

115TH CONGRESS
2D SESSION

S. 2505

To amend the Internal Revenue Code of 1986 to ensure that workers and communities that are responsible for record corporate profits benefit from the wealth that those workers and communities help to create, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2018

Mr. BOOKER (for himself and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to ensure that workers and communities that are responsible for record corporate profits benefit from the wealth that those workers and communities help to create, 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 “Worker Dividend Act
5 of 2018”.

1 **SEC. 2. FAILURE OF EMPLOYER TO PAY WORKER DIVI-**
 2 **DENDS.**

3 (a) IN GENERAL.—Subtitle D of the Internal Rev-
 4 enue Code of 1986 is amended by inserting after chapter
 5 36 the following new chapter:

6 **“CHAPTER 37—PROVISIONS RELATING TO**
 7 **WORKER DIVIDENDS**

“Sec. 4501. Failure of employer to pay worker dividends.

8 **“SEC. 4501. FAILURE OF EMPLOYER TO PAY WORKER DIVI-**
 9 **DENDS.**

10 “(a) GENERAL RULE.—If, for a taxable year in which
 11 a covered employer repurchases any securities of the em-
 12 ployer on the open market, the covered employer fails to
 13 pay to its employees a worker dividend meeting the re-
 14 quirements of subsection (b), then there is hereby imposed
 15 on the covered employer a tax equal to the lesser of the
 16 amounts determined under subparagraphs (A) and (B) of
 17 subsection (b)(1).

18 “(b) WORKER DIVIDEND.—For purposes of this sec-
 19 tion—

20 “(1) IN GENERAL.—The term ‘worker dividend’
 21 means a payment made by a covered employer to
 22 employees of the employer at locations in the United
 23 States, if the total of all such payments made during
 24 the taxable year is not less than the lesser of—

1 “(A) the amount paid by the employer to
2 repurchase securities of the employer on the
3 open market during the taxable year, and

4 “(B) 50 percent of the amount by which
5 the earnings before interest, taxes, depreciation,
6 and amortization of the employer during the
7 taxable year in the United States exceed
8 \$250,000,000.

9 “(2) PAYMENTS TO BE IN ADDITION TO COM-
10 PENSATION.—Such term shall not include any pay-
11 ment unless such payment is in addition to, and (in-
12 cluding by election of the employee) is not included
13 in (except as provided in paragraph (5)) or sub-
14 stituted for, any cash or other compensation ordi-
15 narily paid to the employee by the employer.

16 “(3) PAYMENTS TO BE EQUAL.—Such term
17 shall not include any payment unless the amount of
18 the payment made to each employee of the employer
19 in the United States is of an equal amount. Notwith-
20 standing the preceding sentence, in the case of an
21 employee employed at less than full time, the pay-
22 ment to such employee may be in a pro rata amount
23 based on the hours worked by the employee per
24 week.

1 “(4) TIMING OF PAYMENT.—Such term shall
2 not include any payment which is not made within
3 60 days of the close of the taxable year to which it
4 relates.

5 “(5) OPTION TO INCREASE COMPENSATION.—A
6 covered employer may, by providing such docu-
7 mentation as the Secretary may require, elect to
8 have the worker dividend paid to employees in the
9 form of an increase in regular compensation. In the
10 case of a covered employer making such election—

11 “(A) paragraph (4) shall not apply, and

12 “(B) the term ‘worker dividend’ includes
13 only increases in compensation which are so
14 documented and which are paid within 1 cal-
15 endar year of the date the increase goes into ef-
16 fect.

17 “(c) COVERED EMPLOYER.—For purposes of this
18 section, the term ‘covered employer’ means, for any tax-
19 able year, any entity the stock of which is publicly traded.

20 “(d) AGGREGATION RULE.—All persons treated as a
21 single employer under subsection (a) or (b) of section 52
22 shall be treated as a single employer for purposes of deter-
23 mining whether an individual is an employee of a covered
24 employer.

1 “(e) REGULATIONS.—The Secretary, in consultation
2 with the Secretary of Labor, shall promulgate regulations
3 or other guidance to ensure compliance with this section,
4 including the determination of full time status and rules
5 to prevent avoidance of the purposes of subsection (b)(2).

6 “(f) REPORTING.—With respect to any taxable year
7 in which a covered employer repurchases any securities of
8 the employer on the open market, not later than the due
9 date for the return of tax for such taxable year such em-
10 ployer shall report to the Secretary and the Chairman of
11 the Securities and Exchange Commission, in such manner
12 as the Secretary shall determine, the amount of any work-
13 er dividend paid during such taxable year and any other
14 information as the Secretary shall require.”.

15 (b) CLERICAL AMENDMENT.—The table of chapters
16 for subtitle D of the Internal Revenue Code of 1986 is
17 amended by inserting after the item relating to chapter
18 36 the following new item:

“CHAPTER 37—PROVISIONS RELATING TO WORKER DIVIDENDS”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to repurchases of employer securi-
21 ties in taxable years beginning after the date of the enact-
22 ment of this Act.

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