

Amendment to the Amendment in the Nature of a Substitute to Subtitle A: Budget Reconciliation Legislative Recommendations Relating to Universal Paid Family and Medical Leave offered by Ms. Walorski of Indiana.

The amendment would strike and replace title with paid leave policies in Division A of the "*Protecting Worker Paychecks and Family Choice Act.*" (The Defending Worker Paychecks and Family Choice Amendment).

**AMENDMENT TO THE AMENDMENT IN THE NA-
TURE OF A SUBSTITUTE TO THE COMMITTEE
PRINT RELATING TO UNIVERSAL PAID FAM-
ILY AND MEDICAL LEAVE
OFFERED BY MRS. WALORSKI OF INDIANA**

In lieu of the matter proposed to be inserted by the amendment, insert the following:

1 **SECTION 130001. SHORT TITLE.**

2 This Act may be cited as the “Protecting Worker
3 Paychecks and Family Choice Act”.

4 **SEC. 130002. PROTECTING WORKER PAYCHECKS AND FAM-
5 ILY CHOICE.**

6 The Social Security Act (42 U.S.C. 301 et seq.) is
7 amended by adding at the end the following:

8 **“TITLE XXII—PROTECTING
9 WORKER PAYCHECKS AND
10 FAMILY CHOICE**

11 **“SEC. 2201. TABLE OF CONTENTS.**

12 “The table of contents of this Act is as follows:

“Sec. 130001. Short title.

“Sec. 130002. Table of contents.

“Sec. 130003. Modifications to employer credit for paid family and medical leave.

“Sec. 130004. Family savings accounts.

“Sec. 130005. Expand small employer pooling options for paid family and medical leave.

“Sec. 130006. Promoting equitable access to paid family leave.

“Sec. 130007. Working Families Flexibility Act.

1 **“SEC. 2202. MODIFICATIONS TO EMPLOYER CREDIT FOR**
2 **PAID FAMILY AND MEDICAL LEAVE.**

3 “(a) CREDIT MADE PERMANENT AND LIMITED TO
4 FIRST 5 YEARS AFTER ESTABLISHMENT OF PLAN.—

5 “(1) IN GENERAL.—Section 45S(i) of the Inter-
6 nal Revenue Code of 1986 is amended to read as fol-
7 lows:

8 “(2) PHASE-OUT.—Section 45S of such Code is
9 amended by adding at the end the following new
10 subsection:

11 ““(i) CREDIT LIMITED TO FIRST 5 YEARS AFTER
12 ESTABLISHMENT OF PLAN.—

13 ““(1) IN GENERAL.—No credit shall be allowed
14 under this section with respect to any taxpayer after
15 the 5-taxable-year period beginning with the taxable
16 year which includes the date on which the taxpayer
17 first has in place a policy described in subsection
18 (c)(1).

19 ““(2) PHASE-DOWN OF CREDIT.—The credit
20 determined under this section (without regard to
21 this subsection) shall be reduced by—

22 ““(A) in the case of the fourth taxable
23 year in the 5-taxable-year period described in

1 paragraph (1), 25 percent of the amount of
2 such credit, and

3 “(B) in the case of the fifth taxable year
4 in such 5-taxable-year period, 50 percent of the
5 amount of such credit.

6 “(3) TRANSITIONAL RULE.—The 5-taxable-
7 year period described in paragraph (1) shall not be
8 treated as beginning before the beginning of the tax-
9 payer’s first taxable year beginning after December
10 31, 2022.’.

11 “(b) ENHANCED CREDIT FOR NEW PLANS OF SMALL
12 EMPLOYERS.—

13 “(1) IN GENERAL.—Section 45S of such Code
14 is amended by adding at the end the following new
15 subsection:

16 “(j) ENHANCED CREDIT FOR CERTAIN NEW PLANS
17 OF SMALL EMPLOYERS.—

18 “(1) IN GENERAL.—In the case of an eligible
19 small employer—

20 “(A) subsection (a)(2) shall be applied—

21 “(i) by substituting “25 percent” for
22 “12.5 percent”, and

23 “(ii) by substituting “50 percent” for
24 “25 percent” (determined without regard
25 to the substitution described in clause (i)),

1 “(B) the credit determined under sub-
2 section (a)(1) for any taxable year shall be in-
3 creased by the applicable percentage (deter-
4 mined after application of subparagraph (A)) of
5 the sum of—

6 “(i) so much of the amounts paid
7 during such taxable year as administrative
8 expenses of carrying out the policy de-
9 scribed in subsection (c)(1) (other than
10 any amounts paid to establish such policy),
11 including payments to third-party adminis-
12 trators and premiums for short-term dis-
13 ability insurance, as do not exceed
14 \$50,000, plus

15 “(ii) in the case of the taxable year
16 which includes the date on which the policy
17 described in subsection (c)(1) takes effect,
18 so much of the amounts paid to establish
19 such policy as do not exceed \$1,000.

20 “(2) ELIGIBLE SMALL EMPLOYER.—For pur-
21 poses of this subsection, the term “eligible small em-
22 ployer” means, with respect to any taxable year, any
23 eligible employer—

24 “(A) the gross receipts of which for such
25 taxable year do not exceed \$25,000,000,

1 “(B) which employed on average 50 or
2 fewer employees on business days during the
3 taxable year, and

4 “(C) which did not have a policy de-
5 scribed in subsection (c)(1) in place at any time
6 prior to the date of the enactment of this Act.’.

7 “(2) EFFECTIVE DATE.—The amendment made
8 by this subsection shall apply to taxable years begin-
9 ning after the date of the enactment of this Act.

10 “(c) EMPLOYER REQUIREMENTS FOR RATE OF PAY-
11 MENT.—

12 “(1) IN GENERAL.—Subsection (c) of section
13 45S of such Code is amended—

14 “(A) in paragraph (1)(B), by inserting
15 after the first sentence the following: ‘For pur-
16 poses of determining the rate of payment under
17 the program, any family and medical leave
18 which is paid by a State or local government or
19 required by State or local law, determined as a
20 percentage of the wages normally paid to such
21 employee for services performed for the em-
22 ployer, shall be taken into account.’, and

23 “(B) in paragraph (4)—

24 “(i) by striking ‘For purposes of this
25 section, any’ and inserting ‘Any’, and

1 “(ii) by striking ‘amount of paid fam-
2 ily and medical leave provided by the em-
3 ployer’ and inserting ‘wages taken into ac-
4 count under subsection (a)’.

5 “(2) EFFECTIVE DATE.—The amendments
6 made by this subsection shall take effect as if in-
7 cluded in section 13403 of Public Law 115–97.

8 “(d) TECHNICAL CORRECTIONS.—

9 “(1) IN GENERAL.—Section 45S of such Code
10 is amended—

11 “(A) in subsection (b)(1), by striking
12 ‘credit allowed’ and inserting ‘wages taken into
13 account’,

14 “(B) in subsection (c), by striking para-
15 graph (3) and inserting the following:

16 ““(3) AGGREGATION RULE.—

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

22 ““(B) EXCEPTION.—

23 ““(i) IN GENERAL.—Subparagraph
24 (A) shall not apply to any person who es-
25 tablishes to the satisfaction of the Sec-

1 retary that such person has a substantial
2 and legitimate business reason for failing
3 to provide a written policy described in
4 paragraph (1) or (2).

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

16 “(C) in subsection (d)(2), by inserting ‘, as
17 determined on an annualized basis (pro-rata for
18 part-time employees),’ after ‘compensation’.

19 “(2) EFFECTIVE DATE.—The amendments
20 made by this subsection shall take effect as if in-
21 cluded in section 13403 of Public Law 115–97.

22 **“SEC. 2203. FAMILY SAVINGS ACCOUNTS.**

23 “(a) IN GENERAL.—Part VII of subchapter B of
24 chapter 1 of the Internal Revenue Code of 1986 is amend-

1 ed by redesignating section 224 as section 225 and by in-
2 serting after section 223 the following new section:

3 **“SEC. 224. FAMILY SAVINGS ACCOUNTS.**

4 ““(a) DEDUCTION ALLOWED.—In the case of any eli-
5 gible individual, there shall be allowed as a deduction for
6 such taxable year an amount equal to the aggregate
7 amount paid in cash during such taxable year by or on
8 behalf of such individual to a family savings account of
9 such individual.

10 ““(b) LIMITATIONS.—

11 ““(1) IN GENERAL.—The amount allowable as
12 a deduction under subsection (a) to an individual for
13 the taxable year shall not exceed \$5,000.

14 ““(2) DENIAL OF DEDUCTION TO DEPEND-
15 ENTS.—No deduction shall be allowed under this
16 section to any individual with respect to whom a de-
17 duction under section 151 is allowable to another
18 taxpayer for a taxable year beginning in the cal-
19 endar year in which such individual’s taxable year
20 begins.

21 ““(3) COORDINATION WITH EXCLUSION OF EM-
22 PLOYER CONTRIBUTIONS.—No deduction shall be al-
23 lowed under subsection (a) with respect to any con-
24 tribution which excludible from gross income under
25 subsection (g).

1 “(c) FAMILY SAVINGS ACCOUNT.—For purposes of
2 this section—

3 “(1) IN GENERAL.—The term “family savings
4 account” means a family savings account established
5 by the Federal Thrift Investment Board in the Fam-
6 ily Savings Account Fund exclusively for the purpose
7 of paying the qualified expenses of the account bene-
8 ficiary. Such Board shall ensure the following with
9 respect to such accounts:

10 “(A) No contribution will be accepted—

11 “(i) unless it is in cash, or

12 “(ii) to the extent such contribution,
13 when added to previous contributions to
14 the trust for the calendar year, exceeds the
15 dollar amount in effect under subsection
16 (b)(1).

17 “(B) The interest of an individual in the
18 balance in such individual’s account is non-
19 forfeitable.

20 “(2) QUALIFIED EXPENSES.—

21 “(A) IN GENERAL.—The term “qualified
22 expenses” means, with respect to an account
23 beneficiary—

1 “(i) amounts paid for child care for
2 any dependent child of the account bene-
3 ficiary,

4 “(ii) amounts paid in lieu of paid
5 family and medical leave for the account
6 beneficiary,

7 “(iii) qualified education expenses of
8 the account beneficiary or the account
9 beneficiary’s spouse or dependents, and

10 “(iv) amounts paid for elder care for
11 any ancestor of the account beneficiary or
12 of the account beneficiary’s spouse.

13 “(B) PAID FAMILY AND MEDICAL
14 LEAVE.—For purposes of subparagraph (A)(ii),
15 amounts shall be treated as paid in lieu of paid
16 family and medical leave to the extent that—

17 “(i) the account beneficiary is on
18 family and medical leave (as defined in
19 45S(e)), and

20 “(ii) such amounts do not exceed the
21 excess (if any) of—

22 “(I) the wages which the ac-
23 count beneficiary would have been
24 paid if not on such leave, over

1 “(II) the wages paid to the ac-
2 count beneficiary while on such leave.

3 “(C) QUALIFIED EDUCATION EX-
4 PENSES.—For purposes of subparagraph
5 (A)(iii), the term “qualified education ex-
6 penses” means qualified higher education ex-
7 penses (as defined in section 529(e)(3)) and
8 any of the following expenses in connection with
9 enrollment or attendance at, or for students en-
10 rolled at or attending, an elementary or sec-
11 ondary public, private, or religious school:

12 “(i) Tuition.

13 “(ii) Curriculum and curricular ma-
14 terials.

15 “(iii) Books or other instructional
16 materials.

17 “(iv) Online educational materials.

18 “(v) Tuition for tutoring or edu-
19 cational classes outside of the home, in-
20 cluding at a tutoring facility, but only if
21 the tutor or instructor is not related to the
22 student and—

23 “(I) is licensed as a teacher in
24 any State,

1 “(II) has taught at an eligible
2 educational institution, or

3 “(III) is a subject matter expert
4 in the relevant subject.

5 “(vi) Fees for a nationally standard-
6 ized norm-referenced achievement test, an
7 advanced placement examination, or any
8 examinations related to college or univer-
9 sity admission.

10 “(vii) Fees for dual enrollment in an
11 institution of higher education.

12 “(viii) Educational therapies for stu-
13 dents with disabilities provided by a li-
14 censed or accredited practitioner or pro-
15 vider, including occupational, behavioral,
16 physical, and speech-language therapies.

17 Such term shall include expenses for the pur-
18 poses described in clauses (i) through (viii) in
19 connection with a homeschool (whether treated
20 as a homeschool or a private school for pur-
21 poses of applicable State law).

22 “(3) ACCOUNT BENEFICIARY.—The term “ac-
23 count beneficiary” means the individual on whose
24 behalf the family savings account was established.

1 “(4) CERTAIN RULES TO APPLY.—Rules simi-
2 lar to the following rules shall apply for purposes of
3 this section:

4 “(A) Section 219(d)(2) (relating to no de-
5 duction for rollovers).

6 “(B) Section 219(f)(3) (relating to time
7 when contributions deemed made).

8 “(C) Except as provided in section
9 106(d), section 219(f)(5) (relating to employer
10 payments).

11 “(D) Section 408(g) (relating to commu-
12 nity property laws).

13 “(E) Section 408(h) (relating to custodial
14 accounts).

15 “(d) TAX TREATMENT OF ACCOUNTS.—

16 “(1) IN GENERAL.—A family savings account
17 is exempt from taxation under this subtitle unless
18 such account has ceased to be a family savings ac-
19 count.

20 “(2) ACCOUNT TERMINATIONS.—Rules similar
21 to the rules of paragraphs (2) and (4) of section
22 408(e) shall apply to family savings accounts, and
23 any amount treated as distributed under such rules
24 shall be treated as not used to pay qualified ex-
25 penses.

1 “(e) TAX TREATMENT OF DISTRIBUTIONS.—

2 “(1) AMOUNTS USED FOR QUALIFIED EX-
3 PENSES.—Any amount paid or distributed out of a
4 family savings account which is used exclusively to
5 pay qualified expenses of any account beneficiary
6 shall not be includible in gross income.

7 “(2) INCLUSION OF AMOUNTS NOT USED FOR
8 QUALIFIED EXPENSES.—Any amount paid or dis-
9 tributed out of a family savings account which is not
10 used exclusively to pay the qualified expenses of the
11 account beneficiary shall be included in the gross in-
12 come of such beneficiary.

13 “(3) EXCESS CONTRIBUTIONS RETURNED BE-
14 FORE DUE DATE OF RETURN.—

15 “(A) IN GENERAL.—If any excess con-
16 tribution is contributed for a taxable year to the
17 family savings account of an individual, para-
18 graph (2) shall not apply to distributions from
19 the family savings account of such individual
20 (to the extent such distributions do not exceed
21 the aggregate excess contributions to all such
22 accounts of such individual for such year) if—

23 “(i) such distribution is received by
24 the individual on or before the last day
25 prescribed by law (including extensions of

1 time) for filing such individual's return for
2 such taxable year, and

3 “(ii) such distribution is accom-
4 panied by the amount of net income attrib-
5 utable to such excess contribution.

6 Any net income described in clause (ii) shall be
7 included in the gross income of the individual
8 for the taxable year in which it is received.

9 “(B) EXCESS CONTRIBUTION.—For pur-
10 poses of subparagraph (A), the term “excess
11 contribution” means any contribution (other
12 than a rollover contribution described in para-
13 graph (5) or section 220(f)(5)) which is neither
14 excludable from gross income under subsection
15 (g) nor deductible under subsection (a).

16 “(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT
17 USED FOR QUALIFIED EXPENSES.—

18 “(A) IN GENERAL.—The tax imposed by
19 this chapter on the account beneficiary for any
20 taxable year in which there is a payment or dis-
21 tribution from a family savings account of such
22 beneficiary which is includible in gross income
23 under paragraph (2) shall be increased by 20
24 percent of the amount which is so includible.

1 “(B) EXCEPTION FOR DISABILITY OR
2 DEATH.—Subparagraph (A) shall not apply if
3 the payment or distribution is made after the
4 account beneficiary becomes disabled within the
5 meaning of section 72(m)(7) or dies.

6 “(5) DENIAL OF DOUBLE BENEFIT.—For pur-
7 poses of determining the amount of any deduction or
8 credit under this title, any payment or distribution
9 out of a family savings account for qualified ex-
10 penses shall not be treated as an expense paid by
11 the account beneficiary.

12 “(6) TRANSFER OF ACCOUNT INCIDENT TO DI-
13 VORCE.—The transfer of an individual’s interest in
14 a family savings account to an individual’s spouse or
15 former spouse under a divorce or separation instru-
16 ment described in clause (i) of section 121(d)(3)(C)
17 shall not be considered a taxable transfer made by
18 such individual notwithstanding any other provision
19 of this subtitle, and such interest shall, after such
20 transfer, be treated as a family savings account with
21 respect to which such spouse is the account bene-
22 ficiary.

23 “(7) TREATMENT AFTER DEATH OF ACCOUNT
24 BENEFICIARY.—

1 “(A) TREATMENT IF DESIGNATED BENE-
2 FICIARY IS SPOUSE.—If the account bene-
3 ficiary’s surviving spouse acquires such bene-
4 ficiary’s interest in a family savings account by
5 reason of being the designated beneficiary of
6 such account at the death of the account bene-
7 ficiary, such family savings account shall be
8 treated as if the spouse were the account bene-
9 ficiary.

10 “(B) OTHER CASES.—

11 “(i) IN GENERAL.—If, by reason of
12 the death of the account beneficiary, any
13 person acquires the account beneficiary’s
14 interest in a family savings account in a
15 case to which subparagraph (A) does not
16 apply—

17 “(I) such account shall cease to
18 be a family savings account as of the
19 date of death, and

20 “(II) an amount equal to the
21 fair market value of the assets in such
22 account on such date shall be includ-
23 ible if such person is not the estate of
24 such beneficiary, in such person’s
25 gross income for the taxable year

1 which includes such date, or if such
2 person is the estate of such bene-
3 ficiary, in such beneficiary's gross in-
4 come for the last taxable year of such
5 beneficiary.

6 “(ii) SPECIAL RULES.—

7 “(I) REDUCTION OF INCLUSION
8 FOR PREDEATH EXPENSES.—The
9 amount includible in gross income
10 under clause (i) by any person (other
11 than the estate) shall be reduced by
12 the amount of qualified expenses
13 which were incurred by the decedent
14 before the date of the decedent's
15 death and paid by such person within
16 1 year after such date.

17 “(II) DEDUCTION FOR ESTATE
18 TAXES.—An appropriate deduction
19 shall be allowed under section 691(c)
20 to any person (other than the dece-
21 dent or the decedent's spouse) with
22 respect to amounts included in gross
23 income under clause (i) by such per-
24 son.

1 “(8) ROLLOVERS TO INDIVIDUAL RETIREMENT
2 ACCOUNTS.—In the case of an account beneficiary
3 who has attained age 65—

4 “(A) IN GENERAL.—Paragraph (2) shall
5 not apply to any amount paid or distributed
6 from a family savings account to the account
7 beneficiary to the extent the amount received is
8 paid into an individual retirement account for
9 the benefit of the account beneficiary not later
10 than the 60th day after the day on which the
11 beneficiary receives the payment or distribution.

12 “(B) LIMITATION.—This paragraph shall
13 not apply to any amount described in subpara-
14 graph (A) received by an individual from a fam-
15 ily savings account if, at any time during the 1-
16 year period ending on the day of such receipt,
17 such individual received any other amount de-
18 scribed in subparagraph (A) from a family sav-
19 ings account which was not includible in the in-
20 dividual’s gross income because of the applica-
21 tion of this paragraph.

22 “(f) ELIGIBLE INDIVIDUAL.—For purposes of this
23 section, the term “eligible individual” means, with respect
24 to any taxable year, any individual who—

1 “(1) has been issued a social security number
2 by the Social Security Administration, and

3 “(2) has attained the age of 18 as of the close
4 of such taxable year.

5 “(g) EXCLUSION OF EMPLOYER CONTRIBUTIONS.—
6 Except as otherwise provided by the Secretary, in the case
7 of an employee who is an eligible individual, amounts con-
8 tributed by such employee’s employer to any family sav-
9 ings account of such employee shall be excludible from
10 gross income under rules similar to the rules of section
11 106(b).

12 “(h) COST-OF-LIVING ADJUSTMENT.—

13 “(1) IN GENERAL.—In the case of any taxable
14 year beginning in a calendar year after 2022, the
15 dollar amount in subsection (b)(1) shall be increased
16 by an amount equal to—

17 “(A) such dollar amount, multiplied by

18 “(B) the cost-of-living adjustment deter-
19 mined under section 1(f)(3) for the calendar
20 year in which such taxable year begins deter-
21 mined by substituting “calendar year 2021” for
22 “calendar year 2016” in subparagraph (A)(ii)
23 thereof.

24 For purposes of this paragraph, section 1(f)(4)
25 shall be applied by substituting “March 31” for

1 “August 31”, and the Secretary shall publish
2 the adjusted amounts under subsection (b)(1)
3 for taxable years beginning in any calendar year
4 no later than June 1 of the preceding calendar
5 year.

6 “(2) ROUNDING.—If any increase under para-
7 graph (1) is not a multiple of \$50, such increase
8 shall be rounded to the nearest multiple of \$50.

9 “(i) REPORTS.—The Federal Thrift Investment
10 Board shall make such reports to the Secretary and to
11 the account beneficiary regarding contributions, distribu-
12 tions, the return of excess contributions, and such other
13 matters with respect to family savings accounts as the
14 Secretary may provide.’.

15 “(b) ESTABLISHMENT OF FAMILY SAVINGS ACCOUNT
16 FUND AND FAMILY SAVINGS ACCOUNTS.—

17 “(1) FAMILY SAVINGS ACCOUNT FUND.—There
18 is established in the Treasury of the United States
19 a Family Savings Account Fund, consisting of all
20 contributions made to family savings accounts under
21 section 224 of the Internal Revenue Code of 1986.

22 “(2) FAMILY SAVINGS ACCOUNTS.—In addition
23 to the responsibilities of the Federal Thrift Invest-
24 ment Board under subchapters III and VII of chap-
25 ter 84 of title 5 United States Code, the Board shall

1 establish a family savings account within the Family
2 Savings Account Fund for each eligible individual
3 (as defined in section 224(f) of the Internal Revenue
4 Code of 1986, without regard to paragraph (2)
5 thereof) as soon as practicable after the date that
6 such individual attains age 18. Except as otherwise
7 provided by the Board, such accounts shall be main-
8 tained and administered by the Board under rules
9 similar to the rules which apply to the Thrift Sav-
10 ings Fund.

11 “(c) FEDERAL MATCHING AMOUNTS.—

12 “(1) IN GENERAL.—The Secretary of the
13 Treasury shall establish a program under which the
14 Secretary will make annual contributions to family
15 savings accounts of matching-eligible individuals
16 equal to the aggregate amount contributed by such
17 individual to such account during the calendar year
18 (but not in excess of \$1,000).

19 “(2) MATCHING-ELIGIBLE INDIVIDUAL.—For
20 purposes of this subsection, the term ‘matching-eli-
21 ble individual’ means any eligible individual (as de-
22 fined in section 224(f) of the Internal Revenue Code
23 of 1986) for any calendar year if the adjusted gross
24 income for such individual’s taxable year which ends

1 in or with such calendar year does not exceed
2 \$50,000.

3 “(3) TREATMENT OF CONTRIBUTIONS.—For
4 purposes of section 1324 of title 31, United States
5 Code, contributions made by the Secretary under
6 this section shall be treated in the same manner as
7 a refund due from a credit provision described in
8 subsection (b)(2) of such section.

9 “(d) TREATMENT OF MATCHING AMOUNTS UNDER
10 STATE PROGRAMS.—If a State establishes a program
11 similar to the program described in subsection (c) for
12 making contributions to family savings accounts of eligible
13 individuals, such contributions shall, at the election of
14 such State, be taken into account either (as provided in
15 such election) under paragraph (2)(C) of section 418(a)
16 of the Social Security Act as an expenditure described in
17 paragraph (1)(A) of such section or as qualified State ex-
18 penditures for purposes of section 409(a)(7) of the Social
19 Security Act.

20 “(e) DEDUCTION ALLOWED WHETHER OR NOT INDI-
21 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
22 of section 62 of such Code is amended by inserting after
23 paragraph (21) the following new paragraph:

24 ““(22) FAMILY SAVINGS ACCOUNTS.—The de-
25 duction allowed by section 224.’.

1 “(f) EMPLOYER CONTRIBUTIONS REQUIRED TO BE
2 SHOWN ON W-2.—Section 6051(a) of such Code is
3 amended by striking ‘and’ at the end of paragraph (16),
4 by striking the period at the end of paragraph (17) and
5 inserting ‘, and’, and by inserting after paragraph (17)
6 the following new paragraph:

7 “(18) the amount contributed to any family
8 savings account (as defined in section 224(c)) of
9 such employee.’.

10 “(g) PENALTY FOR FAILURE OF EMPLOYER TO
11 MAKE COMPARABLE FAMILY SAVINGS ACCOUNT CON-
12 TRIBUTIONS.—Chapter 43 of such Code is amended by
13 adding after section 4980H the following new section:

14 **“SEC. 4980I. FAILURE OF EMPLOYER TO MAKE COM-**
15 **PARABLE FAMILY SAVINGS ACCOUNT CON-**
16 **TRIBUTIONS.**

17 “(a) IN GENERAL.—In the case of an employer who
18 makes a contribution to the family savings account of any
19 employee during a calendar year, there is hereby imposed
20 a tax on the failure of such employer to meet the require-
21 ments of subsection (b) for such calendar year.

22 “(b) RULES AND REQUIREMENTS.—Except as oth-
23 erwise provided by the Secretary, rules and requirements
24 similar to the rules and requirements of section 4980E
25 shall apply for purposes of this section.

1 “(c) REGULATIONS.—The Secretary shall issue reg-
2 ulations to carry out the purposes of this section.’.

3 “(h) TAX ON EXCESS CONTRIBUTIONS.—Section
4 4973 of such Code is amended—

5 “(1) by striking ‘or’ at the end of subsection
6 (a)(3), by inserting ‘or’ at the end of subsection
7 (a)(5), and by inserting after subsection (a)(5) the
8 following new paragraph:

9 “(6) a family savings account (within the
10 meaning of section 224(c)),’, and

11 “(2) by adding at the end the following new
12 subsection:

13 “(i) EXCESS CONTRIBUTIONS TO FAMILY SAVINGS
14 ACCOUNTS.—For purposes of this section, in the case of
15 any family savings account (within the meaning of section
16 224(c)), the term “excess contributions” means the sum
17 of—

18 “(1) the aggregate amount contributed for the
19 taxable year to such account which is neither exclud-
20 able from gross income under section 224(g) nor al-
21 lowable as a deduction under section 224(a) for such
22 year, and

23 “(2) the amount determined under this sub-
24 section for the preceding taxable year, reduced by
25 the sum of—

1 “(A) the distributions out of the accounts
2 which were included in gross income under sec-
3 tion 224(e)(2), and

4 “(B) the excess (if any) of—

5 “(i) the maximum amount allowable
6 as a deduction under section 224(b) for
7 the taxable year, over

8 “(ii) the amount contributed to the
9 account for the taxable year.

10 For purposes of this subsection, any contribu-
11 tion which is distributed out of the family sav-
12 ings account in a distribution to which section
13 224(e)(3) applies shall be treated as an amount
14 not contributed.’.

15 “(i) TAX ON PROHIBITED TRANSACTIONS.—

16 “(1) Section 4975(c) of such Code is amended
17 by adding at the end the following new paragraph:

18 “(8) SPECIAL RULE FOR FAMILY SAVINGS AC-
19 COUNTS.—An individual for whose benefit a family
20 savings account (within the meaning of section
21 224(c)) is established shall be exempt from the tax
22 imposed by this section with respect to any trans-
23 action concerning such account (which would other-
24 wise be taxable under this section) if, with respect
25 to such transaction, the account ceases to be a fam-

1 ily savings account by reason of the application of
2 section 224(d)(2) to such account.’.

3 “(2) Section 4975(e)(1) of such Code is amend-
4 ed by redesignating subparagraphs (F) and (G) as
5 subparagraphs (G) and (H), respectively, and by in-
6 serting after subparagraph (E) the following new
7 subparagraph:

8 ““(E) a family savings account described
9 in section 224(c),’.

10 “(j) FAMILY SAVINGS ACCOUNTS MAY BE OFFERED
11 UNDER CAFETERIA PLANS.— Section 125(d)(2) of such
12 Code is amended by adding at the end the following new
13 subparagraph:

14 ““(E) EXCEPTION FOR FAMILY SAVINGS
15 ACCOUNTS.—Subparagraph (A) shall not apply
16 to a plan to the extent of amounts which a cov-
17 ered employee may elect to have the employer
18 pay as contributions to a family savings account
19 established on behalf of the employee.’.

20 “(k) CONFORMING AMENDMENTS.—

21 “(1) Section 408(a)(1) of such Code is amended
22 by inserting ‘224(e)(8),’ before ‘402(c),’.

23 “(2) The table of sections for part VII of sub-
24 chapter B of chapter 1 of such Code is amended by
25 redesignating the item relating to section 224 as an

1 item relating to section 225 and by inserting after
2 the item relating to section 223 the following new
3 item:

“Sec. 224. Family savings accounts.’

4 “(3) The table of sections for chapter 43 of
5 such Code is amended by adding after the item re-
6 lating to section 4980H the following new item:

“Sec. 4980I. Failure of employer to make comparable family savings account
contributions.’

7 “(1) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2021.

10 **“SEC. 2204. EXPAND SMALL EMPLOYER POOLING OPTIONS**
11 **FOR PAID FAMILY AND MEDICAL LEAVE.**

12 “(a) AMENDMENT TO EMPLOYEE RETIREMENT IN-
13 COME SECURITY ACT OF 1974.—

14 “(1) IN GENERAL.—Section 3(40)(A) of the
15 Employee Retirement Income Security Act of 1974
16 (29 U.S.C. 1002(40)(A)) is amended by inserting ‘,
17 which, for the purposes of this paragraph, may in-
18 clude paid family and medical leave benefits,’ after
19 ‘paragraph (1)’.

20 “(2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall take effect on the date that
22 is 90 days after the date of enactment of this Act.

1 “(3) REGULATIONS.—The Secretary of Labor
2 shall, in coordination with the issuance of regula-
3 tions by the Secretary of the Treasury pursuant to
4 subsection (b)(3), issue regulations to implement
5 and ensure compliance with the amendment made by
6 paragraph (1) to ensure consistency and parity in
7 the treatment of paid family medical leave benefits
8 across Federal agencies.

9 “(b) AMENDMENT TO INTERNAL REVENUE CODE OF
10 1986.—

11 “(1) IN GENERAL.—Section 501(c)(9) of the
12 Internal Revenue Code of 1986 is amended by in-
13 sserting ‘disability, paid family and medical leave,’
14 after ‘life, sick, accident,’.

15 “(2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall apply after the date that is
17 90 days after the date of enactment of this Act, in
18 taxable years ending after such date.

19 “(3) REGULATIONS.—The Secretary of the
20 Treasury shall, in coordination with the issuance of
21 regulations by the Secretary of Labor pursuant to
22 subsection (a)(3), issue regulations to implement
23 and ensure compliance with the amendment made by
24 paragraph (1) to ensure consistency and parity in

1 the treatment of paid family medical leave benefits
2 across Federal agencies.

3 “(c) REPORT.—Not later than 120 days after the
4 date of enactment of this Act, the Secretary of Labor and
5 the Secretary of the Treasury shall jointly submit a report
6 to the Committee on Education and Labor and the Com-
7 mittee on Ways and Means of the House of Representa-
8 tives with recommendations describing—

9 “(1) statutory or regulatory changes needed to
10 facilitate multi-employer and small business pooling
11 and cost-sharing, such as through multiple employer
12 welfare arrangements, for the purpose of providing
13 paid family and medical leave benefits, including
14 through the use of short-term disability insurance,
15 to the employees of two or more employers; and

16 “(2) statutory or regulatory changes necessary
17 to allow employers to implement the actions de-
18 scribed in paragraph (1) through a tax exempt trust,
19 such as a voluntary employee benefits association, or
20 other mechanism.

21 **“SEC. 2205. PROMOTING EQUITABLE ACCESS TO PAID FAM-
22 ILY LEAVE.**

23 “Section 418 of the Social Security Act (42 U.S.C.
24 618) is amended—

1 “(1) by redesignating subsection (d) as sub-
2 section (e); and

3 “(2) by inserting after subsection (c) the fol-
4 lowing:

5 “(d) GRANT CONDITION.—

6 “(1) IN GENERAL.—As a condition of receiving
7 a grant under this section, a State shall provide the
8 parent of an eligible child the option to receive, in
9 accordance with this section, a payment, which may
10 be made on a monthly, biweekly, or weekly basis, for
11 each month in the parental leave period with respect
12 to such eligible child, in lieu of receiving any child
13 care services described in the Child Care and Devel-
14 opment Block Grant Act of 1990 during the period.

15 “(2) AMOUNT.—The amount of a payment
16 made pursuant to paragraph (1) with respect to an
17 eligible child shall be not less than the average sub-
18 sidy payment in the applicable market area within
19 the State for the provision of child care services for
20 infants, across all categories of care.

21 “(3) APPLICATION.—To receive a payment
22 pursuant to paragraph (1) with respect to an eligible
23 child, the parent of the eligible child shall submit an
24 application to the lead agency, or agency designated
25 by the lead agency, of the applicable State before the

1 beginning of the parental leave period with respect
2 to the eligible child. The application shall include—

3 “(A) assurances by the applicant—

4 “(i) that the eligible child will not be
5 receiving any child care services described
6 in such Act during the period paid for by
7 funds made available under this part; and

8 “(ii) that the applicant will not be re-
9 ceiving paid parental leave from any other
10 source during the period;

11 “(B) documentation demonstrating that
12 the applicant was working or attending a job
13 training or educational program, as defined by
14 the State, for at least 4 consecutive quarters
15 ending on the date of application; and

16 “(C) any other such assurances or docu-
17 mentation the State may require.

18 “(4) TRANSITION TO CHILD CARE SERVICES.—

19 A parent of an eligible child receiving a payment
20 pursuant to paragraph (1) shall be provided the op-
21 tion to enroll in child care services provided under
22 such Act immediately after the end of the parental
23 leave period with respect to the eligible child.

24 “(5) DEFINITIONS.—In this subsection:

1 “(A) ELIGIBLE CHILD.—The term “eligi-
2 ble child” has the meaning given the term in
3 section 658P(4) of such Act without regard to
4 subparagraph (C).

5 “(B) LEAD AGENCY.—The term “lead
6 agency” has the meaning given the term with
7 respect to a State in section 658D of such Act.

8 “(C) PARENTAL LEAVE PERIOD.—The
9 term “parental leave period” means the 3-
10 month period beginning on the date of birth or
11 adoption, as applicable, of an eligible child.

12 “(6) CLARIFICATION.—For purposes of sub-
13 section (b)(2), a payment pursuant to paragraph (1)
14 of this subsection, shall be considered child care as-
15 sistance.’.

16 **“SEC. 2206. WORKING FAMILIES FLEXIBILITY ACT.**

17 “(a) COMPENSATORY TIME.—Section 7 of the Fair
18 Labor Standards Act of 1938 (29 U.S.C. 207) is amended
19 by adding at the end the following:

20 “(t) COMPENSATORY TIME OFF FOR PRIVATE EM-
21 PLOYEES.—

22 “(1) GENERAL RULE.—An employee may re-
23 ceive, in accordance with this subsection and in lieu
24 of monetary overtime compensation, compensatory
25 time off at a rate not less than one and one-half

1 hours for each hour of employment for which over-
2 time compensation is required by this section.

3 ““(2) CONDITIONS.—An employer may provide
4 compensatory time to employees under paragraph
5 (1) only if such time is provided in accordance
6 with—

7 ““(A) applicable provisions of a collective
8 bargaining agreement between the employer
9 and the labor organization that has been cer-
10 tified or recognized as the representative of the
11 employees under applicable law; or

12 ““(B) in the case of employees who are not
13 represented by a labor organization that has
14 been certified or recognized as the representa-
15 tive of such employees under applicable law, an
16 agreement arrived at between the employer and
17 employee before the performance of the work
18 and affirmed by a written or otherwise
19 verifiable record maintained in accordance with
20 section 11(c)—

21 ““(i) in which the employer has of-
22 fered and the employee has chosen to re-
23 ceive compensatory time in lieu of mone-
24 tary overtime compensation; and

1 “(ii) entered into knowingly and vol-
2 untarily by such employee and not as a
3 condition of employment.

4 No employee may receive or agree to receive com-
5 pensatory time off under this subsection unless the
6 employee has worked at least 1,000 hours for the
7 employee’s employer during a period of continuous
8 employment with the employer in the 12-month pe-
9 riod before the date of agreement or receipt of com-
10 pensatory time off.

11 “(3) HOUR LIMIT.—

12 “(A) MAXIMUM HOURS.—An employee
13 may accrue not more than 160 hours of com-
14 pensatory time.

15 “(B) COMPENSATION DATE.—Not later
16 than January 31 of each calendar year, the em-
17 ployee’s employer shall provide monetary com-
18 pensation for any unused compensatory time off
19 accrued during the preceding calendar year that
20 was not used prior to December 31 of the pre-
21 ceding calendar year at the rate prescribed by
22 paragraph (6). An employer may designate and
23 communicate to the employer’s employees a 12-
24 month period other than the calendar year, in
25 which case such compensation shall be provided

1 not later than 31 days after the end of such 12-
2 month period.

3 “(C) EXCESS OF 80 HOURS.—The em-
4 ployer may provide monetary compensation for
5 an employee’s unused compensatory time in ex-
6 cess of 80 hours at any time after giving the
7 employee at least 30 days notice. Such com-
8 pensation shall be provided at the rate pre-
9 scribed by paragraph (6).

10 “(D) POLICY.—Except where a collective
11 bargaining agreement provides otherwise, an
12 employer that has adopted a policy offering
13 compensatory time to employees may, upon giv-
14 ing employees 30 days notice, discontinue such
15 policy and provide monetary compensation to
16 each employee with accrued compensatory time
17 that has not yet been used for all such compen-
18 satory time. Such compensation shall be pro-
19 vided at the rate prescribed by paragraph (6).

20 “(E) WRITTEN REQUEST.—An employee
21 may withdraw an agreement described in para-
22 graph (2)(B) at any time. An employee may
23 also request in writing that monetary com-
24 pensation be provided, at any time, for all com-
25 pensatory time accrued that has not yet been

1 used. Within 30 days of receiving the written
2 request, the employer shall provide the em-
3 ployee the monetary compensation due in ac-
4 cordance with paragraph (6).

5 “(4) PRIVATE EMPLOYER ACTIONS.—An em-
6 ployer that provides compensatory time under para-
7 graph (1) to employees shall not directly or indi-
8 rectly intimidate, threaten, or coerce or attempt to
9 intimidate, threaten, or coerce any employee for the
10 purpose of—

11 “(A) interfering with such employee’s
12 rights under this subsection to request or not
13 request compensatory time off in lieu of pay-
14 ment of monetary overtime compensation for
15 overtime hours; or

16 “(B) requiring any employee to use such
17 compensatory time.

18 “(5) TERMINATION OF EMPLOYMENT.—An
19 employee who has accrued compensatory time off au-
20 thorized to be provided under paragraph (1) shall,
21 upon the voluntary or involuntary termination of
22 employment, be paid for the unused compensatory
23 time in accordance with paragraph (6).

24 “(6) RATE OF COMPENSATION.—

1 “(A) GENERAL RULE.—If compensation
2 is to be paid to an employee for accrued com-
3 pensatory time off, such compensation shall be
4 paid at a rate of compensation not less than—

5 “(i) the regular rate received by such
6 employee when the compensatory time was
7 earned; or

8 “(ii) the final regular rate received
9 by such employee,
10 whichever is higher.

11 “(B) CONSIDERATION OF PAYMENT.—
12 Any payment owed to an employee under this
13 subsection for unused compensatory time shall
14 be considered unpaid overtime compensation.

15 “(7) USE OF TIME.—An employee—

16 “(A) who has accrued compensatory time
17 off authorized to be provided under paragraph
18 (1); and

19 “(B) who has requested the use of such
20 compensatory time,

21 shall be permitted by the employee’s employer to use
22 such time within a reasonable period after making
23 the request if the use of the compensatory time does
24 not unduly disrupt the operations of the employer.

1 “(8) DEFINITIONS.—For purposes of this sub-
2 section—

3 “(A) the term “employee” does not in-
4 clude an employee of a public agency; and

5 “(B) the terms “overtime compensation”,
6 “compensatory time”, and “compensatory time
7 off” shall have the meanings given such terms
8 by subsection (o)(7).’.

9 “(b) REMEDIES.—Section 16 of the Fair Labor
10 Standards Act of 1938 (29 U.S.C. 216) is amended—

11 “(1) in subsection (b), in the first sentence, by
12 striking ‘(b) Any employer’ and inserting ‘(b) Except
13 as provided in subsection (f), any employer’; and

14 “(2) by adding at the end the following:

15 “(f) An employer that violates section 7(t)(4) shall
16 be liable to the employee affected in the amount of the
17 rate of compensation (determined in accordance with sec-
18 tion 7(t)(6)(A)) for each hour of compensatory time ac-
19 crued by the employee and in an additional equal amount
20 as liquidated damages reduced by the amount of such rate
21 of compensation for each hour of compensatory time used
22 by such employee.’.

23 “(c) NOTICE TO EMPLOYEES.—Not later than 30
24 days after the date of enactment of this Act, the Secretary
25 of Labor shall revise the materials the Secretary provides,

1 under regulations published in section 516.4 of title 29,
2 Code of Federal Regulations (or any corresponding similar
3 regulation or ruling), to employers for purposes of a notice
4 explaining the Fair Labor Standards Act of 1938 (29
5 U.S.C. 201 et seq.) to employees so that such notice re-
6 flects the amendments made to such Act by this section.

7 “(d) GAO REPORT.—Beginning 2 years after the
8 date of enactment of this Act and each of the 3 years
9 thereafter, the Comptroller General shall submit a report
10 to Congress providing, with respect to the reporting period
11 immediately prior to each such report—

12 “(1) data concerning the extent to which em-
13 ployers provide compensatory time pursuant to sec-
14 tion 7(t) of the Fair Labor Standards Act of 1938,
15 as added by this Act, and the extent to which em-
16 ployees opt to receive compensatory time;

17 “(2) the number of complaints alleging a viola-
18 tion of such section filed by any employee with the
19 Secretary of Labor;

20 “(3) the number of enforcement actions com-
21 menced by the Secretary or commenced by the Sec-
22 retary on behalf of any employee for alleged viola-
23 tions of such section;

1 “(4) the disposition or status of such com-
2 plaints and actions described in paragraphs (2) and
3 (3); and

4 “(5) an account of any unpaid wages, damages,
5 penalties, injunctive relief, or other remedies ob-
6 tained or sought by the Secretary in connection with
7 such actions described in paragraph (3).

8 “(e) SUNSET.—This section and the amendments
9 made by this section shall expire 5 years after the date
10 of enactment of this Act.”.

