

106TH CONGRESS
1ST SESSION

H. R. 1021

To amend the Internal Revenue Code of 1986 to allow small employers a credit against income tax for costs incurred in establishing a qualified employer plan.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1999

Ms. STABENOW (for herself, Mr. CAMP, Ms. KILPATRICK, Mr. GEJDENSON, and Mr. FALCOMA) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow small employers a credit against income tax for costs incurred in establishing a qualified employer plan.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Pen-
5 sion Start-Up Credit Act of 1999”.

6 **SEC. 2. CREDIT FOR PENSION PLAN START-UP COSTS OF**
7 **SMALL EMPLOYERS.**

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

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

3 **“SEC. 45D. SMALL EMPLOYER PENSION PLAN START-UP**
4 **COSTS.**

5 “(a) GENERAL RULE.—For purposes of section 38,
6 in the case of an eligible employer, the small employer pen-
7 sion plan start-up cost credit determined under this sec-
8 tion for any taxable year is an amount equal to 50 percent
9 of the qualified start-up costs paid or incurred by the tax-
10 payer during the taxable year.

11 “(b) DOLLAR LIMITATION.—The amount of the cred-
12 it determined under this section for any taxable year shall
13 not exceed—

14 “(1) \$1,000 for the first taxable year ending
15 after the date the employer established the qualified
16 employer plan to which such costs relate,

17 “(2) \$500 for each of the second and third tax-
18 able years ending after such date, and

19 “(3) zero for each taxable year thereafter.

20 “(c) ELIGIBLE EMPLOYER.—For purposes of this
21 section—

22 “(1) IN GENERAL.—The term ‘eligible em-
23 ployer’ has the meaning given such term by section
24 408(p)(2)(C)(i).

1 “(2) EMPLOYERS MAINTAINING QUALIFIED
 2 PLANS DURING 1998 NOT ELIGIBLE.—Such term
 3 shall not include an employer if such employer (or
 4 any predecessor employer) maintained a qualified
 5 plan (as defined in section 408(p)(2)(D)(ii)) with re-
 6 spect to which contributions were made, or benefits
 7 were accrued, for service in 1998. If only individuals
 8 other than employees described in subparagraph (A)
 9 or (B) of section 410(b)(3) are eligible to participate
 10 in the qualified employer plan referred to in sub-
 11 section (d)(1), then the preceding sentence shall be
 12 applied without regard to any qualified plan in
 13 which only employees so described are eligible to
 14 participate.

15 “(d) OTHER DEFINITIONS.—For purposes of this
 16 section—

17 “(1) QUALIFIED START-UP COSTS.—

18 “(A) IN GENERAL.—The term ‘qualified
 19 start-up costs’ means any ordinary and nec-
 20 essary expenses of an eligible employer which—

21 “(i) are paid or incurred in connection
 22 with the establishment of a qualified em-
 23 ployer plan in which at least 2 individuals
 24 are eligible to participate, and

25 “(ii) are of a nonrecurring nature.

1 “(B) PLAN MUST BE ESTABLISHED BE-
 2 FORE JANUARY 1, 2002.—Such term shall not
 3 include any expense in connection with a plan
 4 established after December 31, 2001.

5 “(2) QUALIFIED EMPLOYER PLAN.—The term
 6 ‘qualified employer plan’ has the meaning given to
 7 such term by section 4972(d).

8 “(e) SPECIAL RULES.—For purposes of this
 9 section—

10 “(1) AGGREGATION RULES.—All persons treat-
 11 ed as a single employer under subsection (a) or (b)
 12 of section 52, or subsection (n) or (o) of section 414,
 13 shall be treated as one person.

14 “(2) DISALLOWANCE OF DEDUCTION.—No de-
 15 duction shall be allowable under this chapter for any
 16 qualified start-up costs for which a credit is deter-
 17 mined under subsection (a).

18 “(3) ELECTION NOT TO CLAIM CREDIT.—This
 19 section shall not apply to a taxpayer for any taxable
 20 year if such taxpayer elects to have this section not
 21 apply for such taxable year.”.

22 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
 23 NESS CREDIT.—Section 38(b) of such Code (defining cur-
 24 rent year business credit) is amended by striking “plus”
 25 at the end of paragraph (11), by striking the period at

1 the end of paragraph (12) and inserting “, plus”, and by
 2 adding at the end the following new paragraph:

3 “(13) in the case of an eligible employer (as de-
 4 fined in section 45D(c)), the small employer pension
 5 plan start-up cost credit determined under section
 6 45D(a).”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Section 39(d) of such Code is amended by
 9 adding at the end the following new paragraph:

10 “(8) NO CARRYBACK OF SMALL EMPLOYER
 11 PENSION PLAN START-UP COST CREDIT BEFORE EF-
 12 FECTIVE DATE.—No portion of the unused business
 13 credit for any taxable year which is attributable to
 14 the small employer pension plan start-up cost credit
 15 determined under section 45D may be carried back
 16 to a taxable year ending on or before the date of the
 17 enactment of section 45D.”.

18 (2) The table of sections for subpart D of part
 19 IV of subchapter A of chapter 1 of such Code is
 20 amended by adding at the end the following new
 21 item:

“Sec. 45D. Small employer pension plan start-up costs.”.

22 (d) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to costs paid or incurred in taxable
 24 years ending after the date of the enactment of this Act.