

111TH CONGRESS  
2D SESSION

# S. 3014

To amend the Internal Revenue Code of 1986 to allow companies to utilize existing alternative minimum tax credits to create and maintain United States jobs, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 22, 2010

Ms. STABENOW (for herself, Mr. HATCH, Mr. SCHUMER, Ms. SNOWE, and Mr. BROWN of Ohio) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow companies to utilize existing alternative minimum tax credits to create and maintain United States jobs, 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 “American Job Creation  
5 and Investment Act”.

1 **SEC. 2. ELECTION TO TEMPORARILY UTILIZE UNUSED AMT**  
 2 **CREDITS DETERMINED BY DOMESTIC WAGES**  
 3 **AND DOMESTIC INVESTMENT.**

4 (a) IN GENERAL.—Section 53 of the Internal Rev-  
 5 enue Code of 1986 is amended by adding at the end the  
 6 following new subsection:

7 “(g) ELECTION FOR CORPORATIONS WITH UNUSED  
 8 CREDITS.—

9 “(1) IN GENERAL.—If a corporation elects to  
 10 have this subsection apply, then notwithstanding any  
 11 other provision of law, the limitation imposed by  
 12 subsection (c) for any such taxable year shall be in-  
 13 creased by the AMT credit adjustment amount.

14 “(2) AMT CREDIT ADJUSTMENT AMOUNT.—  
 15 For purposes of paragraph (1), the term ‘AMT cred-  
 16 it adjustment amount’ means with respect to any  
 17 taxable year beginning in 2010 or 2011, the lesser  
 18 of—

19 “(A) a corporation’s minimum tax credit  
 20 determined under subsection (b), or

21 “(B) the sum of—

22 “(i) 20 percent of new qualifying do-  
 23 mestic compensation paid during such tax-  
 24 able year, determined by taking into ac-  
 25 count not more than \$100,000 for each  
 26 employee, plus

1 “(ii) 20 percent of new domestic in-  
2 vestments made during such taxable year,  
3 plus

4 “(iii) 10 percent of qualifying domes-  
5 tic compensation paid during the preceding  
6 taxable year, determined by taking into ac-  
7 count not more than \$100,000 for each  
8 employee.

9 “(3) QUALIFYING DOMESTIC COMPENSATION.—  
10 For purposes of this subsection, the term ‘qualifying  
11 domestic compensation’ means, with respect to any  
12 person for any taxable year of such person, the sum  
13 of the amounts described in paragraphs (3), (8), and  
14 (9) of section 6051(a) paid by such person with re-  
15 spect to employment of citizens or residents of the  
16 United States (within the meaning of section  
17 7701(a)(30)(A)) by such person during the calendar  
18 year ending during such taxable year.

19 “(4) NEW QUALIFYING DOMESTIC COMPENSA-  
20 TION.—For purposes of this subsection, the term  
21 ‘new qualifying domestic compensation’ means quali-  
22 fying domestic compensation paid with respect to  
23 employment of individuals the hiring date (or, in the  
24 case of furloughed employees, the recall date) of  
25 whom occurs during the taxable year. For purposes

of the preceding sentence, rules similar to the rules of section 51(i)(1) shall apply.

“(5) NEW DOMESTIC INVESTMENTS.—For purposes of this subsection, the term ‘new domestic investments’ means the cost of qualified property (as defined in section 168(k)(2)(A)(i))—

“(A) the original use of which commences with the taxpayer during the taxable year, and

“(B) which is placed in service in the United States by the taxpayer during such taxable year.

“(6) SPECIAL MAINTENANCE OF WORKFORCE RULE.—

“(A) IN GENERAL.—In any taxable year beginning in 2011, paragraph (2)(B)(iii) shall apply only if the taxpayer’s qualifying domestic compensation in such taxable year is at least 100 percent of such compensation in the preceding taxable year.

“(B) ACQUISITIONS, ETC.—For purposes of subparagraph (A), in determining the qualifying domestic compensation for the preceding taxable year, rules similar to the rules under subparagraphs (A) and (B) of section 41(f)(3) shall apply to adjust the compensation for ac-

1           quisitions and dispositions (taxable or other-  
2           wise) of any major portion of a trade or busi-  
3           ness or any major portion of a separate unit of  
4           a trade or business.

5           “(7) CREDIT REFUNDABLE.—For purposes of  
6           subsections (b) and (c) of section 6401, the aggre-  
7           gate increase in the credits allowable under part IV  
8           of subchapter A for any taxable year resulting from  
9           the application of this subsection shall be treated as  
10          allowed under subpart C of such part (and not to  
11          any other subpart).

12          “(8) ELECTION.—

13               “(A) IN GENERAL.—An election under this  
14               subsection shall be made at such time and in  
15               such manner as prescribed by the Secretary,  
16               and once effective, may be revoked only with  
17               the consent of the Secretary.

18               “(B) INTERIM ELECTIONS.—Until such  
19               time as the Secretary prescribes a manner for  
20               making an election under this subsection, a tax-  
21               payer is treated as having made a valid election  
22               by providing written notification to the Sec-  
23               retary and the Commissioner of Internal Rev-  
24               enue of such election.

1           “(9) AGGREGATION RULE.—For purposes of  
2       this subsection—

3           “(A) all corporations which are members  
4       of an affiliated group of corporations filing a  
5       consolidated tax return, and

6           “(B) all partnerships in which more than  
7       50 percent of the capital and profits interest in  
8       the partnership are owned by the corporation  
9       (directly or indirectly) at all times during the  
10      taxable year in which an election under this  
11      subsection is in effect,  
12      shall be treated as a single corporation.

13          “(10) APPLICATION TO PARTNERSHIPS.—In the  
14      case of a partnership—

15          “(A) this subsection shall be applied at the  
16      partner level, and

17          “(B) each partner shall be treated as hav-  
18      ing for the taxable year an amount equal to  
19      such partner’s allocable share of the qualifying  
20      domestic compensation, new qualifying domestic  
21      compensation, and new domestic investments of  
22      the partnership for such taxable year (as deter-  
23      mined under regulations prescribed by the Sec-  
24      retary).

1           “(11) NO DOUBLE BENEFIT.—Notwithstanding  
 2           clause (iii)(II) of section 172(b)(1)(H), any taxpayer  
 3           which has previously made an election under such  
 4           section shall be deemed to have revoked such elec-  
 5           tion by the making of its first election under this  
 6           subsection.

7           “(12) REGULATIONS.—The Secretary may issue  
 8           such regulations or other guidance as may be nec-  
 9           essary or appropriate to carry out the purposes of  
 10          this subsection, including to prevent fraud and abuse  
 11          under this subsection.

12          “(13) TERMINATION.—This subsection shall not  
 13          apply to any taxable year that begins after Decem-  
 14          ber 31, 2011.”.

15          (b) QUICK REFUND OF REFUNDABLE CREDIT.—Sec-  
 16          tion 6425 of the Internal Revenue Code of 1986 is amend-  
 17          ed by adding at the end the following new subsection:

18          “(e) ALLOWANCE OF AMT CREDIT ADJUSTMENT  
 19          AMOUNT.—The amount of an adjustment under this sec-  
 20          tion as determined under subsection (c)(2) for any taxable  
 21          year may be increased to the extent of the corporation’s  
 22          AMT credit adjustment amount determined under section  
 23          53(g) for such taxable year.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2009.

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