

112TH CONGRESS
1ST SESSION

S. 825

To amend the Internal Revenue Code of 1986 to permanently extend and modify the research tax credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 14, 2011

Mr. COONS 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 permanently extend and modify the research tax credit, 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 (a) SHORT TITLE.—This Act may be cited as the
5 “Job Creation Through Innovation Act”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. USE OF ONLY SIMPLIFIED RESEARCH CREDIT**
4 **AFTER 2011; EXPANSION AND PERMANENT**
5 **EXTENSION.**

6 (a) SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH
7 EXPENSES.—Subsection (a) of section 41 is amended to
8 read as follows:

9 “(a) GENERAL RULE.—

10 “(1) CREDIT DETERMINED.—For purposes of
11 section 38, the research credit determined under this
12 section for the taxable year shall be an amount equal
13 to 20 percent of so much of the qualified research
14 expenses for the taxable year as exceeds 50 percent
15 of the average qualified research expenses for the 3
16 taxable years preceding the taxable year for which
17 the credit is being determined.

18 “(2) SPECIAL RULE IN CASE OF NO QUALIFIED
19 RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAX-
20 ABLE YEARS.—

21 “(A) TAXPAYERS TO WHICH PARAGRAPH
22 APPLIES.—The credit under this section shall
23 be determined under this paragraph if the tax-
24 payer has no qualified research expenses in any

1 one of the 3 taxable years preceding the taxable
2 year for which the credit is being determined.

3 “(B) CREDIT RATE.—The credit deter-
4 mined under this paragraph shall be equal to
5 10 percent of the qualified research expenses
6 for the taxable year.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) TERMINATION OF BASE AMOUNT CALCULA-
9 TION.—Section 41 is amended by striking subsection
10 (c) and redesignating subsection (d) as subsection
11 (e).

12 (2) TERMINATION OF BASIC RESEARCH PAY-
13 MENT CALCULATION.—Section 41 is amended by
14 striking subsection (e) and redesignating subsections
15 (f) and (g) as subsections (d) and (e), respectively.

16 (3) SPECIAL RULES.—

17 (A) Paragraph (1)(A)(ii) of subsection (d)
18 of section 41, as so redesignated, is amended by
19 striking “shares of the qualified research ex-
20 penses, basic research payments, and amounts
21 paid or incurred to energy research Consor-
22 tiums,” and inserting “share of the qualified re-
23 search expenses”.

24 (B) Paragraph (1)(B)(ii) of section 41(d),
25 as so redesignated, is amended by striking

1 “shares of the qualified research expenses, basic
2 research payments, and amounts paid or in-
3 curred to energy research consortiums,” and in-
4 serting “share of the qualified research ex-
5 penses”.

6 (C) Paragraph (3) of section 41(d), as so
7 redesignated, is amended—

8 (i) by striking “, and the gross re-
9 ceipts of the taxpayer” and all that follows
10 in subparagraph (A) and inserting a pe-
11 riod,

12 (ii) by striking “, and the gross re-
13 ceipts of the taxpayer” and all that follows
14 in subparagraph (B) and inserting a pe-
15 riod, and

16 (iii) by striking subparagraph (C).

17 (D) Paragraph (4) of section 41(d), as so
18 redesignated, is amended by striking “and gross
19 receipts”.

20 (E) Subsection (d) of section 41, as so re-
21 designated, is amended by striking paragraph
22 (6).

23 (4) PERMANENT EXTENSION.—

24 (A) Section 41 is amended by striking sub-
25 section (h).

1 (B) Section 45C(b)(1) is amended by strik-
2 ing subparagraph (D).

3 (5) CROSS-REFERENCES.—

4 (A) Paragraphs (2)(A) and (4) of section
5 41(b) are each amended by striking “subsection
6 (f)(1)” and inserting “subsection (d)(1)”.

7 (B) Paragraph (2) of section 45C(c) is
8 amended by striking “base period research ex-
9 penses” and inserting “average qualified re-
10 search expenses”.

11 (C) Paragraph (3) of section 45C(d) is
12 amended by striking “section 41(f)” and insert-
13 ing “section 41(d)”.

14 (D) Paragraph (2) of section 45G(e) is
15 amended by striking “section 41(f)” and insert-
16 ing “section 41(d)”.

17 (E) Subsection (g) of section 45O is
18 amended by striking “section 41(f)” and insert-
19 ing “section 41(d)”.

20 (F) Subparagraph (A) of section 54(l)(3)
21 is amended by striking “section 41(g)” and in-
22 serting “section 41(e)”.

23 (G) Clause (i) of section 170(e)(4)(B) is
24 amended to read as follows:

1 “(i) the contribution is to a qualified
2 organization,”.

3 (H) Paragraph (4) of section 170(e) is
4 amended by adding at the end the following
5 new subparagraph:

6 “(E) QUALIFIED ORGANIZATION.—For
7 purposes of this paragraph, the term ‘qualified
8 organization’ means—

9 “(i) any educational organization
10 which—

11 “(I) is an institution of higher
12 education (within the meaning of sec-
13 tion 3304(f)), and

14 “(II) is described in subsection
15 (b)(1)(A)(ii), or

16 “(ii) any organization not described in
17 clause (i) which—

18 “(I) is described in section
19 501(c)(3) and is exempt from tax
20 under section 501(a),

21 “(II) is organized and operated
22 primarily to conduct scientific re-
23 search, and

24 “(III) is not a private founda-
25 tion.”.

1 (I) Subsection (f) of section 197 is amend-
2 ed by striking “section 41(f)(1)” each place it
3 appears in paragraphs (1)(C) and (9)(C)(i) and
4 inserting “section 41(d)(1)”.

5 (J) Section 280C is amended—

6 (i) by striking “41(f)” each place it
7 appears in subsection (b)(3) and inserting
8 “41(d)”,

9 (ii) by striking “or basic research ex-
10 penses (as defined in section 41(e)(2))” in
11 subsection (c)(1),

12 (iii) by striking “section 41(a)(1)” in
13 subsection (c)(2)(A) and inserting “section
14 41(a)”, and

15 (iv) by striking “or basic research ex-
16 penses” in subsection (c)(2)(B).

17 (K) Subclause (IV)(c) of section
18 936(h)(5)(C)(i) is amended by striking “section
19 41(f)” and inserting “section 41(d)”.

20 (L) Subparagraph (D) of section 936(j)(5)
21 is amended by striking “section 41(f)(3)” and
22 inserting “section 41(d)(3)”.

23 (M) Clause (i) of section 965(e)(2)(C) is
24 amended by striking “section 41(f)(3)” and in-
25 serting “section 41(d)(3)”.

1 (N) Clause (i) of section 1400N(l)(7)(B) is
2 amended by striking “section 41(g)” and insert-
3 ing “section 41(e)”.

4 (c) TECHNICAL CORRECTIONS.—Section 409 is
5 amended—

6 (1) by inserting “, as in effect before the enact-
7 ment of the Tax Reform Act of 1984)” after “sec-
8 tion 41(e)(1)(B)” in subsection (b)(1)(A),

9 (2) by inserting “, as in effect before the enact-
10 ment of the Tax Reform Act of 1984” after “relat-
11 ing to the employee stock ownership credit” in sub-
12 section (b)(4),

13 (3) by inserting “(as in effect before the enact-
14 ment of the Tax Reform Act of 1984)” after “sec-
15 tion 41(e)(1)(B)” in subsection (i)(1)(A),

16 (4) by inserting “(as in effect before the enact-
17 ment of the Tax Reform Act of 1984)” after “sec-
18 tion 41(e)(1)(B)” in subsection (m),

19 (5) by inserting “(as so in effect)” after “sec-
20 tion 48(n)(1)” in subsection (m),

21 (6) by inserting “(as in effect before the enact-
22 ment of the Tax Reform Act of 1984)” after “sec-
23 tion 48(n)” in subsection (q)(1), and

1 (7) by inserting “(as in effect before the enact-
2 ment of the Tax Reform Act of 1984)” after “sec-
3 tion 41” in subsection (q)(3).

4 (d) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply to taxable years beginning after Decem-
8 ber 31, 2011.

9 (2) TECHNICAL CORRECTIONS.—The amend-
10 ments made by subsection (c) shall take effect on
11 the date of the enactment of this Act.

12 **SEC. 3. ENHANCED RESEARCH CREDIT FOR DOMESTIC**
13 **MANUFACTURERS.**

14 (a) IN GENERAL.—Section 41, as amended by section
15 3, is amended by redesignating subsection (f) as sub-
16 section (g) and by inserting after subsection (e) the fol-
17 lowing new subsection:

18 “(f) ENHANCED CREDIT FOR DOMESTIC MANUFAC-
19 TURERS.—

20 “(1) IN GENERAL.—In the case of a qualified
21 domestic manufacturer, this section shall be applied
22 by increasing the 20 percent amount in subsection
23 (a)(1) by the bonus amount.

24 “(2) QUALIFIED DOMESTIC MANUFACTURER.—
25 For purposes of this subsection—

1 “(A) IN GENERAL.—The term ‘qualified
2 domestic manufacturer’ means a taxpayer who
3 has domestic production gross receipts which
4 are more than 50 percent of total production
5 gross receipts.

6 “(B) DOMESTIC PRODUCTION GROSS RE-
7 CEIPTS.—The term ‘domestic production gross
8 receipts’ has the meaning given to such term
9 under section 199(c)(4).

10 “(C) TOTAL PRODUCTION GROSS RE-
11 CEIPTS.—The term ‘total production gross re-
12 cepts’ means the gross receipts of the taxpayer
13 which are described in section 199(c)(4), deter-
14 mined—

15 “(i) without regard to whether prop-
16 erty described in subparagraph (A)(i)(I) or
17 (A)(i)(III) thereof was manufactured, pro-
18 duced, grown, or extracted in the United
19 States,

20 “(ii) by substituting ‘any property de-
21 scribed in section 168(f)(3)’ for ‘any quali-
22 fied film’ in subparagraph (A)(i)(II) there-
23 of, and

24 “(iii) without regard to whether any
25 construction described in subparagraph

1 (A)(ii) thereof or services described in sub-
 2 paragraph (A)(iii) thereof were performed
 3 in the United States.

4 “(3) BONUS AMOUNT.—For purposes of para-
 5 graph (1), the bonus amount shall be determined as
 6 follows:

“If the percentage of total production gross receipts which are domestic production gross receipts is:	The bonus amount is:
More than 50 percent and not more than 60 per- cent.	2 percentage points
More than 60 percent and not more than 70 per- cent.	4 percentage points
More than 70 percent and not more than 80 per- cent.	6 percentage points
More than 80 percent and not more than 90 per- cent.	8 percentage points
More than 90 percent	10 percentage points.”.

7 (b) EFFECTIVE DATE.—The amendment made by
 8 this section shall apply to expenditures paid or incurred
 9 in taxable years beginning after December 31, 2011.

10 **SEC. 4. RESEARCH CREDIT MADE REFUNDABLE FOR SMALL**
 11 **BUSINESSES.**

12 (a) IN GENERAL.—Subsection (a) of section 41 of the
 13 Internal Revenue Code of 1986, as amended by section
 14 3, is amended by adding at the end the following new
 15 paragraph:

16 “(3) PORTION OF CREDIT REFUNDABLE.—

17 “(A) IN GENERAL.—For purposes of sub-
 18 sections (b) and (c) of section 6401, the
 19 amount of the credit determined under this sec-

1 (1) in paragraph (1), by striking “or 2011” and
2 inserting “2011, or 2012”, and

3 (2) in paragraph (2)—

4 (A) by striking “after 2011” and inserting
5 “after 2012”, and

6 (B) by striking “or 2011” and inserting
7 “2011, or 2012”.

8 (b) CONFORMING AMENDMENT.—Subsection (j) of
9 section 1603 of division B of such Act is amended by strik-
10 ing “2012” and inserting “2013”.

11 **SEC. 6. EXTENSION OF THE ADVANCED ENERGY PROJECT**

12 **CREDIT.**

13 (a) IN GENERAL.—Subsection (d) of section 48C is
14 amended by adding at the end the following new para-
15 graph:

16 “(6) ADDITIONAL 2011 ALLOCATIONS.—

17 “(A) IN GENERAL.—Not later than 180
18 days after the date of the enactment of this
19 paragraph, the Secretary, in consultation with
20 the Secretary of Energy, shall establish a pro-
21 gram to consider and award certifications for
22 qualified investments eligible for credits under
23 this section to qualifying advanced energy
24 project sponsors with respect to applications re-

1 ceived on or after the date of the enactment of
2 this paragraph.

3 “(B) LIMITATION.—The total amount of
4 credits that may be allocated under the pro-
5 gram described in subparagraph (A) shall not
6 exceed the 2011 allocation amount reduced by
7 so much of the 2011 allocation amount as is
8 taken into account as an increase in the limita-
9 tion described in paragraph (1)(B).

10 “(C) APPLICATION OF CERTAIN RULES.—
11 Rules similar to the rules of paragraphs (2),
12 (3), (4), and (5) shall apply for purposes of the
13 program described in subparagraph (A), except
14 that—

15 “(i) CERTIFICATION.—Applicants
16 shall have 2 years from the date that the
17 Secretary establishes such program to sub-
18 mit applications.

19 “(ii) SELECTION CRITERIA.—For pur-
20 poses of paragraph (3)(B)(i), the term ‘do-
21 mestic job creation (both direct and indi-
22 rect)’ means the creation of direct jobs in
23 the United States producing the property
24 manufactured at the manufacturing facility
25 described under subsection (c)(1)(A)(i),

1 and the creation of indirect jobs in the
2 manufacturing supply chain for such prop-
3 erty in the United States.

4 “(iii) REVIEW AND REDISTRIBU-
5 TION.—The Secretary shall conduct a sep-
6 arate review and redistribution under para-
7 graph (5) with respect to such program
8 not later than 4 years after the date of the
9 enactment of this paragraph.

10 “(D) 2011 ALLOCATION AMOUNT.—For
11 purposes of this subsection, the term ‘2011 allo-
12 cation amount’ means \$5,000,000,000.

13 “(E) DIRECT PAYMENTS.—In lieu of any
14 qualifying advanced energy project credit which
15 would otherwise be determined under this sec-
16 tion with respect to an allocation to a taxpayer
17 under this paragraph, the Secretary shall, upon
18 the election of the taxpayer, make a grant to
19 the taxpayer in the amount of such credit as so
20 determined. Rules similar to the rules of section
21 50 shall apply with respect to any grant made
22 under this subparagraph.”.

23 (b) PORTION OF 2011 ALLOCATION ALLOCATED TO-
24 WARD PENDING APPLICATIONS UNDER ORIGINAL PRO-
25 GRAM.—Subparagraph (B) of section 48C(d)(1) is amend-

1 ed by inserting “(increased by so much of the 2011 alloca-
2 tion amount (not in excess of \$1,500,000,000) as the Sec-
3 retary determines necessary to make allocations to quali-
4 fied investments with respect to which qualifying applica-
5 tions were submitted before the date of the enactment of
6 paragraph (6))” after “\$2,300,000,000”.

7 (c) CONFORMING AMENDMENT.—Paragraph (2) of
8 section 1324(b) of title 31, United States Code, is amend-
9 ed by inserting “48C(d)(6)(E),” after “36C,”.

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