

116TH CONGRESS  
2D SESSION

# H. R. 8669

To amend the Internal Revenue Code of 1986 to impose a tax on employers whose employees receive certain Federal benefits.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 2020

Mr. KHANNA introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to impose a tax on employers whose employees receive certain Federal benefits.

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 “Corporate Responsi-  
5 bility and Taxpayer Protection Act of 2020”.

1 **SEC. 2. TAX ON EMPLOYERS WITH EMPLOYEES RECEIVING**  
2 **CERTAIN FEDERAL BENEFITS.**

3 (a) IN GENERAL.—The Internal Revenue Code of  
4 1986 is amended by inserting after chapter 36 the fol-  
5 lowing new chapter:

6 **“CHAPTER 37—EMPLOYERS WITH EM-**  
7 **PLOYEES RECEIVING CERTAIN FED-**  
8 **ERAL BENEFITS**

9 **“SEC. 4501. EMPLOYERS WITH EMPLOYEES RECEIVING**  
10 **CERTAIN FEDERAL BENEFITS.**

11 “(a) IMPOSITION OF CORPORATE WELFARE TAX.—  
12 There is hereby imposed on each large employer a tax  
13 equal to 100 percent of the qualified employee benefits  
14 with respect to such employer for the taxable year.

15 “(b) LARGE EMPLOYER.—

16 “(1) IN GENERAL.—For purposes of this sec-  
17 tion, the term ‘large employer’ means, with respect  
18 to a calendar year, an employer who employed an  
19 average of at least 500 full-time employees on busi-  
20 ness days during the preceding calendar year.

21 “(2) RULES FOR DETERMINING EMPLOYER  
22 SIZE.—For purposes of this subsection—

23 “(A) APPLICATION OF AGGREGATION RULE  
24 FOR EMPLOYERS.—All persons treated as a sin-  
25 gle employer under subsection (b), (c), (m), or

1 (o) of section 414 of the Internal Revenue Code  
2 of 1986 shall be treated as 1 employer.

3 “(B) FULL-TIME EQUIVALENTS TREATED  
4 AS FULL-TIME EMPLOYEES.—Solely for pur-  
5 poses of determining whether an employer is a  
6 large employer under this paragraph, an em-  
7 ployer shall, in addition to the number of full-  
8 time employees for any month otherwise deter-  
9 mined, include for such month a number of full-  
10 time employees determined by dividing the ag-  
11 gregate number of hours of service of employees  
12 who are not full-time employees for the month  
13 by 120.

14 “(C) EMPLOYERS NOT IN EXISTENCE IN  
15 PRECEDING YEAR.—In the case of an employer  
16 which was not in existence throughout the pre-  
17 ceeding calendar year, the determination of  
18 whether such employer is a large employer shall  
19 be based on the average number of employees  
20 that it is reasonably expected such employer  
21 will employ on business days in the current cal-  
22 endar year.

23 “(D) PREDECESSORS.—Any reference in  
24 this subsection to an employer shall include a  
25 reference to any predecessor of such employer.

1           “(3) CERTAIN EMPLOYERS EXEMPT.—For pur-  
2           poses of paragraph (1), an employer shall not be  
3           considered a large employer if—

4                   “(A) such employer pays all employees a  
5                   wage of \$15 per hour (or the salaried equiva-  
6                   lent) or more, or

7                   “(B) such employer holds less than \$100  
8                   million in assets.

9           “(c) QUALIFIED EMPLOYEE BENEFITS.—For pur-  
10          poses of this section:

11                   “(1) IN GENERAL.—The term ‘qualified em-  
12                   ployee benefits’ means, with respect to a person for  
13                   a taxable year, the sum the qualified Federal bene-  
14                   fits for which individuals who are employees of such  
15                   person for such taxable year.

16                   “(2) QUALIFIED FEDERAL BENEFITS.—The  
17                   term ‘qualified Federal benefits’ means, with respect  
18                   to an individual, the following:

19                           “(A) The dollar value of supplemental nu-  
20                           trition assistance for which the household (as  
21                           defined in section 3(m) of the Food and Nutri-  
22                           tion Act of 2008) that includes such individual  
23                           is eligible.

24                           “(B) The dollar value of meals that such  
25                           individual or dependents of such individual are

1 eligible for under the school lunch program  
2 under the Richard B. Russell National School  
3 Lunch Act and the school breakfast program  
4 under section 4 of the Child Nutrition Act of  
5 1966.

6 “(C) The aggregate amount of the monthly  
7 assistance payments for rental of a dwelling  
8 unit that the household of such individual was  
9 a member of is eligible to have made of its be-  
10 half pursuant to section 8 of the United States  
11 Housing Act of 1937.

12 “(D) The amount of payments made under  
13 section 1903 of the Social Security Act with re-  
14 spect to expenditures made by a State under a  
15 State Medicaid plan under title XIX of such  
16 Act (or a waiver of such plan) for medical as-  
17 sistance for such individual or for dependents of  
18 such individual.

19 “(d) EMPLOYEE.—For purposes of this section, the  
20 term ‘employee’ means—

21 “(1) any full-time or part-time employee,

22 “(2) any individual who is a full-time or part-  
23 time independent contractor (including any employee  
24 of such independent contractor) and provides serv-  
25 ices to the employer, unless—

1           “(A) the individual is free from control and  
2           direction in connection with the performance of  
3           the service, both under the contract for the per-  
4           formance of service and in fact,

5           “(B) the service is performed outside the  
6           usual course of the business of the employer,  
7           and

8           “(C) the individual is customarily engaged  
9           in an independently established trade, occupa-  
10          tion, profession or business of the same nature  
11          as that involved in the service performed, and

12          “(3) any individual who is a full-time or part-  
13          time joint employee, provided that the employer pos-  
14          sess, reserves, or exercises sufficient direct or indi-  
15          rect control over the essential terms and conditions  
16          of employment of such employee.

17          “(e) REGULATIONS.—The Secretary, in consultation  
18          with the Secretary of Agriculture, the Secretary of Hous-  
19          ing and Urban Development, and the Administrator of the  
20          Centers for Medicare and Medicaid Services, shall pre-  
21          scribe such regulations as may be necessary or appropriate  
22          to carry out this chapter.”.

23          (b) CLERICAL AMENDMENTS.—The table of chapters  
24          for subtitle D of such Code is amended by inserting after  
25          the item relating to chapter 36 the following new item:

“CHAPTER 37—EMPLOYERS WITH EMPLOYEES RECEIVING CERTAIN  
FEDERAL BENEFITS”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this Act apply with respect to taxable years beginning  
3 after December 31, 2020.

4 **SEC. 3. UNLAWFUL EMPLOYMENT PRACTICES RELATED TO**  
5 **FEDERAL BENEFITS OF APPLICANTS.**

6 (a) IN GENERAL.—It shall be an unlawful employ-  
7 ment practice for any large employer (as defined in section  
8 4501(b) of the Internal Revenue Code of 1986) to make  
9 inquiries of an applicant for employment, or otherwise  
10 seek information about such an applicant (including  
11 through the use of any form or application), relating to  
12 whether such applicant receives Federal benefits.

13 (b) ENFORCEMENT.—A violation of subsection (a)  
14 shall be treated as, and enforced by the Secretary of Labor  
15 in the same manner as, a violation of section 6 of the Fair  
16 Labor Standards Act of 1938 (29 U.S.C. 206), except that  
17 for purposes of section 15(b) of such Act (29 U.S.C.  
18 215(b)), the employer shall be liable to the individual al-  
19 leging the violation for any lost wages due the individual  
20 and an additional equal amount of liquidated damages.

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