113TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
113–431

AMERICAN RESEARCH AND COMPETITIVENESS ACT OF 2014

MAY 2, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CAMP, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4438]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4438) to amend the Internal Revenue Code of 1986 to simplify and make permanent the research credit, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

39–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Research and Competitiveness Act of 2014".

SEC. 2. RESEARCH CREDIT SIMPLIFIED AND MADE PERMANENT.

(a) IN GENERAL.—Subsection (a) of section 41 of the Internal Revenue Code of 1986 is amended to read as follows:

"(a) IN GENERAL.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to the sum of—

"(1) 20 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined,

"(2) 20 percent of so much of the basic research payments for the taxable year as exceeds 50 percent of the average basic research payments for the 3 taxable years preceding the taxable year for which the credit is being determined, plus

"(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium for energy research.".

(b) REPEAL OF TERMINATION.—Section 41 of such Code is amended by striking subsection (h).

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 41 of such Code is amended to read as follows:

"(c) DETERMINATION OF AVERAGE RESEARCH EXPENSES FOR PRIOR YEARS.—

"(1) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENDITURES IN ANY OF 3 PRECEDING TAXABLE YEARS.—In any case in which the taxpayer has no qualified research expenses in any one of the 3 taxable years preceding the taxable year for which the credit is being determined, the amount determined under subsection (a)(1) for such taxable year shall be equal to 10 percent of the qualified research expenses for the taxable year.

"(2) CONSISTENT TREATMENT OF EXPENSES.—

"(A) IN GENERAL.—Notwithstanding whether the period for filing a claim for credit or refund has expired for any taxable year taken into account in determining the average qualified research expenses, or average basic research payments, taken into account under subsection (a), the qualified research expenses and basic research payments taken into account in determining such averages shall be determined on a basis consistent with the determination of qualified research expenses and basic research payments, respectively, for the credit year.

"(B) PREVENTION OF DISTORTIONS.—The Secretary may prescribe regulations to prevent distortions in calculating a taxpayer's qualified research expenses or basic research payments caused by a change in accounting methods used by such taxpayer between the current year and a year taken into account in determining the average qualified research expenses or average basic research payments taken into account under subsection (a).".

(2) Section 41(e) of such Code is amended—

(A) by striking all that precedes paragraph (6) and inserting the following:

"(e) BASIC RESEARCH PAYMENTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'basic research payment' means, with respect to any taxable year, any amount paid in cash during such taxable year by a corporation to any qualified organization for basic research but only if—

"(A) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

"(B) such basic research is to be performed by such qualified organization.

"(2) EXCEPTION TO REQUIREMENT THAT RESEARCH BE PERFORMED BY THE ORGANIZATION.—In the case of a qualified organization described in subparagraph (C) or (D) of paragraph (3), subparagraph (B) of paragraph (1) shall not apply.",

(B) by redesignating paragraphs (6) and (7) as paragraphs (3) and (4), respectively, and

(C) in paragraph (4) as so redesignated, by striking subparagraphs (B) and (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (B) and (C), respectively.

(3) Section 41(f)(3) of such Code is amended—

(A)(i) by striking ", and the gross receipts" in subparagraph (A)(i) and all that follows through "determined under clause (iii)",

(ii) by striking clause (iii) of subparagraph (A) and redesignating clauses (iv), (v), and (vi), thereof, as clauses (iii), (iv), and (v), respectively,

(iii) by striking "and (iv)" each place it appears in subparagraph (A)(iv) (as so redesignated) and inserting "and (iii)",

(iv) by striking subclause (IV) of subparagraph (A)(iv) (as so redesignated), by striking ", and" at the end of subparagraph (A)(iv)(III) (as so redesignated) and inserting a period, and by adding "and" at the end of subparagraph (A)(iv)(II) (as so redesignated),

(v) by striking "(A)(vi)" in subparagraph (B) and inserting "(A)(v)", and

(vi) by striking "(A)(iv)(II)" in subparagraph (B)(i)(II) and inserting "(A)(iii)(II)",

(B) by striking ", and the gross receipts of the predecessor," in subparagraph (A)(iv)(II) (as so redesignated),

(C) by striking ", and the gross receipts of," in subparagraph (B),

(D) by striking ", or gross receipts of," in subparagraph (B)(i)(I), and

(E) by striking subparagraph (C).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2013.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to amounts paid or incurred after December 31, 2013.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

Similar to a provision contained in the discussion draft of the "Tax Reform Act of 2014" released on February 26, 2014, the bill, H.R. 4438, reported by the Committee on Ways and Means, provides a permanent simplified method for calculating the research credit with a rate of 20 percent, replacing the traditional 20-percent research credit calculation method. H.R. 4438 also provides a permanent basic research credit and energy research credit (both with credit rates of 20 percent), and changes the base period for the basic research credit from a fixed period to a three-year rolling average. A temporary research credit expired for qualified expenditures made after December 31, 2013.

B. BACKGROUND AND NEED FOR LEGISLATION

While the Committee continues actively to pursue comprehensive tax reform as a critical means of promoting economic growth and job creation, the Committee also believes that it is important to provide American employers permanent, immediate tax relief to help encourage economic growth and job creation. By providing a permanent simplified research credit, instead of the temporary measures enacted over the past three decades, H.R. 4438 provides much-needed certainty for innovators, enhancing the effectiveness of the credit as an incentive for investments in research and development. Making the alternative simplified method the primary method for calculating the credit also eases administrative burdens for taxpayers and the IRS, eliminating substantial amounts of rec-

ordkeeping, documentation issues, and controversy connected with the historical base-period credit. By increasing the alternative simplified credit from 14 percent to 20 percent, H.R. 4438 further incentivizes critical research here in the United States.

C. LEGISLATIVE HISTORY

Background

H.R. 4438 was introduced on April 9, 2014, and was referred to the Committee on Ways and Means.

Committee action

The Committee on Ways and Means marked up H.R. 4438, the American Research and Competitiveness Act of 2014, on April 29, 2014, and ordered the bill, as amended, favorably reported (with a quorum being present).

Committee hearings

The need for a permanent simplified research credit was discussed at no fewer than eight hearings during the 112th and 113th Congresses:

- Full Committee hearing on Fundamental Tax Reform (January 20, 2011);
- Select Revenue Measures Subcommittee Hearing on Small Businesses and Tax Reform (March 3, 2011);
- Full Committee hearing on the Need for Comprehensive Tax Reform to Help American Companies Compete in the Global Market and Create Jobs for American Workers (May 12, 2011);
- Full Committee hearing on How Other Countries Have Used Tax Reform to Help Their Companies Compete in the Global Market and Create Jobs (May 24, 2011);
- Full Committee hearing on How Business Tax Reform Can Encourage Job Creation (June 2, 2011);
- Full Committee hearing on the Interaction of Tax and Financial Accounting on Tax Reform (February 8, 2012);
- Full Committee hearing on Tax Reform and the U.S. Manufacturing Sector (July 19, 2012); and
- Full Committee hearing on the Benefits of Permanent Tax Policy for America's Job Creators (April 8, 2014).

II. EXPLANATION OF THE BILL

A. Research Credit Simplified and Made Permanent (sec. 41 of the Code)

PRESENT LAW

General rule

For general research expenditures, a taxpayer may claim a research credit equal to 20 percent of the amount by which the taxpayer's qualified research expenses for a taxable year exceed its base amount for that year.[1] Thus, the research credit is generally available with respect to incremental increases in qualified research. An alternative simplified research credit (with a 14 percent

[1] Sec. 41(a)(1).

rate and a different base amount) may be claimed in lieu of this credit.[2]

A 20-percent research tax credit also is available with respect to the excess of (1) 100 percent of corporate cash expenses (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.[3] This separate credit computation commonly is referred to as the basic research credit.

Finally, a research credit is available for a taxpayer's expenditures on research undertaken by an energy research consortium.[4] This separate credit computation commonly is referred to as the energy research credit. Unlike the other research credits, the energy research credit applies to all qualified expenditures, not just those in excess of a base amount.

The research credit, including the basic research credit and the energy research credit, expires for amounts paid or incurred after December 31, 2013.[5]

Computation of general research credit

The general research tax credit applies only to the extent that the taxpayer's qualified research expenses for the current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer's fixed-base percentage by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenses and had gross receipts during each of at least three years from 1984 through 1988, then its fixed-base percentage is the ratio that its total qualified research expenses for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum fixed-base percentage of 16 percent). Special rules apply to all other taxpayers (so called start-up firms).[6] In computing the research credit, a taxpayer's base amount cannot be less than 50 percent of its current-year qualified research expenses.

Alternative simplified credit

The alternative simplified research credit is equal to 14 percent of qualified research expenses that exceed 50 percent of the average qualified research expenses for the three preceding taxable

[2] Sec. 41(c)(5).

[3] Secs. 41(a)(2) and 41(e). The base period for the basic research credit generally extends from 1981 through 1983.

[4] Sec. 41(a)(3).

[5] Sec. 41(h).

[6] The Small Business Job Protection Act of 1996 expanded the definition of start-up firms under section 41(c)(3)(B)(i) to include any firm if the first taxable year in which such firm had both gross receipts and qualified research expenses began after 1983. A special rule (enacted in 1993) is designed to gradually recompute a start-up firm's fixed-base percentage based on its actual research experience. Under this special rule, a start-up firm is assigned a fixed-base percentage of three percent for each of its first five taxable years after 1993 in which it incurs qualified research expenses. A start-up firm's fixed-base percentage for its sixth through tenth taxable years after 1993 in which it incurs qualified research expenses is a phased-in ratio based on the firm's actual research experience. For all subsequent taxable years, the taxpayer's fixed-base percentage is its actual ratio of qualified research expenses to gross receipts for any five years selected by the taxpayer from its fifth through tenth taxable years after 1993. Sec. 41(c)(3)(B).

years.[7] The rate is reduced to six percent if a taxpayer has no qualified research expenses in any one of the three preceding taxable years.[8] An election to use the alternative simplified credit applies to all succeeding taxable years unless revoked with the consent of the Secretary.[9]

Eligible expenses

Qualified research expenses eligible for the research tax credit consist of: (1) in-house expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid or incurred by the taxpayer to certain other persons for qualified research conducted on the taxpayer's behalf (so-called contract research expenses).[10] Notwithstanding the limitation for contract research expenses, qualified research expenses include 100 percent of amounts paid or incurred by the taxpayer to an eligible small business, university, or Federal laboratory for qualified energy research.

To be eligible for the credit, the research not only has to satisfy the requirements of section 174, but also must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and substantially all of the activities of which constitute elements of a process of experimentation for functional aspects, performance, reliability, or quality of a business component. Research does not qualify for the credit if substantially all of the activities relate to style, taste, cosmetic, or seasonal design factors.[11] In addition, research does not qualify for the credit if: (1) conducted after the beginning of commercial production of the business component; (2) related to the adaptation of an existing business component to a particular customer's requirements; (3) related to the duplication of an existing business component from a physical examination of the component itself or certain other information; (4) related to certain efficiency surveys, management function or technique, market research, market testing, or market development, routine data collection or routine quality control; (5) related to software developed primarily for internal use by the taxpayer; (6) conducted outside the United States, Puerto Rico, or any U.S. possession; (7) in the social sciences, arts, or humanities; or (8) funded by any grant, contract, or otherwise by another person (or government entity).[12]

Relation to deduction

Deductions allowed to a taxpayer under section 174 (or any other section) are reduced by an amount equal to 100 percent of the tax-

[7] Sec. 41(c)(5)(A).
[8] Sec. 41(c)(5)(B).
[9] Sec. 41(c)(5)(C).
[10] Under a special rule, 75 percent of amounts paid to a research consortium for qualified research are treated as qualified research expenses eligible for the research credit (rather than 65 percent under the general rule under section 41(b)(3) governing contract research expenses) if (1) such research consortium is a tax-exempt organization that is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6) and is organized and operated primarily to conduct scientific research, and (2) such qualified research is conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer. Sec. 41(b)(3)(C).
[11] Sec. 41(d)(3).
[12] Sec. 41(d)(4).

payer's research tax credit determined for the taxable year.[13] Taxpayers may alternatively elect to claim a reduced research tax credit amount under section 41 in lieu of reducing deductions otherwise allowed.[14]

REASONS FOR CHANGE

The Committee acknowledges that research is vital to creating jobs and economic growth. Research is the basis of new products, new services, new industries, and new jobs for the domestic economy. The Committee believes that the temporary nature of the now-expired research credit limits its effectiveness, preventing businesses from making long-term investments in U.S.-based research and related business operations. Additionally, many taxpayers report that the general research credit can be complicated to calculate and that the base period is difficult to determine. The Committee believes that the alternative simplified credit is a more straightforward approach for calculating the research credit and that replacing the general credit with the simplified method would make the research credit more efficient and better achieve its intended purpose of fostering domestic research and development. Therefore, the Committee believes it is appropriate to simplify and make permanent the present-law research credit.

EXPLANATION OF PROVISION

The provision makes permanent the alternative simplified method for calculating the research credit and increases the rate to 20 percent. That is, the research credit is equal to 20 percent of qualified research expenses that exceed 50 percent of the average qualified research expenses for the three preceding taxable years. The rate is reduced to 10 percent if a taxpayer has no qualified research expenses in any one of the three preceding taxable years. The provision repeals the traditional 20-percent research credit calculation method.

The provision also makes permanent the basic research credit and the energy research credit (both with credit rates of 20-percent), and changes the base period for the basic research credit from a fixed period to a three-year rolling average.

EFFECTIVE DATE

The provision to make various components of the research credit permanent is effective for amounts paid or incurred after December 31, 2013. The other elements of the provision are effective for taxable years beginning after December 31, 2013.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 4438, the American Research and Competitiveness Act of 2014, on April 29, 2014.

[13] Sec. 280C(c).
[14] Sec. 280C(c)(3).

The bill, H.R. 4438, was ordered favorably reported as amended by a roll call vote of 22 yeas to 12 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Camp	✔			Mr. Levin		✔	
Mr. Johnson	✔			Mr. Rangel		✔	
Mr. Brady	✔			Mr. McDermott		✔	
Mr. Ryan	✔			Mr. Lewis		✔	
Mr. Nunes	✔			Mr. Neal			
Mr. Tiberi	✔			Mr. Becerra		✔	
Mr. Reichert	✔			Mr. Doggett		✔	
Mr. Boustany	✔			Mr. Thompson		✔	
Mr. Roskam	✔			Mr. Larson		✔	
Mr. Gerlach				Mr. Blumenauer	✔		
Mr. Price	✔			Mr. Kind		✔	
Mr. Buchanan	✔			Mr. Pascrell		✔	
Mr. Smith	✔			Mr. Crowley		✔	
Mr. Schock	✔			Ms. Schwartz			
Ms. Jenkins	✔			Mr. Davis		✔	
Mr. Paulsen	✔			Ms. Sanchez		✔	
Mr. Marchant	✔						
Ms. Black	✔						
Mr. Reed	✔						
Mr. Young	✔						
Mr. Kelly	✔						
Mr. Griffin							
Mr. Renacci	✔						

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 4438, as reported.

The bill, as reported, is estimated to have the following effect on Federal budget receipts for fiscal years 2014–2024:

Fiscal years in billions of dollars—												
2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–19	2014–24
−4.9	−8.6	−10.2	−11.7	−13.1	−14.4	−15.8	−17.0	−18.5	−19.9	−21.3	−62.9	−155.5

Note: Details do not add to totals due to rounding.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the revenue-reducing tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 1, 2014.

Hon. DAVE CAMP,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4438, the American Research and Competitiveness Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Logan Timmerhoff.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

H.R. 4438—American Research and Competitiveness Act of 2014

H.R. 4438 would amend the Internal Revenue Code to modify the calculation method and the rate for the tax credit for qualified research expenses that expired at the end of 2013. The modified credit would be made permanent. The bill would not extend the traditional calculation method and its associated 20 percent credit. It would, however, make permanent the "alternative simplified method" for calculating the tax credit for qualified research expenses and generally increase the associated credit to 20 percent of those expenses that exceed 50 percent of the average qualified research expenses for the three preceding taxable years. It also makes permanent a tax credit for basic research and energy research and changes the base period for the basic research credit from a fixed period to a three-year rolling average.

The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 4438 would reduce revenues, thus increasing federal deficits, by about $156 billion over the 2014–2024 period.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending and revenues. Enacting H.R. 4438 would result in revenue losses in each year beginning in 2014. The estimated increases in the deficit are shown in the following table.

JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Logan Timmerhoff. The estimate was approved by David Weiner, Assistant Director for Tax Analysis.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 4438, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON APRIL 29, 2014

	By fiscal year, in millions of dollars—												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014–2019	2014–2024
NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Effects	4,964	8,648	10,188	11,673	13,083	14,439	15,764	17,100	18,471	19,879	21,296	62,994	155,504

Source: Staff of the Joint Committee on Taxation.
Note: Components may not sum to totals because of rounding.

D. MACROECONOMIC IMPACT ANALYSIS

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

The bill simplifies and makes permanent a 20 percent tax credit for qualified research expenses that exceed 50 percent of the average qualified research expenses for the three preceding years, thus lowering the cost of research and development for businesses. Economic theory suggests that increased research expenditures would promote an increase in economic output by promoting technological development, and hence increasing the productivity of labor and capital. Theory is less clear on the extent to which increasing research intensity is subject to diminishing returns.[15]

To the extent that research activities are responsive to changes in their cost, the tax credit should increase such expenditures. Economic research that has attempted to measure how responsive firms' research expenditures are to tax and other incentives has yielded a wide range of estimates.[16] JCT staff estimates this bill could increase research expenditures by up to 10 percent.

Studies that have attempted to quantify the effect of research expenditures on factor productivity are also subject to a significant amount of uncertainty. It is difficult to find objective measures of productivity, and of the stock of knowledge created by research expenditures, that can be used in econometric analyses. It is also difficult to establish links between research expenditures within certain firms, or within industries, or even within specific countries, because other firms or industries may also benefit from technological development produced by those expenditures. And it is difficult to separate out the effects of research expenditures from other possible influences on productivity.[17] Notwithstanding the methodological challenges in estimating the magnitude of this effect, these studies generally find positive returns to research expenditures, providing support for the hypothesized link between research spending and increased productivity and growth.

Finally, in the short-run, the net reduction in tax receipts resulting from the bill could provide for a small increase in overall demand, thus resulting in some economic growth. In the longer term, the resulting increase in deficits would result in higher interest rates, reducing the positive investment incentive effects.

Overall, we estimate that the effects of the bill on economic activity are so small and uncertain relative to the size of the economy

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[15] Charles Jones discusses the role of research in growth theory in "R&D-Based Models of Economic Growth," *The Journal of Political Economy,* 103(4), August 1995, pp. 759–794, and speculates on future trends in productivity growth in the context of this theory in Fernald, John G. and Charles I. Jones, "The Future of U.S. Economic Growth," *AEA Papers and Proceedings, forthcoming.*

[16] A description of several of these studies, along with additional economic analysis of tax subsidies for research expenditures, may be found in Joint Committee on Taxation, *Description of Revenue Provisions Contained in the President's Fiscal Year 2013 Budget Proposal,* (JCS–2–12), June 2012, pp. 100–116.

[17] Bronwyn H. Hall, Jackques Mairesse, and Pierre Mohnen discuss these issues in a survey of studies that have attempted to measure the effects of research expenditures on factor productivity and the rate of return on investment in *Measuring the Returns to R&D,* National Bureau of Economic Research Working Paper 15622, December 2009.

as to be incalculable within the context of a model of the aggregate economy.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 4438 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

E. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the "IRS Reform Act") requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation

has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Code and that have "widespread applicability" to individuals or small businesses, within the meaning of the rule.

F. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

G. Duplication of Federal Programs

In compliance with Sec. 3(j)(2) of H. Res. 5 (113th Congress), the Committee states that no provision of the bill establishes or reauthorizes a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169). The Committee also states that the Government Accountability Office has included the research tax credit in a report to Congress pursuant to section 21 of Public Law 111–139.

H. Disclosure of Directed Rule Makings

In compliance with Sec. 3(k) of H. Res. 5 (113th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

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Subtitle A—Income Taxes

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter A—Determination of Tax Liability

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PART IV—CREDITS AGAINST TAX

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Subpart D—Business Related Credits

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SEC. 41. CREDIT FOR INCREASING RESEARCH ACTIVITIES.

[(a) GENERAL RULE.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to the sum of—

[(1) 20 percent of the excess (if any) of—

[(A) the qualified research expenses for the taxable year, over

[(B) the base amount,

[(2) 20 percent of the basic research payments determined under subsection (e)(1)(A), and

[(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium for energy research.]

(a) IN GENERAL.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to the sum of—

(1) 20 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined,

(2) 20 percent of so much of the basic research payments for the taxable year as exceeds 50 percent of the average basic research payments for the 3 taxable years preceding the taxable year for which the credit is being determined, plus

(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium for energy research.

* * * * * * *

[(c) BASE AMOUNT.—

[(1) IN GENERAL.—The term "base amount" means the product of—

[(A) the fixed-base percentage, and

[(B) the average annual gross receipts of the taxpayer for the 4 taxable years preceding the taxable year for which the credit is being determined (hereinafter in this subsection referred to as the "credit year").

[(2) MINIMUM BASE AMOUNT.—In no event shall the base amount be less than 50 percent of the qualified research expenses for the credit year.

[(3) FIXED-BASE PERCENTAGE.—

[(A) IN GENERAL.—Except as otherwise provided in this paragraph, the fixed-base percentage is the percentage

which the aggregate qualified research expenses of the taxpayer for taxable years beginning after December 31, 1983, and before January 1, 1989, is of the aggregate gross receipts of the taxpayer for such taxable years.

[(B) START-UP COMPANIES.—

[(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—

[(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

[(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.

[(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

[(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1993, for which the taxpayer has qualified research expenses,

[(II) in the case of the taxpayer's 6th such taxable year, 1/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

[(III) in the case of the taxpayer's 7th such taxable year, 1/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

[(IV) in the case of the taxpayer's 8th such taxable year, 1/2 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

[(V) in the case of the taxpayer's 9th such taxable year, 2/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

[(VI) in the case of the taxpayer's 10th such taxable year, 5/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years, and

[(VII) for taxable years thereafter, the percentage which the aggregate qualified research expenses for any 5 taxable years selected by the tax-

payer from among the 5th through the 10th such taxable years is of the aggregate gross receipts of the taxpayer for such selected years.

[(iii) Treatment of de minimis amounts of gross receipts and qualified research expensesThe Secretary may prescribe regulations providing that de minimis amounts of gross receipts and qualified research expenses shall be disregarded under clauses (i) and (ii).

[(C) MAXIMUM FIXED-BASE PERCENTAGE.—In no event shall the fixed-base percentage exceed 16 percent.

[(D) ROUNDING.—The percentages determined under subparagraphs (A) and (B)(ii) shall be rounded to the nearest 1/100th of 1 percent.

[(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

[(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to the sum of—

[(i) 3 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average described in subsection (c)(1)(B) but does not exceed 1.5 percent of such average,

[(ii) 4 percent of so much of such expenses as exceeds 1.5 percent of such average but does not exceed 2 percent of such average, and

[(iii) 5 percent of so much of such expenses as exceeds 2 percent of such average.

[(B) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

[(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

[(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 14 percent (12 percent in the case of taxable years ending before January 1, 2009) of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

[(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

[(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any one of the 3 taxable years preceding the taxable year for which the credit is being determined.

[(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

[(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not

be made for any taxable year to which an election under paragraph (4) applies.

[(6) CONSISTENT TREATMENT OF EXPENSES REQUIRED.—

[(A) IN GENERAL.—Notwithstanding whether the period for filing a claim for credit or refund has expired for any taxable year taken into account in determining the fixed-base percentage, the qualified research expenses taken into account in computing such percentage shall be determined on a basis consistent with the determination of qualified research expenses for the credit year.

[(B) PREVENTION OF DISTORTIONS.—The Secretary may prescribe regulations to prevent distortions in calculating a taxpayer's qualified research expenses or gross receipts caused by a change in accounting methods used by such taxpayer between the current year and a year taken into account in computing such taxpayer's fixed-base percentage.

[(7) GROSS RECEIPTS.—For purposes of this subsection, gross receipts for any taxable year shall be reduced by returns and allowances made during the taxable year. In the case of a foreign corporation, there shall be taken into account only gross receipts which are effectively connected with the conduct of a trade or business within the United States, the Commonwealth of Puerto Rico, or any possession of the United States.]

(c) DETERMINATION OF AVERAGE RESEARCH EXPENSES FOR PRIOR YEARS.—

(1) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENDITURES IN ANY OF 3 PRECEDING TAXABLE YEARS.—In any case in which the taxpayer has no qualified research expenses in any one of the 3 taxable years preceding the taxable year for which the credit is being determined, the amount determined under subsection (a)(1) for such taxable year shall be equal to 10 percent of the qualified research expenses for the taxable year.

(2) CONSISTENT TREATMENT OF EXPENSES.—

(A) IN GENERAL.—Notwithstanding whether the period for filing a claim for credit or refund has expired for any taxable year taken into account in determining the average qualified research expenses, or average basic research payments, taken into account under subsection (a), the qualified research expenses and basic research payments taken into account in determining such averages shall be determined on a basis consistent with the determination of qualified research expenses and basic research payments, respectively, for the credit year.

(B) PREVENTION OF DISTORTIONS.—The Secretary may prescribe regulations to prevent distortions in calculating a taxpayer's qualified research expenses or basic research payments caused by a change in accounting methods used by such taxpayer between the current year and a year taken into account in determining the average qualified research expenses or average basic research payments taken into account under subsection (a).

* * * * * * *

[(e) CREDIT ALLOWABLE WITH RESPECT TO CERTAIN PAYMENTS TO QUALIFIED ORGANIZATIONS FOR BASIC RESEARCH.—For purposes of this section—

[(1) IN GENERAL.—In the case of any taxpayer who makes basic research payments for any taxable year—

[(A) the amount of basic research payments taken into account under subsection (a)(2) shall be equal to the excess of—

[(i) such basic research payments, over

[(ii) the qualified organization base period amount, and

[(B) that portion of such basic research payments which does not exceed the qualified organization base period amount shall be treated as contract research expenses for purposes of subsection (a)(1).

[(2) BASIC RESEARCH PAYMENTS DEFINED.—For purposes of this subsection—

[(A) IN GENERAL.—The term "basic research payment" means, with respect to any taxable year, any amount paid in cash during such taxable year by a corporation to any qualified organization for basic research but only if—

[(i) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

[(ii) such basic research is to be performed by such qualified organization.

[(B) EXCEPTION TO REQUIREMENT THAT RESEARCH BE PERFORMED BY THE ORGANIZATION.—In the case of a qualified organization described in subparagraph (C) or (D) of paragraph (6), clause (ii) of subparagraph (A) shall not apply.

[(3) QUALIFIED ORGANIZATION BASE PERIOD AMOUNT.—For purposes of this subsection, the term "qualified organization base period amount" means an amount equal to the sum of—

[(A) the minimum basic research amount, plus

[(B) the maintenance-of-effort amount.

[(4) MINIMUM BASIC RESEARCH AMOUNT.—For purposes of this subsection—

[(A) IN GENERAL.—The term "minimum basic research amount" means an amount equal to the greater of—

[(i) 1 percent of the average of the sum of amounts paid or incurred during the base period for—

[(I) any in-house research expenses, and

[(II) any contract research expenses, or

[(ii) the amounts treated as contract research expenses during the base period by reason of this subsection (as in effect during the base period).

[(B) FLOOR AMOUNT.—Except in the case of a taxpayer which was in existence during a taxable year (other than a short taxable year) in the base period, the minimum basic research amount for any base period shall not be less than 50 percent of the basic research payments for the taxable year for which a determination is being made under this subsection.

[(5) MAINTENANCE-OF-EFFORT AMOUNT.—For purposes of this subsection—

[(A) IN GENERAL.—The term "maintenance-of-effort amount" means, with respect to any taxable year, an amount equal to the excess (if any) of—

[(i) an amount equal to—

[(I) the average of the nondesignated university contributions paid by the taxpayer during the base period, multiplied by

[(II) the cost-of-living adjustment for the calendar year in which such taxable year begins, over (ii) the amount of nondesignated university contributions paid by the taxpayer during such taxable year.

[(B) NONDESIGNATED UNIVERSITY CONTRIBUTIONS.—For purposes of this paragraph, the term "nondesignated university contribution" means any amount paid by a taxpayer to any qualified organization described in paragraph (6)(A)—

[(i) for which a deduction was allowable under section 170, and

[(ii) which was not taken into account—

[(I) in computing the amount of the credit under this section (as in effect during the base period) during any taxable year in the base period, or

[(II) as a basic research payment for purposes of this section.

[(C) COST-OF-LIVING ADJUSTMENT DEFINED.—

[(i) IN GENERAL.—The cost-of-living adjustment for any calendar year is the cost-of-living adjustment for such calendar year determined under section 1(f)(3), by substituting "calendar year 1987" for "calendar year 1992" in subparagraph (B) thereof.

[(ii) SPECIAL RULE WHERE BASE PERIOD ENDS IN A CALENDAR YEAR OTHER THAN 1983 OR 1984.—If the base period of any taxpayer does not end in 1983 or 1984, section 1(f)(3)(B) shall, or purposes of this paragraph, be applied by substituting the calendar year in which such base period ends for 1992. Such substitution shall be in lieu of the substitution under clause (i).]

(e) BASIC RESEARCH PAYMENTS.— For purposes of this section—

(1) IN GENERAL.—The term "basic research payment" means, with respect to any taxable year, any amount paid in cash during such taxable year by a corporation to any qualified organization for basic research but only if—

(A) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

(B) such basic research is to be performed by such qualified organization.

(2) EXCEPTION TO REQUIREMENT THAT RESEARCH BE PERFORMED BY THE ORGANIZATION.—In the case of a qualified organization described in subparagraph (C) or (D) of paragraph (3), subparagraph (B) of paragraph (1) shall not apply.

[(6)] *(3)* QUALIFIED ORGANIZATION.—For purposes of this subsection, the term "qualified organization" means any of the following organizations:

(A) * * *

* * * * * * *

[(7)] *(4)* DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) * * *

* * * * * * *

[(B) BASE PERIOD.—The term "base period" means the 3-taxable-year period ending with the taxable year immediately preceding the 1st taxable year of the taxpayer beginning after December 31, 1983.

[(C) EXCLUSION FROM INCREMENTAL CREDIT CALCULATION.—For purposes of determining the amount of credit allowable under subsection (a)(1) for any taxable year, the amount of the basic research payments taken into account under subsection (a)(2)—

[(i) shall not be treated as qualified research expenses under subsection (a)(1)(A), and

[(ii) shall not be included in the computation of base amount under subsection (a)(1)(B).]

[(D)] *(B)* TRADE OR BUSINESS QUALIFICATION.—For purposes of applying subsection (b)(1) to this subsection, any basic research payments shall be treated as an amount paid in carrying on a trade or business of the taxpayer in the taxable year in which it is paid (without regard to the provisions of subsection (b)(3)(B)).

[(E)] *(C)* CERTAIN CORPORATIONS NOT ELIGIBLE.—The term "corporation" shall not include—

(i) * * *

* * * * * * *

(f) SPECIAL RULES.—For purposes of this section—

(1) * * *

* * * * * * *

(3) ADJUSTMENTS FOR CERTAIN ACQUISITIONS, ETC..—Under regulations prescribed by the Secretary—

(A) ACQUISITIONS.—

(i) IN GENERAL.—If a person acquires the major portion of either a trade or business or a separate unit of a trade or business (hereinafter in this paragraph referred to as the "acquired business") of another person (hereinafter in this paragraph referred to as the "predecessor"), then the amount of qualified research expenses paid or incurred by the acquiring person during the measurement period shall be increased by the amount determined under clause (ii)[, and the gross receipts of the acquiring person for such period shall be increased by the amount determined under clause (iii)].

* * * * * * *

[(iii) AMOUNT DETERMINED WITH RESPECT TO GROSS RECEIPTS.—The amount determined under this clause is the amount which would be determined under clause (ii) if "the gross receipts of" were substituted for "the qualified research expenses paid or incurred by" each place it appears in clauses (ii) and (iv).]

[(iv)] *(iii)* ACQUISITION YEAR AMOUNT.—For purposes of clause (ii), the acquisition year amount is the amount equal to the product of—

(I) * * *

(II) the number of days in the period beginning on the date of the acquisition and ending on the last day of the taxable year in which the acquisition is made,

divided by the number of days in the acquiring person's taxable year.

[(v)] *(iv)* SPECIAL RULES FOR COORDINATING TAXABLE YEARS.—In the case of an acquiring person and a predecessor whose taxable years do not begin on the same date—

(I) each reference to a taxable year in clauses (ii) [and (iv)] *and (iii)* shall refer to the appropriate taxable year of the acquiring person,

(II) the qualified research expenses paid or incurred by the predecessor[, and the gross receipts of the predecessor,] during each taxable year of the predecessor any portion of which is part of the measurement period shall be allocated equally among the days of such taxable year, *and*

(III) the amount of such qualified research expenses taken into account under clauses (ii) [and (iv)] *and (iii)* with respect to a taxable year of the acquiring person shall be equal to the total of the expenses attributable under subclause (II) to the days occurring during such taxable year[, and].

[(IV) the amount of such gross receipts taken into account under clause (iii) with respect to a taxable year of the acquiring person shall be equal to the total of the gross receipts attributable under subclause (II) to the days occurring during such taxable year.]

[(vi)] *(v)* MEASUREMENT PERIOD.—For purposes of this subparagraph, the term "measurement period" means, with respect to the taxable year of the acquiring person for which the credit is determined, any period of the acquiring person preceding such taxable year which is taken into account for purposes of determining the credit for such year.

(B) DISPOSITIONS.—If the predecessor furnished to the acquiring person such information as is necessary for the application of subparagraph (A), then, for purposes of applying this section for any taxable year ending after such disposition, the amount of qualified research expenses paid or incurred by[, and the gross receipts of,] the predecessor during the measurement period (as defined in subpara-

graph [(A)(vi)] *(A)(v)*, determined by substituting "predecessor" for "acquiring person" each place it appears) shall be reduced by—

(i) in the case of the taxable year in which such disposition is made, an amount equal to the product of—

(I) the qualified research expenses paid or incurred by[, or gross receipts of,] the predecessor with respect to the acquired business during the measurement period (as so defined and so determined), and

(II) the number of days in the period beginning on the date of acquisition (as determined for purposes of subparagraph [(A)(iv)(II)] *(A)(iii)(II)*) and ending on the last day of the taxable year of the predecessor in which the disposition is made,

* * * * * * *

[(C) CERTAIN REIMBURSEMENTS TAKEN INTO ACCOUNT IN DETERMINING FIXED-BASE PERCENTAGE.—If during any of the 3 taxable years following the taxable year in which a disposition to which subparagraph (B) applies occurs, the disposing taxpayer (or a person with whom the taxpayer is required to aggregate expenditures under paragraph (1)) reimburses the acquiring person (or a person required to so aggregate expenditures with such person) for research on behalf of the taxpayer, then the amount of qualified research expenses of the taxpayer for the taxable years taken into account in computing the fixed-base percentage shall be increased by the lesser of—

[(i) the amount of the decrease under subparagraph (B) which is allocable to taxable years so taken into account, or

[(ii) the product of the number of taxable years so taken into account, multiplied by the amount of the reimbursement described in this subparagraph.]

* * * * * * *

[(h) TERMINATION.—

[(1) IN GENERAL.—This section shall not apply to any amount paid or incurred—

[(A) after June 30, 1995, and before July 1, 1996, or

[(B) after December 31, 2013.

[(2) TERMINATION OF ALTERNATIVE INCREMENTAL CREDIT.—No election under subsection (c)(4) shall apply to taxable years beginning after December 31, 2008.

[(2) COMPUTATION FOR TAXABLE YEAR IN WHICH CREDIT TERMINATES.—In the case of any taxable year with respect to which this section applies to a number of days which is less than the total number of days in such taxable year—

[(A) the amount determined under subsection (c)(1)(B) with respect to such taxable year shall be the amount which bears the same ratio to such amount (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year, and

[(B) for purposes of subsection (c)(5), the average qualified research expenses for the preceding 3 taxable years shall be the amount which bears the same ratio to such average qualified research expenses (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year.]

* * * * * * *

VII. DISSENTING VIEWS

These bills would add a combined $310 billion to the deficit. Even though these bills were introduced individually with some bipartisan support, the opposition to these bills was based on the position that these tax provisions should not be made permanent by adding to the deficit without any revenue offset.

To put the combined cost ($310 billion) into context, this total represents more than one-half of the entire federal deficit this year—the lowest it has been since President Obama took office. It represents nearly two-thirds of all non-defense domestic discretionary spending in 2014. It is more than three times what we spend annually on education, job training, and social services. It is five times more than we spend on veterans. And, it is five times more than we spend on medical research and public health.

We also opposed the manner in which Republicans were proceeding—selecting six to make permanent without any offset from the approximately 60 tax provisions that expired last year. This approach was both fiscally irresponsible and fundamentally hypocritical.

We found it hypocritical that, four months ago, Republicans let emergency unemployment insurance expire for more than 1.3 million Americans by arguing that an adequate offset had yet to be proposed. In early April, the Senate came to a bipartisan agreement on an offset after months of painstaking negotiations. Yet House Republicans still refuse to act.

Further, we found it also hypocritical that the Republicans were in favor of passing these six tax bills at a cost of $310 billion without an offset at the same time that they were requiring an offset for a provision stripped from another bill under consideration at the markup that helped foster children at a cost of $12 million.

The consideration of these six tax bills should have been part of the consideration of all the expired tax provisions commonly referred to as "tax extenders." The Republicans did not take up other tax extenders that also are important to Democratic Committee Members. Left to an uncertain fate are provisions like the Work Opportunity Tax Credit, the New Markets Tax Credit, and the renewable energy tax credits, as well as the long-term status of the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Tax Credit.

Sincerely,

SANDER M. LEVIN,
Ranking Member.

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