To amend title 4 of the United States Code to limit the extent to which States may tax the compensation earned by nonresident telecommuters and other multi-State workers.

IN THE SENATE OF THE UNITED STATES

MAY 27, 2021

Mr. BLUMENTHAL (for himself, Ms. HASSAN, Mrs. SHAHEEN, and Mr. MURPHY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title 4 of the United States Code to limit the extent to which States may tax the compensation earned by nonresident telecommuters and other multi-State workers.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Multi-State Worker Tax Fairness Act of 2021”.
SEC. 2. LIMITATION ON STATE TAXATION OF COMPENSATION EARNED BY NONRESIDENT TELECOMMUTERS AND OTHER MULTI-STATE WORKERS.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

“§ 127. Limitation on State taxation of compensation earned by nonresident telecommuters and other multi-State workers

“(a) IN GENERAL.—In applying its income tax laws to the compensation of a nonresident individual, a State may deem such nonresident individual to be present in or working in such State for any period of time only if such nonresident individual is physically present in such State for such period and such State may not impose nonresident income taxes on such compensation with respect to any period of time when such nonresident individual is physically present in another State.

“(b) DETERMINATION OF PHYSICAL PRESENCE.—For purposes of determining physical presence, no State may deem a nonresident individual to be present in or working in such State on the grounds that—

“(1) such nonresident individual is present at or working at home for convenience, or
“(2) such nonresident individual’s work at home or office at home fails any convenience of the employer test or any similar test.

“(c) Determination of Periods of Time With Respect to Which Compensation Is Paid.—For purposes of determining the periods of time with respect to which compensation is paid, no State may deem a period of time during which a nonresident individual is physically present in another State and performing certain tasks in such other State to be—

“(1) time that is not normal work time unless such individual’s employer deems such period to be time that is not normal work time,

“(2) nonworking time unless such individual’s employer deems such period to be nonworking time, or

“(3) time with respect to which no compensation is paid unless such individual’s employer deems such period to be time with respect to which no compensation is paid.

“(d) Definitions.—As used in this section—

“(1) Compensation.—The term ‘compensation’ means the salary, wages, or other remuneration earned by an individual for personal services per-
formed as an employee or as an independent contractor.

“(2) Employee.—The term ‘employee’ means an employee as defined by the State in which the nonresident individual is physically present and performing personal services for compensation.

“(3) Employer.—The term ‘employer’ means the person having control of the payment of an individual’s compensation.

“(4) Income Tax.—The term ‘income tax’ has the meaning given such term by section 110(c).

“(5) Income Tax Laws.—The term ‘income tax laws’ includes any statutes, regulations, administrative practices, administrative interpretations, and judicial decisions.

“(6) Nonresident Individual.—The term ‘nonresident individual’ means an individual who is not a resident of the State applying its income tax laws to such individual.

“(7) State.—The term ‘State’ means each of the several States (or any subdivision thereof), the District of Columbia, and any territory or possession of the United States.

“(e) No Inference.—Nothing in this section shall be construed as bearing on—
“(1) any tax laws other than income tax laws,

“(2) the taxation of corporations, partnerships, trusts, estates, limited liability companies, or other entities, organizations, or persons other than non-resident individuals in their capacities as employees or independent contractors,

“(3) the taxation of individuals in their capacities as shareholders, partners, trust and estate beneficiaries, members or managers of limited liability companies, or in any similar capacities, and

“(4) the income taxation of dividends, interest, annuities, rents, royalties, or other forms of unearned income.”.

(b) CLERICAL AMENDMENT.—The table of sections of such chapter 4 is amended by adding at the end the following new item:

“127. Limitation on State taxation of compensation earned by nonresident telecommuters and other multi-State workers.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.