

113TH CONGRESS  
1ST SESSION

# S. 310

To jump-start economic recovery through the formation and growth of new businesses, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2013

Mr. MORAN (for himself, Mr. WARNER, Mr. COONS, and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To jump-start economic recovery through the formation and growth of new businesses, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Startup Act 3.0”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Conditional permanent resident status for immigrants with an advanced degree in a STEM field.

Sec. 4. Immigrant entrepreneurs.

- Sec. 5. Elimination of the per-country numerical limitation for employment-based visas.
- Sec. 6. Capital gains tax exemption for startup companies.
- Sec. 7. Research credit for startup companies.
- Sec. 8. Accelerated commercialization of taxpayer-funded research.
- Sec. 9. Economic impact of significant Federal agency rules.
- Sec. 10. Biennial State startup business report.
- Sec. 11. New business formation report.
- Sec. 12. Rescission of unspent Federal funds.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Achieving economic recovery will require the  
4 formation and growth of new companies.

5 (2) Between 1980 and 2005, companies less  
6 than 5 years old accounted for nearly all net job cre-  
7 ation in the United States.

8 (3) New firms in the United States create an  
9 average of 3,000,000 jobs per year.

10 (4) To get Americans back to work, entre-  
11 preneurs must be free to innovate, create new com-  
12 panies, and hire employees.

13 **SEC. 3. CONDITIONAL PERMANENT RESIDENT STATUS FOR**  
14 **IMMIGRANTS WITH AN ADVANCED DEGREE**  
15 **IN A STEM FIELD.**

16 (a) IN GENERAL.—Chapter 2 of title II of the Immi-  
17 gration and Nationality Act (8 U.S.C. 1181 et seq.) is  
18 amended by inserting after section 216A the following:

1 **“SEC. 216B. CONDITIONAL PERMANENT RESIDENT STATUS**  
2 **FOR ALIENS WITH AN ADVANCED DEGREE IN**  
3 **A STEM FIELD.**

4 “(a) IN GENERAL.—Notwithstanding any other pro-  
5 vision of this Act, the Secretary of Homeland Security  
6 may adjust the status of not more than 50,000 aliens who  
7 have earned a master’s degree or a doctorate degree at  
8 an institution of higher education in a STEM field to that  
9 of an alien conditionally admitted for permanent residence  
10 and authorize each alien granted such adjustment of sta-  
11 tus to remain in the United States—

12 “(1) for up to 1 year after the expiration of the  
13 alien’s student visa under section 101(a)(15)(F)(i) if  
14 the alien is diligently searching for an opportunity to  
15 become actively engaged in a STEM field; and

16 “(2) indefinitely if the alien remains actively en-  
17 gaged in a STEM field.

18 “(b) APPLICATION FOR CONDITIONAL PERMANENT  
19 RESIDENT STATUS.—Every alien applying for a condi-  
20 tional permanent resident status under this section shall  
21 submit an application to the Secretary of Homeland Secu-  
22 rity before the expiration of the alien’s student visa in  
23 such form and manner as the Secretary shall prescribe  
24 by regulation.

25 “(c) INELIGIBILITY FOR FEDERAL GOVERNMENT AS-  
26 SISTANCE.—An alien granted conditional permanent resi-

1 dent status under this section shall not be eligible, while  
 2 in such status, for—

3 “(1) any unemployment compensation (as de-  
 4 fined in section 85(b) of the Internal Revenue Code  
 5 of 1986); or

6 “(2) any Federal means-tested public benefit  
 7 (as that term is used in section 403 of the Personal  
 8 Responsibility and Work Opportunity Reconciliation  
 9 Act of 1996 (8 U.S.C. 1613)).

10 “(d) EFFECT ON NATURALIZATION RESIDENCY RE-  
 11 QUIREMENT.—An alien granted conditional permanent  
 12 resident status under this section shall be deemed to have  
 13 been lawfully admitted for permanent residence for pur-  
 14 poses of meeting the 5-year residency requirement set  
 15 forth in section 316(a)(1).

16 “(e) REMOVAL OF CONDITION.—The Secretary of  
 17 Homeland Security shall remove the conditional basis of  
 18 an alien’s conditional permanent resident status under  
 19 this section on the date that is 5 years after the date such  
 20 status was granted if the alien maintained his or her eligi-  
 21 bility for such status during the entire 5-year period.

22 “(f) DEFINITIONS.—In this section:

23 “(1) ACTIVELY ENGAGED IN A STEM FIELD.—  
 24 The term ‘actively engaged in a STEM field’—

25 “(A) means—

1           “(i) gainfully employed in a for-profit  
2           business or nonprofit organization in the  
3           United States in a STEM field;

4           “(ii) teaching 1 or more STEM field  
5           courses at an institution of higher edu-  
6           cation; or

7           “(iii) employed by a Federal, State, or  
8           local government entity; and

9           “(B) includes any period of up to 6  
10          months during which the alien does not meet  
11          the requirement under subparagraph (A) if  
12          such period was immediately preceded by a 1-  
13          year period during which the alien met the re-  
14          quirement under subparagraph (A).

15          “(2) INSTITUTION OF HIGHER EDUCATION.—  
16          The term ‘institution of higher education’ has the  
17          meaning given the term in section 101(a) of the  
18          Higher Education Act of 1965 (20 U.S.C. 1001(a)).

19          “(3) STEM FIELD.—The term ‘STEM field’  
20          means any field of study or occupation included on  
21          the most recent STEM-Designated Degree Program  
22          List published in the Federal Register by the De-  
23          partment of Homeland Security (as described in sec-  
24          tion 214.2(f)(11)(i)(C)(2) of title 8, Code of Federal  
25          Regulations).”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 for the Immigration and Nationality Act (8 U.S.C. 1101  
3 et seq.) is amended by inserting after the item relating  
4 to section 216A the following:

“Sec. 216B. Conditional permanent resident status for aliens with an advanced  
degree in a STEM field.”.

5 (c) GOVERNMENT ACCOUNTABILITY OFFICE  
6 STUDY.—

7 (1) IN GENERAL.—Not later than 3 years after  
8 the date of the enactment of this Act, the Comp-  
9 troller General of the United States shall submit to  
10 Congress a report on the alien college graduates  
11 granted immigrant status under section 216B of the  
12 Immigration and Nationality Act, as added by sub-  
13 section (a).

14 (2) CONTENTS.—The report described in para-  
15 graph (1) shall include—

16 (A) the number of aliens described in para-  
17 graph (1) who have earned a master’s degree,  
18 broken down by the number of such degrees in  
19 science, technology, engineering, and mathe-  
20 matics;

21 (B) the number of aliens described in  
22 paragraph (1) who have earned a doctorate de-  
23 gree, broken down by the number of such de-

1 grees in science, technology, engineering, and  
2 mathematics;

3 (C) the number of aliens described in para-  
4 graph (1) who have founded a business in the  
5 United States in a STEM field;

6 (D) the number of aliens described in  
7 paragraph (1) who are employed in the United  
8 States in a STEM field, broken down by em-  
9 ployment sector (for profit, nonprofit, or gov-  
10 ernment); and

11 (E) the number of aliens described in para-  
12 graph (1) who are employed by an institution of  
13 higher education.

14 (3) DEFINITIONS.—The terms “institution of  
15 higher education” and “STEM field” have the  
16 meaning given such terms in section 216B(f) of the  
17 Immigration and Nationality Act, as added by sub-  
18 section (a).

19 **SEC. 4. IMMIGRANT ENTREPRENEURS.**

20 (a) **QUALIFIED ALIEN ENTREPRENEURS.**—

21 (1) **ADMISSION AS IMMIGRANTS.**—Chapter 1 of  
22 title II of the Immigration and Nationality Act (8  
23 U.S.C. 1151 et seq.) is amended by adding at the  
24 end the following:

1 **“SEC. 210A. QUALIFIED ALIEN ENTREPRENEURS.**

2       “(a) **ADMISSION AS IMMIGRANTS.**—The Secretary of  
3 Homeland Security, in accordance with the provisions of  
4 this section and section 216A, may issue a conditional im-  
5 migrant visa to not more than 75,000 qualified alien en-  
6 trepreneurs.

7       “(b) **APPLICATION FOR CONDITIONAL PERMANENT**  
8 **RESIDENT STATUS.**—Every alien applying for a condi-  
9 tional immigrant visa under this section shall submit an  
10 application to the Secretary of Homeland Security in such  
11 form and manner as the Secretary shall prescribe by regu-  
12 lation.

13       “(c) **REVOCAION.**—If, during the 4-year period be-  
14 ginning on the date that an alien is granted a visa under  
15 this section, the Secretary of Homeland Security deter-  
16 mines that such alien is no longer a qualified alien entre-  
17 preneur, the Secretary shall—

18               “(1) revoke such visa; and

19               “(2) notify the alien that the alien—

20                       “(A) may voluntarily depart from the  
21 United States in accordance to section 240B; or

22                       “(B) will be subject to removal proceedings  
23 under section 240 if the alien does not depart  
24 from the United States not later than 6 months  
25 after receiving such notification.



1       “(d) REMOVAL OF CONDITIONAL BASIS.—The Sec-  
2 retary of Homeland Security shall remove the conditional  
3 basis of the status of an alien issued an immigrant visa  
4 under this section on that date that is 4 years after the  
5 date on which such visa was issued if such visa was not  
6 revoked pursuant to subsection (c).

7       “(e) DEFINITIONS.—In this section:

8           “(1) FULL-TIME EMPLOYEE.—The term ‘full-  
9 time employee’ means a United States citizen or  
10 legal permanent resident who is paid by the new  
11 business entity registered by a qualified alien entre-  
12 preneur at a rate that is comparable to the median  
13 income of employees in the region.

14           “(2) QUALIFIED ALIEN ENTREPRENEUR.—The  
15 term ‘qualified alien entrepreneur’ means an alien  
16 who—

17                   “(A) at the time the alien applies for an  
18 immigrant visa under this section—

19                           “(i) is lawfully present in the United  
20 States; and

21                           “(ii)(I) holds a nonimmigrant visa  
22 pursuant to section 101(a)(15)(H)(i)(b); or

23                           “(II) holds a nonimmigrant visa pur-  
24 suant to section 101(a)(15)(F)(i);

1           “(B) during the 1-year period beginning on  
2           the date the alien is granted a visa under this  
3           section—

4                   “(i) registers at least 1 new business  
5                   entity in a State;

6                   “(ii) employs, at such business entity  
7                   in the United States, at least 2 full-time  
8                   employees who are not relatives of the  
9                   alien; and

10                   “(iii) invests, or raises capital invest-  
11                   ment of, not less than \$100,000 in such  
12                   business entity; and

13                   “(C) during the 3-year period beginning on  
14                   the last day of the 1-year period described in  
15                   paragraph (2), employs, at such business entity  
16                   in the United States, an average of at least 5  
17                   full-time employees who are not relatives of the  
18                   alien.”.

19           (2) TABLE OF CONTENTS AMENDMENT.—The  
20           table of contents in the first section of the Immigra-  
21           tion and Nationality Act (8 U.S.C. 1101 et seq.) is  
22           amended by adding after the item relating to section  
23           210 the following:

“Sec. 210A. Qualified alien entrepreneurs.”.

1 (b) CONDITIONAL PERMANENT RESIDENT STA-  
2 TUS.—Section 216A of the Immigration and Nationality  
3 Act (8 U.S.C. 1186b) is amended—

4 (1) by striking “Attorney General” each place  
5 such term appears and inserting “Secretary of  
6 Homeland Security”;

7 (2) in subsection (b)(1)(C), by striking  
8 “203(b)(5),” and inserting “203(b)(5) or 210A, as  
9 appropriate,”;

10 (3) in subsection (c)(1), by striking “alien en-  
11 trepreneur must” each place such term appears and  
12 inserting “alien entrepreneur shall”;

13 (4) in subsection (d)(1)(B), by striking the pe-  
14 riod at the end and inserting “or 210A, as appro-  
15 priate.”; and

16 (5) in subsection (f)(1), by striking the period  
17 at the end and inserting “or 210A.”.

18 (c) GOVERNMENT ACCOUNTABILITY OFFICE  
19 STUDY.—

20 (1) IN GENERAL.—Not later than 3 years after  
21 the date of the enactment of this Act, the Comp-  
22 troller General of the United States shall submit to  
23 Congress a report on the qualified alien entre-  
24 preneurs granted immigrant status under section

1 210A of the Immigration and Nationality Act, as  
2 added by subsection (a).

3 (2) CONTENTS.—The report described in para-  
4 graph (1) shall include information regarding—

5 (A) the number of qualified alien entre-  
6 preneurs who have received immigrant status  
7 under section 210A of the Immigration and Na-  
8 tionality Act, as added by subsection (a), listed  
9 by country of origin;

10 (B) the localities in which such qualified  
11 alien entrepreneurs have initially settled;

12 (C) whether such qualified alien entre-  
13 preneurs generally remain in the localities in  
14 which they initially settle;

15 (D) the types of commercial enterprises  
16 that such qualified alien entrepreneurs have es-  
17 tablished; and

18 (E) the types and number of jobs created  
19 by such qualified alien entrepreneurs.

20 **SEC. 5. ELIMINATION OF THE PER-COUNTRY NUMERICAL**  
21 **LIMITATION FOR EMPLOYMENT-BASED**  
22 **VISAS.**

23 (a) IN GENERAL.—Section 202(a)(2) of the Immi-  
24 gration and Nationality Act (8 U.S.C. 1152(a)(2)) is  
25 amended—

1 (1) in the paragraph heading, by striking “AND  
2 EMPLOYMENT-BASED”;

3 (2) by striking “(3), (4), and (5),” and insert-  
4 ing “(3) and (4),”;

5 (3) by striking “subsections (a) and (b) of sec-  
6 tion 203” and inserting “section 203(a)”;

7 (4) by striking “7” and inserting “15”; and

8 (5) by striking “such subsections” and inserting  
9 “such section”.

10 (b) CONFORMING AMENDMENTS.—Section 202 of the  
11 Immigration and Nationality Act (8 U.S.C. 1152) is  
12 amended—

13 (1) in subsection (a)(3), by striking “both sub-  
14 sections (a) and (b) of section 203” and inserting  
15 “section 203(a)”;

16 (2) by striking subsection (a)(5); and

17 (3) by amending subsection (e) to read as fol-  
18 lows:

19 “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—  
20 If it is determined that the total number of immigrant  
21 visas made available under section 203(a) to natives of  
22 any single foreign state or dependent area will exceed the  
23 numerical limitation specified in subsection (a)(2) in any  
24 fiscal year, in determining the allotment of immigrant visa  
25 numbers to natives under section 203(a), visa numbers

1 with respect to natives of that state or area shall be allo-  
2 cated (to the extent practicable and otherwise consistent  
3 with this section and section 203) in a manner so that,  
4 except as provided in subsection (a)(4), the proportion of  
5 the visa numbers made available under each of paragraphs  
6 (1) through (4) of section 203(a) is equal to the ratio of  
7 the total number of visas made available under the respec-  
8 tive paragraph to the total number of visas made available  
9 under section 203(a).”.

10 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the  
11 Chinese Student Protection Act of 1992 (8 U.S.C. 1255  
12 note) is amended—

13 (1) in subsection (a), by striking “subsection  
14 (e)” and inserting “subsection (d)”; and

15 (2) by striking subsection (d) and redesignating  
16 subsection (e) as subsection (d).

17 (d) EFFECTIVE DATE.—The amendments made by  
18 this section shall take effect as if enacted on September  
19 30, 2012, and shall apply to fiscal years beginning with  
20 fiscal year 2013.

21 (e) TRANSITION RULES FOR EMPLOYMENT-BASED  
22 IMMIGRANTS.—

23 (1) IN GENERAL.—Subject to the succeeding  
24 paragraphs of this subsection and notwithstanding

1 title II of the Immigration and Nationality Act (8  
2 U.S.C. 1151 et seq.), the following rules shall apply:

3 (A) For fiscal year 2013, 15 percent of the  
4 immigrant visas made available under each of  
5 paragraphs (2) and (3) of section 203(b) of  
6 such Act (8 U.S.C. 1153(b)) shall be allotted to  
7 immigrants who are natives of a foreign state  
8 or dependent area that was not one of the two  
9 states with the largest aggregate numbers of  
10 natives obtaining immigrant visas during fiscal  
11 year 2011 under such paragraphs.

12 (B) For fiscal year 2014, 10 percent of the  
13 immigrant visas made available under each of  
14 such paragraphs shall be allotted to immigrants  
15 who are natives of a foreign state or dependent  
16 area that was not one of the two states with the  
17 largest aggregate numbers of natives obtaining  
18 immigrant visas during fiscal year 2012 under  
19 such paragraphs.

20 (C) For fiscal year 2015, 10 percent of the  
21 immigrant visas made available under each of  
22 such paragraphs shall be allotted to immigrants  
23 who are natives of a foreign state or dependent  
24 area that was not one of the two states with the  
25 largest aggregate numbers of natives obtaining

1 immigrant visas during fiscal year 2013 under  
2 such paragraphs.

3 (2) PER-COUNTRY LEVELS.—

4 (A) RESERVED VISAS.—With respect to  
5 the visas reserved under each of subparagraphs  
6 (A) through (C) of paragraph (1), the number  
7 of such visas made available to natives of any  
8 single foreign state or dependent area in the ap-  
9 propriate fiscal year may not exceed 25 percent  
10 (in the case of a single foreign state) or 2 per-  
11 cent (in the case of a dependent area) of the  
12 total number of such visas.

13 (B) UNRESERVED VISAS.—With respect to  
14 the immigrant visas made available under each  
15 of paragraphs (2) and (3) of section 203(b) of  
16 such Act (8 U.S.C. 1153(b)) and not reserved  
17 under paragraph (1), for each of fiscal years  
18 2013, 2014, and 2015, not more than 85 per-  
19 cent shall be allotted to immigrants who are na-  
20 tives of any single foreign state.

21 (3) SPECIAL RULE TO PREVENT UNUSED  
22 VISAS.—If, with respect to fiscal year 2013, 2014, or  
23 2015, the operation of paragraphs (1) and (2) of  
24 this subsection would prevent the total number of  
25 immigrant visas made available under paragraph (2)



1 or (3) of section 203(b) of such Act (8 U.S.C.  
 2 1153(b)) from being issued, such visas may be  
 3 issued during the remainder of such fiscal year with-  
 4 out regard to paragraphs (1) and (2) of this sub-  
 5 section.

6 (4) RULES FOR CHARGEABILITY.—Section  
 7 202(b) of the Immigration and Nationality Act (8  
 8 U.S.C. 1152(b)) shall apply in determining the for-  
 9 eign state to which an alien is chargeable for pur-  
 10 poses of this subsection.

11 **SEC. 6. CAPITAL GAINS TAX EXEMPTION FOR STARTUP**  
 12 **COMPANIES.**

13 (a) PERMANENT FULL EXCLUSION.—

14 (1) IN GENERAL.—Subsection (a) of section  
 15 1202 of the Internal Revenue Code of 1986 is  
 16 amended to read as follows:

17 “(a) EXCLUSION.—In the case of a taxpayer other  
 18 than a corporation, gross income shall not include 100  
 19 percent of any gain from the sale or exchange of qualified  
 20 small business stock held for more than 5 years.”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) The heading for section 1202 of such  
 23 Code is amended by striking “**PARTIAL**”.

24 (B) The item relating to section 1202 in  
 25 the table of sections for part I of subchapter P

1 of chapter 1 of such Code is amended by strik-  
2 ing “Partial exclusion” and inserting “Exclu-  
3 sion”.

4 (C) Section 1223(13) of such Code is  
5 amended by striking “1202(a)(2),”.

6 (b) REPEAL OF MINIMUM TAX PREFERENCE.—

7 (1) IN GENERAL.—Subsection (a) of section 57  
8 of the Internal Revenue Code of 1986 is amended by  
9 striking paragraph (7).

10 (2) TECHNICAL AMENDMENT.—Subclause (II)  
11 of section 53(d)(1)(B)(ii) of such Code is amended  
12 by striking “, (5), and (7)” and inserting “and (5)”.

13 (c) REPEAL OF 28 PERCENT CAPITAL GAINS RATE  
14 ON QUALIFIED SMALL BUSINESS STOCK.—

15 (1) IN GENERAL.—Subparagraph (A) of section  
16 1(h)(4) of the Internal Revenue Code of 1986 is  
17 amended to read as follows:

18 “(A) collectibles gain, over”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Section 1(h) of such Code is amended  
21 by striking paragraph (7).

22 (B)(i) Section 1(h) of such Code is amend-  
23 ed by redesignating paragraphs (8), (9), (10),  
24 (11), (12), and (13) as paragraphs (7), (8), (9),  
25 (10), (11), and (12), respectively.

1           (ii) Sections 163(d)(4)(B), 854(b)(5),  
2           857(c)(2)(D) of such Code are each amended  
3           by striking “section 1(h)(11)(B)” and inserting  
4           “section 1(h)(10)(B)”.

5           (iii) The following sections of such Code  
6           are each amended by striking “section  
7           1(h)(11)” and inserting “section 1(h)(10)”:

8                   (I) Section 301(f)(4).

9                   (II) Section 306(a)(1)(D).

10                   (III) Section 584(c).

11                   (IV) Section 702(a)(5).

12                   (V) Section 854(a).

13                   (VI) Section 854(b)(2).

14           (iv) The heading of section 857(c)(2) is  
15           amended by striking “1(h)(11)” and inserting  
16           “1(h)(10)”.

17           (d) **EFFECTIVE DATE.**—The amendments made by  
18           this section apply to stock acquired after December 31,  
19           2013.

20           **SEC. 7. RESEARCH CREDIT FOR STARTUP COMPANIES.**

21           (a) **IN GENERAL.**—

22                   (1) **IN GENERAL.**—Section 41 of the Internal  
23           Revenue Code of 1986 is amended by adding at the  
24           end the following new subsection:

1       “(i) TREATMENT OF CREDIT TO QUALIFIED SMALL  
2 BUSINESSES.—

3               “(1) IN GENERAL.—At the election of a quali-  
4 fied small business, the payroll tax credit portion of  
5 the credit determined under subsection (a) shall be  
6 treated as a credit allowed under section 3111(f)  
7 (and not under this section).

8               “(2) PAYROLL TAX CREDIT PORTION.—For  
9 purposes of this subsection, the payroll tax credit  
10 portion of the credit determined under subsection  
11 (a) for any taxable year is so much of such credit  
12 as does not exceed \$250,000.

13               “(3) QUALIFIED SMALL BUSINESS.—For pur-  
14 poses of this subsection—

15                       “(A) IN GENERAL.—The term ‘qualified  
16 small business’ means, with respect to any tax-  
17 able year—

18                               “(i) a corporation, partnership, or S  
19 corporation if—

20                                       “(I) the gross receipts (as deter-  
21 mined under subsection (c)(7)) of  
22 such entity for the taxable year is less  
23 than \$5,000,000, and

24                                       “(II) such entity did not have  
25 gross receipts (as so determined) for

1 any period preceding the 5-taxable-  
2 year period ending with such taxable  
3 year, and

4 “(ii) any person not described in sub-  
5 paragraph (A) if clauses (i) and (ii) of sub-  
6 paragraph (A) applied to such person, de-  
7 termined—

8 “(I) by substituting ‘person’ for  
9 ‘entity’ each place it appears, and

10 “(II) in the case of an individual,  
11 by only taking into account the aggre-  
12 gate gross receipts received by such  
13 individual in carrying on trades or  
14 businesses of such individual.

15 “(B) LIMITATION.—Such term shall not  
16 include an organization which is exempt from  
17 taxation under section 501.

18 “(4) ELECTION.—

19 “(A) IN GENERAL.—In the case of a part-  
20 nership or S corporation, an election under this  
21 subsection shall be made at the entity level.

22 “(B) REVOCATION.—An election under  
23 this subsection may not be revoked without the  
24 consent of the Secretary.

1           “(C) LIMITATION.—A taxpayer may not  
2           make an election under this subsection if such  
3           taxpayer has made an election under this sub-  
4           section for 5 or more preceding taxable years.

5           “(5) AGGREGATION RULES.—For purposes of  
6           determining the \$250,000 limitation under para-  
7           graph (2) and determining gross receipts under  
8           paragraph (3), all members of the same controlled  
9           group of corporations (within the meaning of section  
10          267(f)) and all persons under common control (with-  
11          in the meaning of section 52(b) but determined by  
12          treating an interest of more than 50 percent as a  
13          controlling interest) shall be treated as 1 person.

14          “(6) REGULATIONS.—The Secretary shall pre-  
15          scribe such regulations as may be necessary to carry  
16          out the purposes of this subsection, including—

17                 “(A) regulations to prevent the avoidance  
18                 of the purposes of paragraph (3) through the  
19                 use of successor companies or other means,

20                 “(B) regulations to minimize compliance  
21                 and recordkeeping burdens under this sub-  
22                 section for start-up companies, and

23                 “(C) regulations for recapturing the ben-  
24                 efit of credits determined under section 3111(f)  
25                 in cases where there is a subsequent adjustment

1 to the payroll tax credit portion of the credit  
 2 determined under subsection (a), including re-  
 3 quiring amended returns in the cases where  
 4 there is such an adjustment.”.

5 (2) CONFORMING AMENDMENT.—Section  
 6 280C(e) of the Internal Revenue Code of 1986 is  
 7 amended by adding at the end the following new  
 8 paragraph:

9 “(5) TREATMENT OF QUALIFIED SMALL BUSI-  
 10 NESS CREDIT.—For purposes of determining the  
 11 amount of any credit under section 41(a) under this  
 12 subsection, any election under section 41(i) shall be  
 13 disregarded.”.

14 (b) CREDIT ALLOWED AGAINST FICA TAXES.—

15 (1) IN GENERAL.—Section 3111 of the Internal  
 16 Revenue Code of 1986 is amended by adding at the  
 17 end the following new subsection:

18 “(f) CREDIT FOR RESEARCH EXPENDITURES OF  
 19 QUALIFIED SMALL BUSINESSES.—

20 “(1) IN GENERAL.—In the case of a qualified  
 21 small business which has made an election under  
 22 section 41(i), there shall be allowed as a credit  
 23 against the tax imposed by subsection (a) on wages  
 24 paid with respect to the employment of all employees  
 25 of the qualified small business for days in an appli-

1 cable calendar quarter an amount equal to the pay-  
2 roll tax credit portion of the research credit deter-  
3 mined under section 41(a).

4 “(2) CARRYOVER OF UNUSED CREDIT.—In any  
5 case in which the payroll tax credit portion of the re-  
6 search credit determined under section 41(a) exceeds  
7 the tax imposed under subsection (a) for an applica-  
8 ble calendar quarter—

9 “(A) the succeeding calendar quarter shall  
10 be treated as an applicable calendar quarter,  
11 and

12 “(B) the amount of credit allowed under  
13 paragraph (1) shall be reduced by the amount  
14 of credit allowed under such paragraph for all  
15 preceding applicable calendar quarters.

16 “(3) ALLOCATION OF CREDIT FOR CON-  
17 TROLLED GROUPS, ETC.—In determining the  
18 amount of the credit under this subsection—

19 “(A) all persons treated as a single tax-  
20 payer under section 41 shall be treated as a  
21 single taxpayer under this section, and

22 “(B) the credit (if any) allowable by this  
23 section to each such member shall be its pro-  
24 portionate share of the qualified research ex-  
25 penses, basic research payments, and amounts



1           paid or incurred to energy research consor-  
2           tiums, giving rise to the credit allowable under  
3           section 41.

4           “(4) DEFINITIONS.—For purposes of this sub-  
5           section—

6                   “(A) APPLICABLE CALENDAR QUARTER.—

7           The term ‘applicable calendar quarter’ means—

8                   “(i) the first calendar quarter fol-  
9                   lowing the date on which the qualified  
10                  small business files a return under section  
11                  6012 for the taxable year for which the  
12                  payroll tax credit portion of the research  
13                  credit under section 41(a) is determined,  
14                  and

15                  “(ii) any succeeding calendar quarter  
16                  treated as an applicable calendar quarter  
17                  under paragraph (2)(A).

18           “For purposes of determining the date on  
19           which a return is filed, rules similar to the rules  
20           of section 6513 shall apply.

21                   “(B) OTHER TERMS.—Any term used in  
22                   this subsection which is also used in section 41  
23                   shall have the meaning given such term under  
24                   section 41.”.

1           (2) TRANSFERS TO FEDERAL OLD-AGE AND  
2 SURVIVORS INSURANCE TRUST FUND.—There are  
3 hereby appropriated to the Federal Old-Age and  
4 Survivors Trust Fund and the Federal Disability In-  
5 surance Trust Fund established under section 201  
6 of the Social Security Act (42 U.S.C. 401) amounts  
7 equal to the reduction in revenues to the Treasury  
8 by reason of the amendments made by paragraph  
9 (1). Amounts appropriated by the preceding sen-  
10 tence shall be transferred from the general fund at  
11 such times and in such manner as to replicate to the  
12 extent possible the transfers which would have oc-  
13 curred to such Trust Fund had such amendments  
14 not been enacted.

15       (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to taxable years beginning after  
17 December 31, 2012.

18 **SEC. 8. ACCELERATED COMMERCIALIZATION OF TAX-**  
19 **PAYER-FUNDED RESEARCH.**

20       (a) DEFINITIONS.—In this section:

21           (1) COUNCIL.—The term “Council” means the  
22 Advisory Council on Innovation and Entrepreneur-  
23 ship of the Department of Commerce established  
24 pursuant to section 25(c) of the Stevenson-Wydler

1 Technology Innovation Act of 1980 (15 U.S.C.  
2 3720(e)).

3 (2) EXTRAMURAL BUDGET.—The term “extra-  
4 mural budget” means the sum of the total obliga-  
5 tions minus amounts obligated for such activities by  
6 employees of the agency in or through Government-  
7 owned, Government-operated facilities, except that  
8 for the Department of Energy it shall not include  
9 amounts obligated for atomic energy defense pro-  
10 grams solely for weapons activities or for naval reac-  
11 tor programs, and except that for the Agency for  
12 International Development it shall not include  
13 amounts obligated solely for general institutional  
14 support of international research centers or for  
15 grants to foreign countries.

16 (3) INSTITUTION OF HIGHER EDUCATION.—The  
17 term “institution of higher education” has the  
18 meaning given the term in section 101(a) of the  
19 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

20 (4) RESEARCH OR RESEARCH AND DEVELOP-  
21 MENT.—The term “research” or “research and de-  
22 velopment” means any activity that is—

23 (A) a systematic, intensive study directed  
24 toward greater knowledge or understanding of  
25 the subject studied;

1 (B) a systematic study directed specifically  
2 toward applying new knowledge to meet a rec-  
3 ognized need; or

4 (C) a systematic application of knowledge  
5 toward the production of useful materials, de-  
6 vices, and systems or methods, including design,  
7 development, and improvement of prototypes  
8 and new processes to meet specific require-  
9 ments.

10 (5) SECRETARY.—The term “Secretary” means  
11 the Secretary of Commerce.

12 (b) GRANT PROGRAM AUTHORIZED.—

13 (1) IN GENERAL.—Each Federal agency that  
14 has an extramural budget for research or research  
15 and development that is in excess of \$100,000,000  
16 for each of fiscal years 2014 through 2018, shall  
17 transfer 0.15 percent of such extramural budget for  
18 each of such fiscal years to the Secretary to enable  
19 the Secretary to carry out a grant program in ac-  
20 cordance with this subsection.

21 (2) GRANTS.—

22 (A) AWARDING OF GRANTS.—

23 (i) IN GENERAL.—From funds trans-  
24 ferred under paragraph (1), the Secretary  
25 shall use the criteria developed by the

1 Council to award grants to institutions of  
2 higher education, including consortia of in-  
3 stitutions of higher education, for initia-  
4 tives to improve commercialization and  
5 transfer of technology.

6 (ii) REQUEST FOR PROPOSALS.—Not  
7 later than 30 days after the Council sub-  
8 mits the recommendations for criteria to  
9 the Secretary under subsection (c)(4)(B),  
10 and annually thereafter for each fiscal year  
11 for which the grant program is authorized,  
12 the Secretary shall release a request for  
13 proposals.

14 (iii) APPLICATIONS.—Each institution  
15 of higher education that desires to receive  
16 a grant under this subsection shall submit  
17 an application to the Secretary not later  
18 than 90 days after the Secretary releases  
19 the request for proposals under clause (ii).

20 (iv) COUNCIL REVIEW.—

21 (I) IN GENERAL.—The Secretary  
22 shall submit each application received  
23 under clause (iii) to the Council for  
24 Council review.

1 (II) RECOMMENDATIONS.—The  
2 Council shall review each application  
3 received under subclause (I) and sub-  
4 mit recommendations for grant  
5 awards to the Secretary, including  
6 funding recommendations for each  
7 proposal.

8 (III) PUBLIC RELEASE.—The  
9 Council shall publicly release any rec-  
10 ommendations made under subclause  
11 (II).

12 (IV) CONSIDERATION OF REC-  
13 OMMENDATIONS.—In awarding grants  
14 under this subsection, the Secretary  
15 shall take into consideration the rec-  
16 ommendations of the Council under  
17 subclause (II).

18 (B) COMMERCIALIZATION CAPACITY  
19 BUILDING GRANTS.—

20 (i) IN GENERAL.—The Secretary shall  
21 award grants to support institutions of  
22 higher education pursuing specific innova-  
23 tive initiatives to improve an institution's  
24 capacity to commercialize faculty research

1                   that can be widely adopted if the research  
2                   yields measurable results.

3                   (ii)   CONTENT   OF   PROPOSALS.—

4                   Grants shall be awarded under this sub-  
5                   paragraph to proposals demonstrating the  
6                   capacity for accelerated commercialization,  
7                   proof-of-concept proficiency, and trans-  
8                   lating scientific discoveries and cutting-  
9                   edge inventions into technological innova-  
10                  tions and new companies. In particular,  
11                  grant funds shall seek to support innova-  
12                  tive approaches to achieving these goals  
13                  that can be replicated by other institutions  
14                  of higher education if the innovative ap-  
15                  proaches are successful.

16                  (C)   COMMERCIALIZATION   ACCELERATOR

17                  GRANTS.—The Secretary shall award grants to  
18                  support institutions of higher education pur-  
19                  suing initiatives that allow faculty to directly  
20                  commercialize research in an effort to accel-  
21                  erate research breakthroughs. The Secretary  
22                  shall prioritize those initiatives that have a  
23                  management structure that encourages collabo-  
24                  ration between other institutions of higher edu-  
25                  cation or other entities with demonstrated pro-

1           efficiency in creating and growing new companies  
2           based on verifiable metrics.

3           (3) ASSESSMENT OF SUCCESS.—Grants award-  
4           ed under this subsection shall use criteria for assess-  
5           ing the success of programs through the establish-  
6           ment of benchmarks.

7           (4) TERMINATION.—The Secretary shall have  
8           the authority to terminate grant funding to an insti-  
9           tution of higher education in accordance with the  
10          process and performance metrics recommended by  
11          the Council.

12          (5) LIMITATIONS.—

13           (A) PROJECT MANAGEMENT COSTS.—A  
14           grant recipient may use not more than 10 per-  
15           cent of grant funds awarded under this sub-  
16           section for the purpose of funding project man-  
17           agement costs of the grant program.

18           (B) SUPPLEMENT, NOT SUPPLANT.—An  
19           institution of higher education that receives a  
20           grant under this subsection shall use the grant  
21           funds to supplement, and not supplant, non-  
22           Federal funds that would, in the absence of  
23           such grant funds, be made available for activi-  
24           ties described in this section.



1           (6) UNSPENT FUNDS.—Any funds transferred  
2           to the Secretary under paragraph (1) for a fiscal  
3           year that are not expended by the end of such fiscal  
4           year may be expended in any subsequent fiscal year  
5           through fiscal year 2018. Any funds transferred  
6           under paragraph (1) that are remaining at the end  
7           of the grant program’s authorization under this sub-  
8           section shall be transferred to the Treasury for def-  
9           icit reduction.

10          (c) COUNCIL.—

11           (1) IN GENERAL.—Not later than 120 days  
12           after the date of the enactment of this Act, the  
13           Council shall convene and develop recommendations  
14           for criteria in awarding grants to institutions of  
15           higher education under subsection (b).

16           (2) SUBMISSION TO COMMERCE AND PUBLICLY  
17           RELEASED.—The Council shall—

18                   (A) submit the recommendations described  
19                   in subparagraph (A) to the Secretary; and

20                           (i) release the recommendations to the  
21                           public.

22                   (B) MAJORITY VOTE.—The recommenda-  
23                   tions submitted by the Council, as described in  
24                   this paragraph, shall be determined by a major-  
25                   ity vote of Council members.

1           (C) PERFORMANCE METRICS.—The Coun-  
2           cil shall develop and provide to the Secretary  
3           recommendations on performance metrics to be  
4           used to evaluate grants awarded under sub-  
5           section (b).

6           (3) EVALUATION.—

7           (A) IN GENERAL.—Not later than 180  
8           days before the date that the grant program  
9           authorized under subsection (b) expires, the  
10          Council shall conduct an evaluation of the effect  
11          that the grant program is having on accel-  
12          erating the commercialization of faculty re-  
13          search.

14          (B) INCLUSIONS.—The evaluation shall in-  
15          clude—

16                 (i) the recommendation of the Council  
17                 as to whether the grant program should be  
18                 continued or terminated;

19                 (ii) quantitative data related to the ef-  
20                 fect, if any, that the grant program has  
21                 had on faculty research commercialization;  
22                 and

23                 (iii) a description of lessons learned in  
24                 administering the grant program, and how  
25                 those lessons could be applied to future ef-



1           “(A) analyzes the problem that the pro-  
2           posed rule intends to address, including—

3                   “(i) the specific market failure, such  
4                   as externalities, market power, or lack of  
5                   information, that justifies such rule; or

6                   “(ii) any other specific problem, such  
7                   as the failures of public institutions, that  
8                   justifies such rule;

9           “(B) analyzes the expected impact of the  
10           proposed rule on the ability of new businesses  
11           to form and expand;

12           “(C) identifies the expected impact of the  
13           proposed rule on State, local, and tribal govern-  
14           ments, including the availability of resources—

15                   “(i) to carry out the mandates im-  
16                   posed by the rule on such government enti-  
17                   ties; and

18                   “(ii) to minimize the burdens that  
19                   uniquely or significantly affect such gov-  
20                   ernmental entities, consistent with achiev-  
21                   ing regulatory objectives;

22           “(D) identifies any conflicting or duplica-  
23           tive regulations;

24           “(E) determines—

1           “(i) if existing laws or regulations cre-  
2           ated, or contributed to, the problem that  
3           the new rule is intended to correct; and

4           “(ii) if the laws or regulations re-  
5           ferred to in clause (i) should be modified  
6           to more effectively achieve the intended  
7           goal of the rule; and

8           “(F) includes the cost-benefit analysis de-  
9           scribed in paragraph (2).

10          “(2) COST-BENEFIT ANALYSIS.—A cost-benefit  
11          analysis described in this paragraph shall include—

12           “(A)(i) an assessment, including the un-  
13           derlying analysis, of benefits anticipated from  
14           the proposed rule, such as—

15           “(I) promoting the efficient func-  
16           tioning of the economy and private mar-  
17           kets;

18           “(II) enhancing health and safety;

19           “(III) protecting the natural environ-  
20           ment; and

21           “(IV) eliminating or reducing dis-  
22           crimination or bias; and

23           “(ii) the quantification of the benefits de-  
24           scribed in clause (i), to the extent feasible;

1           “(B)(i) an assessment, including the un-  
2           derlying analysis, of costs anticipated from the  
3           proposed rule, such as—

4                   “(I) the direct costs to the Federal  
5                   Government to administer the rule;

6                   “(II) the direct costs to businesses  
7                   and others to comply with the rule; and

8                   “(III) any adverse effects on the effi-  
9                   cient functioning of the economy, private  
10                  markets (including productivity, employ-  
11                  ment, and competitiveness), health, safety,  
12                  and the natural environment; and

13                  “(ii) the quantification of the costs de-  
14                  scribed in clause (i), to the extent feasible;

15                  “(C)(i) an assessment, including the un-  
16                  derlying analysis, of costs and benefits of poten-  
17                  tially effective and reasonably feasible alter-  
18                  natives to the proposed rule, which have been  
19                  identified by the agency or by the public, in-  
20                  cluding taking reasonably viable nonregulatory  
21                  actions; and

22                  “(ii) an explanation of why the proposed  
23                  rule is preferable to the alternatives identified  
24                  under clause (i).

1           “(3) REPORT.—Before issuing a notice of pro-  
2           posed rulemaking in the Federal Register regarding  
3           the issuance of a proposed significant rule, the head  
4           of the Federal agency or independent regulatory  
5           agency seeking to issue the rule shall—

6                   “(A) submit the results of the review con-  
7                   ducted under paragraph (1) to the appropriate  
8                   congressional committees; and

9                   “(B) post the results of the review con-  
10                  ducted under paragraph (1) on a publicly avail-  
11                  able website.

12           “(4) JUDICIAL REVIEW.—Any determinations  
13           made, or other actions taken, by an agency or inde-  
14           pendent regulatory agency under this subsection  
15           shall not be subject to judicial review.

16           “(5) DEFINED TERM.—In this subsection the  
17           term ‘significant rule’ means a rule that is likely  
18           to—

19                   “(A) have an annual effect on the economy  
20                   of \$100,000,000 or more;

21                   “(B) adversely affect, in a material way,  
22                   the economy, a sector of the economy, produc-  
23                   tivity, competition, jobs, the environment, public  
24                   health or safety, or State, local, or tribal gov-  
25                   ernments or communities; or

1           “(C) create a serious inconsistency or oth-  
2           erwise interfere with an action taken or planned  
3           by another agency.”.

4 **SEC. 10. BIENNIAL STATE STARTUP BUSINESS REPORT.**

5           (a) DATA COLLECTION.—The Secretary of Com-  
6           merce shall regularly compile information from each of the  
7           50 States and the District of Columbia on State laws that  
8           affect the formation and growth of new businesses within  
9           the State or District.

10          (b) REPORT.—Not later than 18 months after the  
11          date of the enactment of this Act, and every 2 years there-  
12          after, the Secretary, using data compiled under subsection  
13          (a), shall prepare a report that—

14                (1) analyzes the economic effect of State and  
15                District laws that either encourage or inhibit busi-  
16                ness formation and growth; and

17                (2) ranks the States and the District based on  
18                the effectiveness with which their laws foster new  
19                business creation and economic growth.

20          (c) DISTRIBUTION.—The Secretary shall—

21                (1) submit each report prepared under sub-  
22                section (b) to Congress; and

23                (2) make each report available to the public on  
24                the Department of Commerce’s website.



1 (d) INCLUSION OF LARGE METROPOLITAN AREAS.—  
2 Not later than 90 days after the submission of the first  
3 report under this section, the Secretary of Commerce shall  
4 submit to Congress a study on the feasibility and advis-  
5 ability of including, in future reports, information about  
6 the effect of local laws and ordinances on the formation  
7 and growth of new businesses in large metropolitan areas  
8 within the United States.

9 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated such sums as may be  
11 necessary to carry out this section.

12 **SEC. 11. NEW BUSINESS FORMATION REPORT.**

13 (a) IN GENERAL.—The Secretary of Commerce shall  
14 regularly compile quantitative and qualitative information  
15 on businesses in the United States that are not more than  
16 1 year old.

17 (b) DATA COLLECTION.—The Secretary shall—

18 (1) regularly compile information from the Bu-  
19 reau of the Census' business register on new busi-  
20 ness formation in the United States; and

21 (2) conduct quarterly surveys of business own-  
22 ers who start a business during the 1-year period  
23 ending on the date on which such survey is con-  
24 ducted to gather qualitative information about the

1 factors that influenced their decision to start the  
2 business.

3 (c) RANDOM SAMPLING.—In conducting surveys  
4 under subsection (b)(2), the Secretary may use random  
5 sampling to identify a group of business owners who are  
6 representative of all the business owners described in sub-  
7 section (b)(2).

8 (d) BENEFITS.—The Secretary shall inform business  
9 owners selected to participate in a survey conducted under  
10 this section of the benefits they would receive from partici-  
11 pating in the survey.

12 (e) VOLUNTARY PARTICIPATION.—Business owners  
13 selected to participate in a survey conducted under this  
14 section may decline to participate without penalty.

15 (f) REPORT.—Not later than 18 months after the  
16 date of the enactment of this Act, and every 3 months  
17 thereafter, the Secretary shall use the data compiled under  
18 subsection (b) to prepare a report that—

19 (1) lists the aggregate number of new busi-  
20 nesses formed in the United States;

21 (2) lists the aggregate number of persons em-  
22 ployed by new businesses formed in the United  
23 States;

24 (3) analyzes the payroll of new businesses  
25 formed in the United States;

1           (4) summarizes the data collected under sub-  
2           section (b); and

3           (5) identifies the most effective means by which  
4           government officials can encourage the formation  
5           and growth of new businesses in the United States.

6           (g) DISTRIBUTION.—The Secretary shall—

7           (1) submit each report prepared under sub-  
8           section (f) to Congress; and

9           (2) make each report available to the public on  
10          the Department of Commerce’s website.

11          (h) AUTHORIZATION OF APPROPRIATIONS.—There  
12          are authorized to be appropriated such sums as may be  
13          necessary to carry out this section.

14          **SEC. 12. RESCISSION OF UNSPENT FEDERAL FUNDS.**

15          (a) IN GENERAL.—Notwithstanding any other provi-  
16          sion of law, of all available unobligated funds for fiscal  
17          year 2013, the amount necessary to carry out this Act and  
18          the amendments made by this Act in appropriated discre-  
19          tionary funds are hereby rescinded.

20          (b) IMPLEMENTATION.—The Director of the Office of  
21          Management and Budget shall determine and identify  
22          from which appropriation accounts the rescission under  
23          subsection (a) shall apply and the amount of such rescis-  
24          sion that shall apply to each such account. Not later than  
25          60 days after the date of the enactment of this Act, the

1 Director of the Office of Management and Budget shall  
2 submit a report to the Secretary of the Treasury and Con-  
3 gress of the accounts and amounts determined and identi-  
4 fied for rescission under the preceding sentence.

○