

116TH CONGRESS  
1ST SESSION

# S. 1628

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

MAY 23 (legislative day, MAY 22), 2019

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

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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”.

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

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

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

4 **SEC. 3. EMPLOYER REQUIREMENTS FOR RATE OF PAY-**  
5 **MENT.**

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

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

16 (2) in paragraph (4)—

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

19 (B) by striking “amount of paid family  
20 and medical leave provided by the employer”  
21 and inserting “wages taken into account under  
22 subsection (a)”.

23 (b) EFFECTIVE DATE.—The amendments made by  
24 this section shall take effect as if included in section  
25 13403 of Public Law 115–97.

1 **SEC. 4. TECHNICAL CORRECTIONS.**

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

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

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

8 “(3) AGGREGATION RULE.—

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

14 “(B) EXCEPTION.—

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

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

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

10          (b) EFFECTIVE DATE.—The amendments made by  
 11 this section shall take effect as if included in section  
 12 13403 of Public Law 115–97.

13 **SEC. 5. GAO STUDY OF IMPACT OF TAX CREDIT TO PRO-**  
 14 **MOTE ACCESS TO PAID FAMILY AND MED-**  
 15 **ICAL LEAVE.**

16          (a) STUDY.—Not later than June 30, 2022, the  
 17 Comptroller General of the United States, in consultation  
 18 with the Secretary of the Treasury and the Secretary of  
 19 Labor, shall—

20           (1) complete a study that—

21           (A) examines the effectiveness of the tax  
 22 credit for paid family and medical leave author-  
 23 ized under section 45S of the Internal Revenue  
 24 Code of 1986 in terms of—

1 (i) increasing access to paid family  
2 and medical leave among qualifying em-  
3 ployees;

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

7 (iii) increasing the generosity of exist-  
8 ing paid family and medical leave policies  
9 among eligible employers; and

10 (iv) incenting employee or employer  
11 behavior that might not otherwise have oc-  
12 curred in the absence of the credit;

13 (B) provides recommendations for ways to  
14 modify or enhance the tax credit to further pro-  
15 mote access to paid family and medical leave  
16 for qualifying employees; and

17 (C) provides suggestions of alternative  
18 policies that Federal and State governments  
19 could implement to increase access to paid fam-  
20 ily and medical leave, particularly among quali-  
21 fying employees; and

22 (2) prepare and submit a report to the Com-  
23 mittee on Finance of the Senate and the Committee  
24 on Ways and Means of the House of Representatives  
25 setting forth the conclusions of the study conducted

1 under paragraph (1) in such a manner that the rec-  
2 ommendations included in the report can inform fu-  
3 ture legislative action.

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

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

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