

PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENT TO THE BILL (H.R. 2847) MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE AND JUSTICE, AND SCIENCE, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2010, AND FOR OTHER PURPOSES

March 4, 2010.—Referred to the House Calendar and ordered to be printed

Ms. MATSUI, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1137]

The Committee on Rules, having had under consideration House Resolution 1137, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of the Senate amendment to H.R. 2847, the Hiring Incentives to Restore Employment Act (originally making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes). The resolution makes in order a motion offered by the chair of the Committee on Ways and Means that the House concur in the Senate amendment to the House amendment to the Senate amendment with the amendment printed in this report. The resolution waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI. The resolution provides that the Senate amendment and the motion shall be considered as read. The resolution provides one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the motion (except those arising under clause 10 of rule XXI) includes a waiver of clause 6 of rule XVI (prohibiting amendments in the third degree).

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 325

Date: March 4, 2010.

Measure: Senate amendment to H.R. 2847.

Motion by: Mr. Dreier.

Summary of motion: To make in order an amendment, if offered by the Republican Leader or his designee.

Results: Defeated 3–7.

Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Cardoza—Nay; Arcuri—Nay; Pingree—Nay; Dreier—Yea; Diaz-Balart, L.—Yea; Foxx—Yea; Slaughter—Nay.

SUMMARY OF HOUSE AMENDMENT MADE IN ORDER

The amendment makes technical corrections to improve the effectiveness and administrability of incentives for hiring and retaining new employees, and extends these benefits to businesses in U.S. territories and possessions; restores the full value of the direct payment option for certain tax credit bond programs; delays the effective date of the worldwide allocation of interest provision for an additional year (through 2020) to ensure that the cost of the bill is fully offset; and provides for continuation and enforcement of disadvantaged, minority, and women-owned business enterprise contracting requirements for surface transportation projects.

TEXT OF HOUSE AMENDMENT MADE IN ORDER

Concur in the Senate amendment (hereinafter referred to as the “pending Senate amendment”) to the House amendment to the Senate amendment to H.R. 2847 with the following amendment:

(1) In section 101 of the matter proposed to be inserted by the pending Senate amendment—

(A) In section 3111(d) of the Internal Revenue Code of 1986, as proposed to be added by subsection (a) of such section 101, add at the end the following new paragraph:

“(5) SPECIAL RULE FOR FIRST CALENDAR QUARTER OF 2010.—

“(A) NONAPPLICATION OF EXEMPTION DURING FIRST QUARTER.—Paragraph (1) shall not apply with respect to wages paid during the first calendar quarter of 2010.

“(B) CREDITING OF FIRST QUARTER EXEMPTION DURING SECOND QUARTER.—The amount by which the tax imposed under subsection (a) would (but for subparagraph (A)) have been reduced with respect to wages paid by a qualified employer during the first calendar quarter of 2010 shall be treated as a payment against the tax imposed under subsection (a) with respect to the qualified employer for the second calendar quarter of 2010 which is made on the date that such tax is due.”.

(B) Strike subsection (d) of such section 101 and insert the following new subsections:

(d) APPLICATION TO RAILROAD RETIREMENT TAXES.—

(1) IN GENERAL.—Section 3221 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) SPECIAL RATE FOR CERTAIN INDIVIDUALS HIRED IN 2010.—

“(1) IN GENERAL.—In the case of compensation paid by a qualified employer during the period beginning on the day after the date of the enactment of this subsection and ending on December 31, 2010, with respect to having a qualified individual in the employer’s employ for services rendered to such qualified employer, the applicable percentage under subsection (a) shall be equal to the rate of tax in effect under section 3111(b) for the calendar year.

“(2) QUALIFIED EMPLOYER.—The term ‘qualified employer’ means any employer other than the United States, any State, or any political subdivision thereof, or any instrumentality of the foregoing.

“(3) QUALIFIED INDIVIDUAL.—For purposes of this subsection, the term ‘qualified individual’ means any individual who—

“(A) begins employment with a qualified employer after February 3, 2010, and before January 1, 2011,

“(B) certifies by signed affidavit, under penalties of perjury, that such individual has not been employed for more than 40 hours during the 60-day period ending on the date such individual begins such employment,

“(C) is not employed by the qualified employer to replace another employee of such employer unless such other employee separated from employment voluntarily or for cause, and

“(D) is not an individual described in section 51(i)(1) (applied by substituting ‘qualified employer’ for ‘taxpayer’ each place it appears).

“(4) ELECTION.—A qualified employer may elect to have this subsection not apply. Such election shall be made in such manner as the Secretary may require.

“(5) SPECIAL RULE FOR FIRST CALENDAR QUARTER OF 2010.—

“(A) NONAPPLICATION OF EXEMPTION DURING FIRST QUARTER.—Paragraph (1) shall not apply with respect to compensation paid during the first calendar quarter of 2010.

“(B) CREDITING OF FIRST QUARTER EXEMPTION DURING SECOND QUARTER.—The amount by which the tax imposed under subsection (a) would (but for subparagraph (A)) have been reduced with respect to compensation paid by a qualified employer during the first calendar quarter of 2010 shall be treated as a payment against the tax imposed under subsection (a) with respect to the qualified employer for the second calendar quarter of 2010 which is made on the date that such tax is due.”.

(2) TRANSFERS TO SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.—There are hereby appropriated to the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in revenues to the Treasury by reason of the amendments made by paragraph (1). Amounts appropriated by the preceding sentence shall be transferred

from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Account had such amendments not been enacted.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this subsection shall apply to wages paid after the date of the enactment of this Act.

(2) RAILROAD RETIREMENT TAXES.—The amendments made by subsection (d) shall apply to compensation paid after the date of the enactment of this Act.

(2) In section 102 of the matter proposed to be inserted by the pending Senate amendment—

(A) Strike subsection (a) of such section 102 and insert the following new subsection:

(a) IN GENERAL.—In the case of any taxable year ending after the date of the enactment of this Act, the current year business credit determined under section 38(b) of the Internal Revenue Code of 1986 for such taxable year shall be increased, with respect to each retained worker with respect to which subsection (b)(2) is first satisfied during such taxable year, by the lesser of—

(1) \$1,000, or

(2) 6.2 percent of the wages (as defined in section 3401(a)) paid by the taxpayer to such retained worker during the 52 consecutive week period referred to in subsection (b)(2).

(B) In subsection (b) of such section 102, insert “or section 3221(c)(3)” after “section 3111(d)(3)”.

(C) In subsection (b)(3) of such section 102, insert “(as defined in section 3401(a))” after “wages” the first place it appears therein.

(D) At the end of such section 102, add the following new subsection:

(d) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of this section (other than this subsection). Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury as being equal to the aggregate benefits that would have been provided to residents of such possession by reason of the application of this section (other than this subsection) if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession has a plan, which has been approved by the Secretary of the

Treasury, under which such possession will promptly distribute such payments to the residents of such possession.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No increase in the credit determined under section 38(b) of the Internal Revenue Code of 1986 against United States income taxes for any taxable year determined under subsection (a) shall be taken into account with respect to any person—

(A) to whom a credit is allowed against taxes imposed by the possession by reason of this section for such taxable year, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B) with respect to such taxable year.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term “possession of the United States” includes the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term “mirror code tax system” means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, rules similar to the rules of section 1001(b)(3)(C) of the American Recovery and Reinvestment Tax Act of 2009 shall apply.

(3) In section 301 of the matter proposed to be inserted by the pending Senate amendment—

(A) In section 6431(f)(1) of the Internal Revenue Code of 1986, as proposed to be added by subsection (a) of such section 301, strike subparagraph (C) and insert the following new subparagraph:

“(C) the amount of the payment determined under subsection (b) with respect to any interest payment due under such bond shall be equal to the lesser of—

“(i) the amount of interest payable under such bond on such date, or

“(ii) the amount of interest which would have been payable under such bond on such date if such interest were determined at the applicable credit rate determined under section 54A(b)(3).”.

(B) In section 6431(f) of the Internal Revenue Code of 1986, as proposed to be added by subsection (a) of such section 301, strike paragraph (2) and insert the following new paragraphs:

(2) SPECIAL RULE FOR NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS.—In the case of any specified tax credit bond described in clause (i) or (ii) of paragraph (3)(A), the amount determined under paragraph (1)(C)(ii) shall be 70 percent of the amount so deter-

mined without regard to this paragraph and sections 54C(b) and 54D(b).

“(3) SPECIFIED TAX CREDIT BOND.—For purposes of this subsection, the term “specified tax credit bond” means any qualified tax credit bond (as defined in section 54A(d)) if—

“(A) such bond is—

“(i) a new clean renewable energy bond (as defined in section 54C),

“(ii) a qualified energy conservation bond (as defined in section 54D),

“(iii) a qualified zone academy bond (as defined in section 54E), or

“(iv) a qualified school construction bond (as defined in section 54F), and

“(B) the issuer of such bond makes an irrevocable election to have this subsection apply.”.

(4) At the end title IV of the matter proposed to be inserted by the pending Senate amendment, add the following:

Subtitle E—Disadvantaged Business Enterprises

SEC. 451. DISADVANTAGED BUSINESS ENTERPRISES.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) SMALL BUSINESS CONCERN.—The term “small business concern” has the meaning that term has under section 3 of the Small Business Act (15 U.S.C. 632), except that the term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of \$22,410,000, as adjusted annually by the Secretary of Transportation for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term “socially and economically disadvantaged individuals” has the meaning that term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act, except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(b) GENERAL RULE.—Except to the extent that the Secretary of Transportation determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of SAFETEA-LU (Public Law 109-59), subtitles A and C of this title, and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually—

(1) survey and compile a list of the small business concerns referred to in subsection (a) and the location of the concerns in the State; and

(2) notify the Secretary of Transportation, in writing, of the percentage of the concerns that are controlled by women, by socially and economically disadvantaged individuals (other than

women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) **UNIFORM CERTIFICATION.**—The Secretary of Transportation shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. The minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) **COMPLIANCE WITH COURT ORDERS.**—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of SAFETEA-LU (Public Law 109–59), subtitles A and C of this title, and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with subsection (b) because a Federal court issues a final order in which the court finds that the requirement of subsection (b), or the program established under subsection (b), is unconstitutional.

(5) In section 551(a) of the matter proposed to be inserted by the pending Senate amendment, strike “December 31, 2019” and insert “December 31, 2020”.

(6) At the end of title V of the matter proposed to be inserted by the pending Senate amendment, add the following new subtitle:

Subtitle C—Budgetary Provisions

SEC. 561. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

Notwithstanding section 6655 of the Internal Revenue Code of 1986, in the case of a corporation with assets of not less than \$1,000,000,000 (determined as of the end of the preceding taxable year)—

(1) the percentage under paragraph (1) of section 202(b) of the Corporate Estimated Tax Shift Act of 2009 in effect on the date of the enactment of this Act is increased by 23 percentage points,

(2) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2015 shall be 121.5 percent of such amount,

(3) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2019 shall be 106.5 percent of such amount, and

(4) the amount of the next required installment after an installment referred to in paragraph (2) or (3) shall be appropriately reduced to reflect the amount of the increase by reason of such paragraph.

SEC. 562. PAYGO COMPLIANCE.

The budgetary effects of this Act, for purposes of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, jointly submitted for printing in the Congressional Record by the Chairman of the House and Senate Budget Committees, provided that such statement has been

submitted prior to the vote on passage in the House acting first on this conference report or amendments between the Houses.

