

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5058

To provide support for small business concerns, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2006

Mr. ALLEN introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Small Business, the Judiciary, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide support for small business concerns, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be referred to as the “Small Business  
5 Investment and Promotion Act of 2006”.

1 **SEC. 2. TEMPORARY CREDIT AGAINST INCOME TAX FOR**  
2 **SMALL BUSINESSES, FARMERS, AND FISHER-**  
3 **MEN TO OFFSET HIGH FUEL COSTS.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-  
5 chapter A of chapter 1 of the Internal Revenue Code of  
6 1986 (relating to business-related credits) is amended by  
7 inserting after section 45M the following new section:

8 **“SEC. 45N. TEMPORARY CREDIT FOR SMALL BUSINESSES,**  
9 **FARMERS, AND FISHERMEN TO OFFSET HIGH**  
10 **FUEL COSTS.**

11 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
12 gible taxpayer, the excessive fuel cost credit determined  
13 under this section is an amount equal to the excessive fuel  
14 cost paid or incurred by the taxpayer during the taxable  
15 year for any creditable fuel used in any trade or business  
16 of the taxpayer.

17 “(b) EXCESSIVE FUEL COST.—For purposes of this  
18 section—

19 “(1) IN GENERAL.—The term ‘excessive fuel  
20 cost’ means, with respect to any creditable fuel, the  
21 excess (if any) of—

22 “(A) the amount paid or incurred by the  
23 taxpayer for such fuel, over

24 “(B) the adjusted base price for such fuel.

25 “(2) ADJUSTED BASE PRICE.—

1           “(A) IN GENERAL.—The term ‘adjusted  
2           base price’ means, with respect to any cred-  
3           itable fuel, the amount determined by the Sec-  
4           retary to be the applicable Labor Day 2004  
5           price for such fuel adjusted for inflation.

6           “(B) APPLICABLE PRICE.—The applicable  
7           Labor Day 2004 price for any fuel is the aver-  
8           age price for such fuel for the region in which  
9           the taxpayer purchased such fuel (as deter-  
10          mined using data of the Energy Information  
11          Agency of the Department of Energy).

12          “(C) INFLATION ADJUSTMENT.—The infla-  
13          tion adjustment shall be determined under the  
14          principles of section 1(f); except that, the Sec-  
15          retary shall use estimates of the monthly Con-  
16          sumer Price Index (as defined in such section)  
17          where possible to more closely reflect current  
18          inflation.

19          “(c) ELIGIBLE TAXPAYER.—For purposes of this sec-  
20          tion—

21                 “(1) IN GENERAL.—The term ‘eligible taxpayer’  
22                 means any person engaged in a trade or business  
23                 if—

24                         “(A) such trade or business is—

1 “(i) a farming business (as defined by  
2 section 263A(e)(4), or

3 “(ii) commercial fishing (as defined in  
4 section 3 of the Magnuson-Stevens Fishery  
5 Conservation and Management Act (16  
6 U.S.C. 1802)), or

7 “(B) such person is a small business.

8 “(2) SMALL BUSINESS.—The term ‘small busi-  
9 ness’ means a trade or business that employs an an-  
10 nual average of not more than 50 employees.

11 “(3) CREDITABLE FUEL.—The term ‘creditable  
12 fuel’ means—

13 “(A) gasoline,

14 “(B) diesel fuel,

15 “(C) heating oil, and

16 “(D) natural gas.

17 “(d) ADJUSTMENT OF STANDARD MILEAGE RATE.—  
18 An eligible taxpayer may elect, in lieu of the credit under  
19 this section, a standard mileage allowance under section  
20 162 equal to 60 cents for each mile traveled during the  
21 period described in subsection (e). The Secretary shall  
22 modify the standard mileage rate under the preceding sen-  
23 tence to the extent that 60 cents does not accurately re-  
24 flect that value of the credit under this section.

1       “(e) APPLICATION OF SECTION.—This section shall  
2 apply to fuels purchased during the 2-year period begin-  
3 ning on the date of the enactment of this section.”.

4       (b) CREDIT TO BE PART OF GENERAL BUSINESS  
5 CREDIT.—Subsection (b) of section 38 of such Code is  
6 amended by striking “plus” at the end of paragraph (25),  
7 by striking the period at the end of paragraph (26) and  
8 inserting “, plus”, and by adding at the end the following  
9 new paragraph:

10               “(27) in the case of an eligible taxpayer (as de-  
11 fined in section 45N(c)), the excessive fuel cost cred-  
12 it determined under section 45N(a).”.

13       (c) CLERICAL AMENDMENT.—The table of sections  
14 for subpart D of part IV of subchapter A of chapter 1  
15 of such Code is amended by inserting after the item relat-  
16 ing to section 45M the following new item:

“Sec. 45N. Temporary credit for small businesses, farmers, and fishermen to  
offset high fuel costs.”.

17       (d) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years ending after the  
19 date of the enactment of this Act.

20 **SEC. 3. PERMANENT EXTENSION OF RESEARCH CREDIT.**

21       (a) IN GENERAL.—Section 41 of the Internal Rev-  
22 enue Code of 1986 (relating to credit for increasing re-  
23 search activities) is amended by striking subsection (h).

1 (b) CONFORMING AMENDMENT.—Paragraph (1) of  
2 section 45C(b) of such Code is amended by striking sub-  
3 paragraph (D).

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to amounts paid or incurred after  
6 the date of the enactment of this Act.

7 **SEC. 4. TREATMENT OF QUALIFIED RESTAURANT PROP-**  
8 **ERTY, QUALIFIED RETAIL IMPROVEMENT**  
9 **PROPERTY, AND CERTAIN SYSTEMS IN-**  
10 **STALLED IN NONRESIDENTIAL BUILDINGS AS**  
11 **15-YEAR PROPERTY FOR PURPOSES OF DE-**  
12 **PRECIATION DEDUCTION.**

13 (a) QUALIFIED RESTAURANT PROPERTY.—Clause  
14 (v) of section 168(e)(3)(E) of the Internal Revenue Code  
15 of 1986 (defining 15-year property) is amended by strik-  
16 ing “placed in service before January 1, 2006”.

17 (b) QUALIFIED RETAIL IMPROVEMENT PROPERTY  
18 AND CERTAIN SYSTEMS INSTALLED IN NONRESIDENTIAL  
19 BUILDINGS.—

20 (1) 15-YEAR RECOVERY PERIOD.—Subpara-  
21 graph (E) of section 168(e)(3) of the Internal Rev-  
22 enue Code of 1986 (relating to 15-year property) is  
23 amended by striking “and” at the end of clause  
24 (vii), by striking the period at the end of clause (viii)

1 and inserting a comma, and by adding at the end  
2 the following new clauses:

3 “(ix) any qualified retail improvement  
4 property, and

5 “(x) any property—

6 “(I) which is part of a heating,  
7 ventilation, air conditioning, or com-  
8 mercial refrigeration system,

9 “(II) which is installed on or in  
10 a building which is nonresidential real  
11 property, and

12 “(III) the original use of which  
13 commences with the taxpayer.”.

14 (2) DEFINITION.—Section 168(e) of such Code  
15 (relating to classification of property) is amended by  
16 adding at the end the following new paragraph:

17 “(8) QUALIFIED RETAIL IMPROVEMENT PROP-  
18 ERTY.—

19 “(A) IN GENERAL.—The term ‘qualified  
20 retail improvement property’ means any im-  
21 provement to an interior portion of a building  
22 which is nonresidential real property if—

23 “(i) such portion is open to the gen-  
24 eral public,

1           “(ii) such portion is used by a trade  
2           or business that sells tangible personal  
3           property or services to the general public,

4           “(iii) such trade or business employs  
5           an annual average of not more than 50  
6           employees, and

7           “(iv) such improvement is placed in  
8           service more than 3 years after the date  
9           the building was first placed in service.

10           “(B) CERTAIN IMPROVEMENTS NOT IN-  
11           CLUDED.—Such term shall not include any im-  
12           provement for which the expenditure is attrib-  
13           utable to—

14                   “(i) the enlargement of the building,

15                   “(ii) any elevator or escalator, or

16                   “(iii) the internal structural frame-  
17                   work of the building.”.

18           (3) REQUIREMENT TO USE STRAIGHT LINE  
19           METHOD.—Paragraph (3) of section 168(b) of such  
20           Code (relating to applicable depreciation method) is  
21           amended by adding at the end the following new  
22           subparagraphs:

23                   “(I) Qualified retail improvement property  
24                   described in subsection (e)(8).

1           “(J) Property described in subsection  
2           (e)(3)(E)(x).”.

3           (4) ALTERNATIVE SYSTEM.—The table con-  
4           tained in section 168(g)(3)(B) of such Code (relat-  
5           ing to special rule for certain property assigned to  
6           classes) is amended by inserting after the item relat-  
7           ing to subparagraph (E)(viii) the following new  
8           items:

“(E)(ix) .....	39
(E)(x) .....	25”.

9           (c) EFFECTIVE DATE.—The amendments made by  
10          this section shall apply to property placed in service after  
11          the date of the enactment of this Act.

12   **SEC. 5. AUTHORIZATIONS.**

13          (a) ADVANCED TECHNOLOGY PROGRAM.—There are  
14          authorized to be appropriated to the Secretary of Com-  
15          merce for the Advanced Technology Program under sec-  
16          tion 28 of the National Institute of Standards and Tech-  
17          nology Act (15 U.S.C. 278n) \$140,000,000 for fiscal year  
18          2007 and \$145,000,000 for fiscal year 2008.

19          (b) SCORE.—There are authorized to be appro-  
20          priated for the Service Corps of Retired Executives  
21          (SCORE) under section 8(b)(1)(B) of the Small Business  
22          Act (15 U.S.C. 637(b)(1)(B) \$7,500,000 for fiscal year  
23          2007 and \$8,000,000 for fiscal year 2008.

1 (c) SMALL BUSINESS DEVELOPMENT CENTERS.—  
2 There are authorized to be appropriated for small business  
3 development centers under section 21 of the Small Busi-  
4 ness Act (15 U.S.C. 648) \$137,500,000 fiscal year 2007  
5 and \$140,000,000 for fiscal year 2008.

6 (d) MANUFACTURING EXTENSION PARTNERSHIP.—  
7 There are authorized to be appropriated to the Secretary  
8 of Commerce for the Manufacturing Extension Partner-  
9 ship program under sections 25 and 26 of the National  
10 Institute of Standards and Technology Act (15 U.S.C.  
11 278k and 278l) \$115,000,000 for fiscal year 2007 and  
12 \$120,000,000 for fiscal year 2008.

13 (e) WOMEN'S BUSINESS CENTERS.—There are au-  
14 thorized to be appropriated for the Women's Business  
15 Center Program under section 29 of the Small Business  
16 Act (15 U.S.C. 656) \$15,000,000 for fiscal year 2007 and  
17 \$15,500,000 for fiscal year 2008.

18 **SEC. 6. SENSE OF CONGRESS ON FUNDING FOR SMALL**  
19 **BUSINESS PROGRAMS.**

20 (a) FUNDING FOR 7(a) LOAN PROGRAM.—It is the  
21 sense of Congress that Congress should appropriate  
22 \$79,000,000 for offsetting the cost of borrowers partici-  
23 pating in the loan program under section 7(a) of the Small  
24 Business Act (15 U.S.C. 636(a)).

1 (b) FUNDING FOR OTHER PROGRAMS.—It is the  
2 sense of Congress that Congress should appropriate funds  
3 for the Advanced Technology Program, the Service Corps  
4 of Retired Executives, the Small Business Development  
5 Centers, the Manufacturing Extension Partnership, and  
6 the Women’s Business Center Program at the levels au-  
7 thorized under section 4 of this Act.

8 **SEC. 7. MARKET-BASED ADJUSTMENT IN ANNUAL H-1B AND**  
9 **H-2B NONIMMIGRANT NUMERICAL LIMITA-**  
10 **TIONS.**

11 Section 214(g) of the Immigration and Nationality  
12 Act (8 U.S.C. 1184(g)) is amended—

13 (1) in paragraph (1)—

14 (A) in the matter preceding subparagraph  
15 (A), by striking “(beginning with fiscal year  
16 1992)”;

17 (B) in subparagraph (A)—

18 (i) in clause (vi), by striking “and” at  
19 the end;

20 (ii) in clause (vii), by striking “suc-  
21 ceeding fiscal year; or” and inserting “of  
22 fiscal years 2004, 2005, and 2006; and”;  
23 and

24 (iii) by inserting after clause (vii) the  
25 following new clause:

1           “(viii) 85,000 in each fiscal year beginning  
2 with fiscal year 2007, except as provided in  
3 paragraph (12); or”.

4           (C) by striking subparagraph (B) and in-  
5 serting the following subparagraph:

6           “(B) under section 101(a)(15)(H)(ii)(b) may  
7 not exceed—

8           “(i) 66,000 in each fiscal year before fiscal  
9 year 2007; and

10           “(ii) 85,000 in each fiscal year beginning  
11 with fiscal year 2007, subject to paragraph (10)  
12 and except as provided in paragraph (12)(D).”;  
13 (2) in paragraph (10)—

14           (A) by striking “limitations of paragraph  
15 (1)(B) shall be allocated for a fiscal year so  
16 that the total number of aliens subject to such  
17 numerical limits” and inserting “limitation of  
18 paragraph (1)(B) shall be allocated to the  
19 greatest extent practicable for a fiscal year so  
20 that the total number of aliens subject to such  
21 numerical limit”; and

22           (B) by striking “33,000” and inserting  
23 “50 percent of the number determined under  
24 such paragraph”; and

1           (3) by adding at the end the following new  
2 paragraph:

3           “(12)(A) If, as of a date before September 30 of a  
4 fiscal year (beginning with fiscal year 2007), the total  
5 number of aliens who have been issued visas or have other-  
6 wise been provided nonimmigrant status under subpara-  
7 graph (A) of paragraph (1) reaches the adjusted numer-  
8 ical limitation (as defined in subparagraph (C)) for the  
9 fiscal year, the numerical limitation under such subpara-  
10 graph for the remainder of the fiscal year and the numer-  
11 ical limitation under such subparagraph for the subse-  
12 quent fiscal year shall be adjusted as follows: If the date  
13 the adjusted numerical limitation was reached is in—

14                   “(i) the first quarter of such fiscal year,  
15                   the numerical limitation for the fiscal year shall  
16                   be increased by 20 percent of the adjusted nu-  
17                   merical limitation of the fiscal year and the nu-  
18                   merical limitation for the subsequent fiscal year  
19                   shall be equal to 120 percent of the adjusted  
20                   numerical limitation for the fiscal year before  
21                   such subsequent fiscal year;

22                   “(ii) the second quarter of such fiscal year,  
23                   the numerical limitation for the fiscal year shall  
24                   be increased by 15 percent of the adjusted nu-  
25                   merical limitation of the fiscal year and the nu-

1           merical limitation for the subsequent fiscal year  
2           shall be equal to 115 percent of the adjusted  
3           numerical limitation for the fiscal year before  
4           such subsequent fiscal year; or

5                   “(iii) the third or fourth quarter of such  
6           fiscal year, the numerical limitation for the fis-  
7           cal year shall be increased by 10 percent of the  
8           adjusted numerical limitation of the fiscal year  
9           and the numerical limitation for the subsequent  
10          fiscal year shall be equal to 110 percent of the  
11          adjusted numerical limitation for the fiscal year  
12          before such subsequent fiscal year.

13          “(B) If, as of September 30 of each fiscal year (be-  
14          ginning with fiscal year 2008), the total number of aliens  
15          who have been issued visas or have otherwise been pro-  
16          vided nonimmigrant status under subparagraph (A) of  
17          paragraph (1) is less than the adjusted numerical limita-  
18          tion for the fiscal year, and if such shortfall is not due  
19          solely to administrative causes, including processing delays  
20          or delays in promulgating regulations, the numerical limi-  
21          tation under such subparagraph for the subsequent fiscal  
22          year shall be equal to 90 percent of the adjusted numerical  
23          limitation for the fiscal year before such subsequent fiscal  
24          year.

1       “(C) For purposes of this paragraph, the term ‘ad-  
2       justed numerical limitation’ means, with respect to a fiscal  
3       year, the numerical limitation specified in paragraph  
4       (1)(A) for the fiscal year as adjusted under subparagraphs  
5       (A) and (B) as of October 1 of the fiscal year.

6       “(D) The provisions of subparagraphs (A) through  
7       (C) shall apply with respect to subparagraph (B) of para-  
8       graph (1) for a fiscal year in the same manner as they  
9       apply to subparagraph (A) of such paragraph for such fis-  
10      cal year.”.

11      **SEC. 8. SMALL BUSINESS CONTRACTING GOAL.**

12       (a) APPLICATION TO CONTRACTS PERFORMED OVER-  
13      SEAS.—Section 15(g)(1) of the Small Business Act (15  
14      U.S.C.) is amended in the second sentence by inserting  
15      “(including awards for contracts performed outside the  
16      United States)” after “all prime contract awards”.

17       (b) EFFECTIVE DATE.—The amendment made by  
18      subsection (a) shall apply with respect to fiscal years be-  
19      ginning after September 30, 2006.

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