and Medical Leave Tax Credit Extension and Enhancement Act''.

SEC. 2. ENHANCEMENT OF PAID FAMILY AND MEDICAL LEAVE CREDIT.

(a) IN GENERAL.—Section 45S of the Internal Revenue Code of 1986 is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

''(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 either of the following (as elected by such employer):

''(A) The applicable percentage of the amount of wages paid to qualifying employees with respect to any period in which such employees are on family and medical leave.

''(B) If such employer has an insurance policy with regards to the provision of paid family and medical leave which is in force during the taxable year, the applicable percentage of the total amount of premiums paid or incurred by such employer during such taxable year with respect to such insurance policy.'', and

(B) by adding at the end the following:

''(3) RATE OF PAYMENT DETERMINED WITHOUT REGARD TO WHETHER LEAVE IS TAKEN.—For purposes of determining the applicable percentage with respect to paragraph (1)(B), the rate of payment under the insurance policy shall be determined without regard to whether any qualifying employees

were on family and medical leave during the taxable year.'',

(2) in subsection (b)(1), by striking ''credit allowed'' and inserting ''wages taken into account'',

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

''(3) AGGREGATION RULE.—

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

''(B) EXCEPTION.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply to any person who establishes to the satisfaction of the Secretary that such person has a substantial and legitimate business reason for failing to provide a written policy described in paragraph (1) or (2).

''(ii) SUBSTANTIAL AND LEGITIMATE BUSINESS REASON.—For purposes of clause (i), the term 'substantial and legitimate business reason' shall not include the operation of a separate line of business,

the rate of wages or category of jobs for employees (or any similar basis), or the application of State or local laws relating to family and medical leave, but may include the grouping of employees of a common law employer.

''(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—

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

''(B) shall not be taken into account in determining the amount of the paid family and medical leave credit under subsection (a).'',

(4) in subsection (d)—

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

(B) in paragraph (2)—

(i) by inserting ", as determined on an annualized basis (pro-rata for part-time employees)," after "compensation", and

(ii) by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(3) is customarily employed for not less than 20 hours per week.", and

(5) by striking subsection (i).

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

(1) by striking "45S(a)" and inserting "45S(a)(1)(A)", and

(2) by inserting after the first sentence the following: "No deduction shall be allowed for that portion of the premiums paid or incurred for the taxable year which is equal to that portion of the paid family and medical leave credit which is determined for the taxable year under section 45S(a)(1)(B).".

(c) OUTREACH.—

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

ness Act (15 U.S.C. 648), women's business centers described in section 29 of such Act (15 U.S.C. 656), each chapter of the Service Corps of Retired Executives described in section 8(b)(1)(B) of such Act (15 U.S.C. 637(b)(1)(B)), and Veteran Business Outreach Centers described in section 32 of such Act (15 U.S.C. 657b), shall conduct outreach to relevant parties regarding the paid family and medical leave credit under section 45S of the Internal Revenue Code of 1986, including through—

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

(B) the development of a written paid family leave policy, as described in paragraphs (1) and (2) of section 45S(c) of the Internal Revenue Code of 1986.

(2) INTERNAL REVENUE SERVICE.—The Secretary of the Treasury (or the Secretary's delegate) shall perform targeted outreach to employers and other relevant entities regarding the availability and requirements of the paid family and medical leave credit under section 45S of the Internal Revenue Code of 1986, including providing relevant information as part of Internal Revenue Service communications that are regularly issued to entities that pro-

vide payroll services, tax professionals, and small businesses.

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