

111TH CONGRESS
1ST SESSION

H. R. 4056

To amend the Internal Revenue Code of 1986 to allow small businesses
a credit against income tax for increasing employment.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2009

Mr. SESTAK introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow small
businesses a credit against income tax for increasing
employment.

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 “Jobs Opportunity and
5 Business Stability Act of 2009”.

6 **SEC. 2. CREDIT FOR SMALL BUSINESSES THAT INCREASE**
7 **EMPLOYMENT.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business-related credits) is amended by
2 adding at the end the following new section:

3 **“SEC. 45R. CREDIT FOR SMALL BUSINESSES THAT IN-**
4 **CREASE EMPLOYMENT.**

5 “(a) GENERAL RULE.—In the case of an eligible
6 small business employer, the increased small business em-
7 ployment credit determined under this section shall be—

8 “(1) for any taxable year beginning in 2010, an
9 amount equal to 15 percent of the excess of—

10 “(A) the aggregate wages paid during
11 2010, over

12 “(B) 102 percent of the aggregate wages
13 paid during 2009, and

14 “(2) for any taxable year beginning in 2011, an
15 amount equal to 10 percent of the excess of—

16 “(A) the aggregate wages paid during
17 2011, over

18 “(B) 102 percent of the aggregate wages
19 paid during 2010.

20 “(b) MINIMUM PRECEDING YEAR WAGES.—For pur-
21 poses of subsection (a)—

22 “(1) the amount taken into account under para-
23 graph (1)(B) thereof shall not be less than 50 per-
24 cent of the amount described in paragraph (1)(A)
25 thereof, and

1 “(2) the amount taken into account under para-
2 graph (2)(B) thereof shall not be less than 50 per-
3 cent of the amount described in paragraph (2)(A)
4 thereof.

5 “(c) TOTAL WAGES MUST INCREASE.—The amount
6 of credit determined under this section for any taxable
7 year shall not exceed the amount which would be so deter-
8 mined for such year (without regard to subsection (b))
9 if—

10 “(1) the aggregate amounts taken into account
11 as wages were determined without any dollar limita-
12 tion, and

13 “(2) ‘105 percent’ were substituted for ‘102
14 percent’ in the appropriate subparagraph of sub-
15 section (a).

16 “(d) ELIGIBLE SMALL BUSINESS EMPLOYER.—For
17 purposes of this section, the term ‘eligible small business
18 employer’ means, with respect to any taxable year, any
19 employer if—

20 “(1) such employer employed an average of less
21 than 20 employees on business days during the pre-
22 ceding taxable year, and

23 “(2) such employer (and any predecessor) met
24 the gross receipts test of section 448(c) for the pre-
25 ceding taxable year.

1 “(e) WAGES.—For purposes of this section—

2 “(1) IN GENERAL.—Except as provided in para-
3 graph (2), the term ‘wages’ has the meaning given
4 to such term by section 3121(a) with respect to the
5 tax imposed by section 3101(a).

6 “(2) RAILWAY LABOR.—In the case of remu-
7 nation subject to the tax imposed by 3201(a), the
8 term ‘wages’ means so much of compensation (as de-
9 fined in section 3231(e)) for the calendar year as
10 does not exceed the contribution and benefit base de-
11 termined under section 230 of the Social Security
12 Act for such calendar year.

13 “(f) CERTAIN RULES TO APPLY.—Rules similar to
14 the following rules shall apply for purposes of this section:

15 “(1) Section 51(f) (relating to remuneration
16 must be for trade or business employment).

17 “(2) Section 51(k) (relating to treatment of
18 successor employers; treatment of employees per-
19 forming services for other persons).

20 “(3) Subsections (a) and (b) of section 52 (re-
21 lating to controlled groups).

22 “(g) ELECTION TO HAVE CREDIT NOT APPLY.—

23 “(1) IN GENERAL.—A taxpayer may elect to
24 have this section not apply for any taxable year.

1 “(2) TIME FOR MAKING ELECTION.—An elec-
2 tion under paragraph (1) for any taxable year may
3 be made (or revoked) at any time before the expira-
4 tion of the 3-year period beginning on the last date
5 prescribed by law for filing the return for such tax-
6 able year (determined without regard to exten-
7 sions).”.

8 (b) DENIAL OF DOUBLE BENEFIT.—Subsection (a)
9 of section 280C of such Code is amended by inserting
10 “45R(a),” after “45P(a),”.

11 (c) CREDIT MADE PART OF GENERAL BUSINESS
12 CREDIT.—

13 (1) IN GENERAL.—Subsection (b) of section 38
14 of such Code (relating to current year business cred-
15 it) is amended by striking “plus” at the end of para-
16 graph (34), by striking the period at the end of
17 paragraph (35) and inserting “, plus”, and by add-
18 ing at the end the following new paragraph:

19 “(36) in the case of an eligible small business
20 employer (as defined in section 45R(e)), the in-
21 creased small business employment credit deter-
22 mined under section 45R(a).”.

23 (2) DEDUCTION FOR CERTAIN UNUSED BUSI-
24 NESS CREDITS.—Subsection (c) of section 196 of
25 such Code is amended by striking “and” at the end

1 of paragraph (12), by striking the period at the end
2 of paragraph (13) and inserting “, and”, and by
3 adding after paragraph (13) the following new para-
4 graph:

5 “(14) the increased small business employment
6 credit determined under section 45R(a).”.

7 (d) CREDIT TO BE REFUNDABLE.—Subsection (c) of
8 section 38 of such Code (relating to limitation based on
9 amount of tax) is amended by redesignating paragraph (5)
10 as paragraph (6) and by inserting after paragraph (4) the
11 following new paragraph:

12 “(5) SPECIAL RULES FOR INCREASED SMALL
13 BUSINESS EMPLOYMENT CREDIT.—In the case of the
14 credit determined under section 45R—

15 “(A) this section and section 39 shall be
16 applied separately with respect to such credit,
17 and

18 “(B) in applying paragraph (1) to such
19 credit—

20 “(i) the tentative minimum tax shall
21 be treated as being zero, and

22 “(ii) the limitation under paragraph
23 (1) (as modified by clause (i)) shall be re-
24 duced by the credit allowed under sub-
25 section (a) for the taxable year (other than

1 the credit determined under section 45R),
2 and

3 “(iii) the amount of the credit deter-
4 mined under section 45R in excess of the
5 limitation under paragraph (1) (as modi-
6 fied by clause (ii)) shall be treated as a
7 credit under subpart C.”.

8 (e) CLERICAL AMENDMENT.—The table of sections
9 for subpart D of part IV of subchapter A of chapter 1
10 of such Code is amended by inserting after the item relat-
11 ing to section 45Q the following new item:

“Sec. 45R. Credit for small businesses that increase employment.”.

12 (f) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2009.

15 (g) PUBLIC INFORMATION CAMPAIGN.—The Sec-
16 retary of the Treasury (or the Secretary’s delegate) shall
17 undertake a public information campaign to make employ-
18 ers aware of the credit added by this Act.

19 (h) STUDY TO PROVIDE COMPARABLE BENEFITS TO
20 NONPROFIT ORGANIZATIONS.—The Secretary of the
21 Treasury (or the Secretary’s delegate) shall conduct a
22 study on ways to provide benefits to nonprofit organiza-
23 tions which are comparable to the credit added by the Act.
24 The results of such study shall be submitted to the Com-
25 mittee on Ways and Means of the House of Representa-

1 tives and the Committee on Finance of the Senate not
2 later than 90 days after the date of the enactment of this
3 Act.

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