

115TH CONGRESS
2D SESSION

S. 3544

To amend the Internal Revenue Code of 1986 to modify the rate of tax on corporations participating in labor lockouts and to prohibit deductions and credits for wages and benefits paid to temporary workers during labor lockouts.

IN THE SENATE OF THE UNITED STATES

OCTOBER 3 (legislative day, SEPTEMBER 28), 2018

Mr. TESTER 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 modify the rate of tax on corporations participating in labor lockouts and to prohibit deductions and credits for wages and benefits paid to temporary workers during labor lockouts.

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 “Prohibiting Incentives
5 for Corporations that Kickout Employees Tax (PICKET)
6 Act”.

1 **SEC. 2. RATE OF TAX FOR CORPORATIONS PARTICIPATING**
 2 **IN LABOR LOCKOUTS.**

3 (a) IN GENERAL.—Section 11 of the Internal Rev-
 4 enue Code of 1986 is amended by redesignating sub-
 5 sections (c) and (d) as subsections (d) and (e), respec-
 6 tively, and by inserting after subsection (b) the following
 7 new subsection:

8 “(c) EXCEPTION FOR DISQUALIFIED CORPORA-
 9 TIONS.—

10 “(1) IN GENERAL.—In the case of any corpora-
 11 tion participating in a labor lockout during the tax-
 12 able year, subsection (b) shall be applied by sub-
 13 stituting ‘35 percent’ for ‘21 percent’.

14 “(2) LABOR LOCKOUT.—For purposes of this
 15 subsection, the term ‘labor lockout’ means a labor
 16 dispute involving a work stoppage, wherein an em-
 17 ployer withholds work from its employees in order to
 18 gain a concession from them.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) The heading of section 11(d) of the Internal
 21 Revenue Code of 1986 (as redesignated by sub-
 22 section (a)) is amended by striking “EXCEPTIONS”
 23 and inserting “OTHER EXCEPTIONS”.

24 (2) Section 280C(c)(2)(B)(ii)(II) of such Code
 25 is amended by inserting “(section 11(c), in the case

1 of a disqualified domestic subsidiary (as defined in
2 such section))” after “section 11(b)”.

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

6 **SEC. 3. DENIAL OF DEDUCTION AND CREDITS FOR WAGES**
7 **AND BENEFITS PAID TO TEMPORARY WORK-**
8 **ERS DURING A LABOR LOCKOUT.**

9 (a) DEDUCTION.—

10 (1) IN GENERAL.—Part IX of subchapter B of
11 chapter 1 of the Internal Revenue Code of 1986 is
12 amended by adding at the end the following new
13 subsection:

14 **“SEC. 280I. REMUNERATION PAID DURING LABOR**
15 **LOCKOUTS.**

16 “(a) IN GENERAL.—No deduction shall be allowed
17 for any remuneration paid by the taxpayer (including
18 wages or other benefits) to any temporary replacement
19 worker during a labor lockout (as defined in section
20 11(c)(2)).

21 “(b) TEMPORARY REPLACEMENT WORKER.—For
22 purposes of subsection (a), the term ‘temporary replace-
23 ment worker’ means any individual compensated to per-
24 form duties normally performed by employees from whom
25 work is withheld under the labor lockout.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
 2 tions for part IX of subchapter B of chapter 1 of
 3 such Code is amended by adding at the end the fol-
 4 lowing new item:

“Sec. 280I. Remuneration paid during labor lockouts.”.

5 (b) CREDITS.—

6 (1) RESEARCH CREDIT.—Section 41(b)(2)(D)
 7 of the Internal Revenue Code of 1986 is amended by
 8 adding at the end the following new clause:

9 “(iv) EXCLUSION FOR WAGES PAID
 10 DURING A LABOR LOCKOUT.—The term
 11 ‘wages’ shall not include any amount paid
 12 to a temporary replacement worker (as de-
 13 fined in section 280I) during a labor lock-
 14 out (as defined in section 11(c)(2)).”.

15 (2) WORK OPPORTUNITY CREDIT.—Section
 16 51(c) of such Code is amended by adding at the end
 17 the following new paragraph:

18 “(6) EXCLUSION FOR WAGES PAID DURING A
 19 LABOR LOCKOUT.—The term ‘wages’ shall not in-
 20 clude any amount paid to a temporary replacement
 21 worker (as defined in section 280I) during a labor
 22 lockout (as defined in section 11(c)(2)).”.

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

