

113TH CONGRESS
1ST SESSION

S. 310

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

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

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) REVOCATION.—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);

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

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

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

“(iii) invests, or raises capital investment of, not less than \$100,000 in such business entity; and

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

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by adding after the item relating to section 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(c) 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(c)).

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 ficiency 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 forts to accelerate commercialization of
2 faculty research.

3 (C) AVAILABILITY.—Upon completion of
4 the evaluation, the evaluation shall be made
5 available on a public website and submitted to
6 Congress. The Secretary shall notify all institu-
7 tions of higher education when the evaluation is
8 published and how it can be accessed.

9 (d) CONSTRUCTION.—Nothing in this section may be
10 construed to alter, modify, or amend any provision of
11 chapter 18 of title 35, United States Code (commonly
12 known as the “Bayh-Dole Act”).

13 **SEC. 9. ECONOMIC IMPACT OF SIGNIFICANT FEDERAL**
14 **AGENCY RULES.**

15 Section 553 of title 5, United States Code, is amend-
16 ed by adding at the end the following:

17 “(f) REQUIRED REVIEW BEFORE ISSUANCE OF SIG-
18 NIFICANT RULES.—

19 “(1) IN GENERAL.—Before issuing a notice of
20 proposed rulemaking in the Federal Register regard-
21 ing the issuance of a proposed significant rule, the
22 head of the Federal agency or independent regu-
23 latory agency seeking to issue the rule shall complete
24 a review, to the extent permitted by law, that—

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.

○