H. R. 116

To require employers to pay hazard pay to health care employees during public health emergencies, and to provide a tax credit for the cost of such pay.

IN THE HOUSE OF REPRESENTATIVES

Mr. NEGUSTR introduced the following bill; which was referred to the Committee on

A BILL

To require employers to pay hazard pay to health care employees during public health emergencies, and to provide a tax credit for the cost of such pay.

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 “Hazard Pay for the

Frontlines During Health Emergencies Act”.

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SEC. 2. MANDATORY HAZARD PAY FOR HEALTH CARE EMPLOYEES DURING PUBLIC HEALTH EMERGENCIES.

(a) Employer Requirement.—During an emergency period, an employer of a health care employee shall pay the employee at a rate not less than one and one-fourth times the regular rate at which the employee is employed.

(b) Enforcement.—A violation of subsection (a) shall be treated as a violation of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206).

(c) Definitions.—In this Act:

(1) FLSA Terms.—The terms “employer” and “employ” have the meanings given the terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(2) Health Care Employee.—The term “health care employee” means an employee described in major group 29 or 31 in the occupational profiles published by the Bureau of Labor Statistics; except that such term shall not include any of the following: veterinarians; chiropractors; dentists; dietitians and nutritionists; optometrists; podiatrists; occupational therapists; physical therapists; radiation therapists; recreational therapists; speech-language pathologists; exercise physiologists; therapists, all other; audiologists; dental hygienists; dietetic
technicians; veterinary technologists and technicians; ophthalmic medical technicians; medical records and health information technicians; opticians, dispensing; athletic trainers; genetic counselors; occupational therapy and physical therapist assistants and aides; other healthcare support occupations; dental assistants; medical transcriptionists; pharmacy aides; and veterinary assistants and laboratory animal caretakers.

(3) Emergency period.—The term “emergency period” has the meaning given such term in section 1135(g) of the Social Security Act.

(4) Regular rate.—The term “regular rate” has the meaning given the term in section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207).

SEC. 3. PAYROLL CREDIT FOR CERTAIN MANDATORY HAZARD PAY.

(a) In general.—In the case of an employer, there shall be allowed as a credit against the tax imposed by section 3111(a) of the Internal Revenue Code of 1986 for each calendar quarter an amount equal to 100 percent of the qualified hazard pay wages paid by such employer with respect to such calendar quarter.

(b) Limitations and refundability.—
(1) Credit limited to certain employment taxes.—The credit allowed by subsection (a) with respect to any calendar quarter shall not exceed the tax imposed by section 3111(a) of such Code for such calendar quarter (reduced by any other credits allowed against such tax for such quarter) on the wages paid with respect to the employment of all employees of the employer.

(2) Refundability of excess credit.—

(A) In general.—If the amount of the credit under subsection (a) exceeds the limitation of paragraph (1) for any calendar quarter, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of such Code.

(B) Treatment of payments.—For purposes of section 1324 of title 31, United States Code, any amounts due to an employer under this paragraph shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(c) Qualified hazard pay wages.—For purposes of this section, the term “qualified hazard pay wages” means wages (as defined in section 3121(a) of the Internal
Revenue Code of 1986) paid by an employer which are required to be paid by reason of section 2.

(d) Special Rules.—

(1) Denial of double benefit.—For purposes of chapter 1 of such Code, the gross income of the employer, for the taxable year which includes the last day of any calendar quarter with respect to which a credit is allowed under this section, shall be increased by the amount of such credit.

(2) Election not to have section apply.—

This section shall not apply with respect to any employer for any calendar quarter if such employer elects (at such time and in such manner as the Secretary of the Treasury (or the Secretary’s delegate) may prescribe) not to have this section apply.

(3) Certain terms.—Any term used in this section which is also used in chapter 21 of such Code shall have the same meaning as when used in such chapter.

(e) Regulations.—The Secretary of the Treasury (or the Secretary’s delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—
(1) regulations or other guidance to prevent the avoidance of the purposes of the limitations under this section,

(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section,

(3) regulations or other guidance providing for waiver of penalties for failure to deposit amounts in anticipation of the allowance of the credit allowed under this section,

(4) regulations or other guidance for recapturing the benefit of credits determined under this section in cases where there is a subsequent adjustment to the credit determined under subsection (a), and

(5) regulations or other guidance to ensure that the wages taken into account under this section conform with the wages required under section 2.

(f) T RANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of this section
(without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had this section not been enacted.