

118TH CONGRESS
1ST SESSION

H. R. 5939

To require the Administrator of the Small Business Administration to establish a program to encourage small business concerns to make business succession plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2023

Mr. CROW (for himself and Mr. GARBARINO) introduced the following bill

OCTOBER 25, 2023

Referred to the Committee on Small Business, and in addition to the Committee on Ways and Means, 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

A BILL

To require the Administrator of the Small Business Administration to establish a program to encourage small business concerns to make business succession plans, 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 “Small Business Succes-
5 sion Planning Act”.

1 **SEC. 2. BUSINESS SUCCESSION PLANS FOR SMALL BUSI-**
2 **NESS CONCERNS.**

3 (a) IN GENERAL.—The Administrator of the Small
4 Business Administration shall establish a program to help
5 small business concerns develop and implement business
6 succession plans.

7 (b) TOOLKIT.—The Administrator, in consultation
8 with resource partners, shall develop a toolkit to assist
9 small business concerns in establishing a business succe-
10 sion plan. Such toolkit shall be made available on a public
11 website of the Administration.

12 (c) PROGRAM COMPONENTS.—The Administrator—
13 (1) shall train resource partners on using the
14 toolkit described in subsection (b) with small busi-
15 ness concerns;
16 (2) shall educate small business concerns about
17 the program established under this section;
18 (3) shall ensure that each district office of the
19 Administration and each resource partner described
20 in subparagraphs (B) through (E) has an employee
21 with the specific job responsibility of providing coun-
22 seling, in person or virtually, to small business con-
23 cerns on use of the toolkit described in subsection
24 (b); and
25 (4) may hold workshops or events on business
26 succession planning.

1 (d) PLAN.—Not later than 120 days after the date
 2 of the enactment of this Act, the Administrator shall sub-
 3 mit to the appropriate committees a plan for increasing
 4 the amount of small business concerns that have business
 5 succession plans. Such plan shall include a description of
 6 methods to increase the frequency and use of business suc-
 7 cession plans by small business concerns owned and con-
 8 trolled by socially and economically disadvantaged individ-
 9 uals (as defined in section 8(d)(3)(C) of the Small Busi-
 10 ness Act (15 U.S.C. 637(d)(3)(C))).

11 (e) TAX CREDIT FOR SMALL BUSINESS CONCERNS
 12 WHICH COMPLETE A BUSINESS SUCCESSION PLAN.—

13 (1) IN GENERAL.—Subpart D of part IV of
 14 subchapter A of chapter 1 of the Internal Revenue
 15 Code of 1986 is amended by adding at the end the
 16 following new section:

17 **“SEC. 45AA. BUSINESS SUCCESSION PLAN CREDIT.**

18 “(a) IN GENERAL.—For purposes of section 38, the
 19 business succession plan credit determined under this sec-
 20 tion is—

21 “(1) \$250 for the first taxable year during
 22 which the Administrator of the Small Business Ad-
 23 ministration certifies that the taxpayer has estab-
 24 lished a business succession plan, that the taxpayer
 25 is a small business concern at the time that such

1 plan is established, and that such plan does not pro-
2 vide for substantially all of the interests or assets of
3 small business concern to be acquired by one or
4 more entities which are not small business concerns,
5 and

6 “(2) \$250 for the first taxable year during
7 which such Administrator certifies that the taxpayer
8 has successfully completed a succession of respon-
9 sibilities pursuant to a business succession plan
10 which was certified under paragraph (1), that the
11 taxpayer is a small business concern immediately
12 after such succession, and that the business with re-
13 spect to which such business succession plan relates
14 was a small business concern immediately prior to
15 such succession.

16 “(b) RECAPTURE OF CREDITS.—

17 “(1) RECAPTURE OF CREDIT FOR ESTABLISH-
18 MENT OF PLAN.—If, during the 3-year period begin-
19 ning on the date of the establishment of a business
20 succession plan described in subsection (a)(1), sub-
21 stantially all of the equity interests in the taxpayer
22 or substantially all of the assets of the taxpayer are
23 acquired by one or more entities which are not small
24 business concerns, the taxpayer’s tax imposed under
25 this chapter for the taxable year during which such

1 interest or assets are so acquired shall be increased
2 by amount of the credit allowed to the taxpayer
3 under subsection (a)(1) for such taxable year or any
4 prior taxable year.

5 “(2) RECAPTURE OF CREDIT FOR COMPLETION
6 OF SUCCESSION.—If, during the 3-year period begin-
7 ning on the date of the completion of a succession
8 of responsibilities described in subsection (a)(2),
9 substantially all of the equity interests in the tax-
10 payer or substantially all of the assets of the tax-
11 payer are acquired by one or more entities which are
12 not small business concerns, the taxpayer’s tax im-
13 posed under this chapter for the taxable year during
14 which such interests or assets are so acquired shall
15 be increased by amount of the credit allowed to the
16 taxpayer under subsection (a)(2) for such taxable
17 year or any prior taxable year.

18 “(c) DEFINITIONS.—For purposes of this section, the
19 terms ‘small business concern’ and ‘business succession
20 plan’ have the respective meanings given such terms under
21 section 2(g) of the Small Business Succession Planning
22 Act.”.

23 (2) CREDIT ALLOWED AS PART OF GENERAL
24 BUSINESS CREDIT.—Section 38(b) of such Code is
25 amended by striking “plus” at the end of paragraph

1 (39), by striking the period at the end of paragraph
 2 (40) and inserting “, plus”, and by adding at the
 3 end the following new paragraph:

4 “(41) the business succession plan credit deter-
 5 mined under section 45AA(a).”.

6 (3) CLERICAL AMENDMENT.—The table of sec-
 7 tions for subpart D of part IV of subchapter A of
 8 chapter 1 of such Code is amended by adding at the
 9 end the following new item:

“Sec. 45AA. Business succession plan credit.”.

10 (4) REPORT TO CONGRESS.—Not later than 90
 11 days after the date of the enactment of this Act, the
 12 Secretary of the Treasury (or the Secretary’s dele-
 13 gate) shall submit a report to the Committee on
 14 Ways and Means of the House of Representatives
 15 and the Committee on Finance of the Senate de-
 16 scribing the steps which will be taken to enforce the
 17 recapture provisions of section 45AA(b) of the Inter-
 18 nal Revenue Code of 1986, as added by this section.

19 (5) EFFECTIVE DATE.—The amendments made
 20 by this subsection shall apply to taxable years end-
 21 ing after the date of the enactment of this Act.

22 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
 23 authorized to be appropriated to the Administrator such
 24 sums as may be necessary for fiscal years 2024 through
 25 2029 to carry out the requirements of this section.

1 (g) DEFINITIONS.—In this section:

2 (1) ADMINISTRATOR.—The term “Adminis-
3 trator” means the Administrator of the Small Busi-
4 ness Administration.

5 (2) ADMINISTRATION.—The term “Administra-
6 tion” means the Small Business Administration.

7 (3) APPROPRIATE COMMITTEES.—The term
8 “appropriate committees” means—

9 (A) the Committee on Small Business and
10 Entrepreneurship and the Committee on Appro-
11 priations of the Senate; and

12 (B) the Committee on Small Business and
13 the Committee on Appropriations of the House
14 of Representatives.

15 (4) BUSINESS SUCCESSION PLAN.—The term
16 “business succession plan” means a document
17 that—

18 (A) identifies an individual who will as-
19 sume the responsibilities of the owner to a
20 small business concern upon the death or retire-
21 ment of such owner, along with the legal docu-
22 ments necessary; and

23 (B) includes an operational description of
24 the small business concern to ensure the con-
25 tinuation of operations of such concern.

1 (5) RESOURCE PARTNERS.—The term “re-
2 source partners” means—

3 (A) any office of the Administration;

4 (B) small business development centers
5 (defined in section 3 of the Small Business Act
6 (15 U.S.C. 632));

7 (C) women’s business centers (described
8 under section 29 of such Act (15 U.S.C. 656));

9 (D) chapters of the Service Corps of Re-
10 tired Executives (established under section
11 8(b)(1)(B) of such Act (15 U.S.C.
12 637(b)(1)(B)));

13 (E) Veteran Business Outreach Centers
14 (described under section 32 of such Act (15
15 U.S.C. 657b)); and

16 (F) any other entity, as determined by the
17 Administrator.

18 (6) SMALL BUSINESS CONCERN.—The term
19 “small business concern” has the meaning given
20 under section 3 of the Small Business Act (15
21 U.S.C. 632).

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