

116TH CONGRESS
2D SESSION

H. R. 6121

To provide incentives for businesses to keep jobs in America, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2020

Mr. POCAN (for himself, Ms. KAPTUR, Ms. LEE of California, Ms. NORTON, and Mr. RYAN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and Labor, Armed Services, and Oversight and Reform, 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

A BILL

To provide incentives for businesses to keep jobs in America, 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 cited as the “End Outsourcing Act”.

5 **SEC. 2. OUTSOURCING STATEMENT IN WORKER ADJUST-**
6 **MENT AND RETRAINING NOTICE.**

7 (a) OUTSOURCING STATEMENT.—Section 3 of the
8 Worker Adjustment and Retraining Notification Act (29

1 U.S.C. 2102) is amended by adding at the end the fol-
2 lowing:

3 “(e) OUTSOURCING STATEMENT.—

4 “(1) IN GENERAL.—For purposes of subsection
5 (a), the employer shall include an outsourcing state-
6 ment in the notice described in that subsection. The
7 outsourcing statement shall specify whether part or
8 all of the positions held by affected employees cov-
9 ered by subsection (a) will be moved to a country
10 outside the United States, regardless of whether the
11 positions are moved within the business enterprise
12 involved or to another business enterprise. The em-
13 ployer shall make the determination of whether the
14 positions are being so moved in accordance with reg-
15 ulations issued by the Secretary. The employer shall
16 serve the notice as required under subsection (a) and
17 submit the notice to the Secretary of Labor.

18 “(2) LIST.—Not less often than annually, the
19 Secretary shall publish and make available on the
20 website of the Department of Labor, a list including
21 each employer who—

22 “(A) has included an outsourcing state-
23 ment in a notice under paragraph (1); or

24 “(B) has incurred liability under section 5,
25 in part or in whole, because the employer or-

(b) IMPLEMENTATION REPORT.—The Worker Adjustment and Retraining Notification Act is amended by inserting after section 10 (29 U.S.C. 2109) the following:

9 “(a) STUDY.—The Comptroller General of the United
10 States shall conduct a study of the implementation of sec-
11 tion 3(e) of the Worker Adjustment and Retraining Notifi-
12 cation Act (29 U.S.C. 2102(e)) by the Department of
13 Labor.

14 “(b) REPORT.—Not later than 3 years after the date
15 of enactment of this section, the Comptroller General shall
16 submit to the appropriate committees of Congress a report
17 containing the results of the study.”.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

1 **“SEC. 280I. OUTSOURCING EXPENSES.**

2 “(a) IN GENERAL.—No deduction otherwise allow-
3 able under this chapter shall be allowed for any specified
4 outsourcing expense.

5 “(b) SPECIFIED OUTSOURCING EXPENSE.—For pur-
6 poses of this section—

7 “(1) IN GENERAL.—The term ‘specified out-
8 sourcing expense’ means—

9 “(A) any eligible expense paid or incurred
10 by the taxpayer in connection with the elimi-
11 nation of any business unit of the taxpayer (or
12 of any member of any expanded affiliated group
13 in which the taxpayer is also a member) located
14 within the United States, and

15 “(B) any eligible expense paid or incurred
16 by the taxpayer in connection with the estab-
17 lishment of any business unit of the taxpayer
18 (or of any member of any expanded affiliated
19 group in which the taxpayer is also a member)
20 located outside the United States,

21 if such establishment constitutes the relocation of
22 the business unit so eliminated. For purposes of the
23 preceding sentence, a relocation shall not be treated
24 as failing to occur merely because such elimination
25 occurs in a different taxable year than such estab-
26 lishment.

1 “(2) ELIGIBLE EXPENSES.—The term ‘eligible
2 expenses’ means—

3 “(A) any amount for which a deduction is
4 allowed to the taxpayer under section 162, and

5 “(B) permit and license fees, lease broker-
6 age fees, equipment installation costs, and, to
7 the extent provided by the Secretary, other
8 similar expenses.

9 Such term does not include any compensation which
10 is paid or incurred in connection with severance
11 from employment and, to the extent provided by the
12 Secretary, any similar amount.

13 “(3) BUSINESS UNIT.—The term ‘business unit’
14 means—

15 “(A) any trade or business, and

16 “(B) any line of business, or functional
17 unit, which is part of any trade or business.

18 “(4) EXPANDED AFFILIATED GROUP.—The
19 term ‘expanded affiliated group’ means an affiliated
20 group as defined in section 1504(a), determined
21 without regard to section 1504(b)(3) and by sub-
22 stituting ‘more than 50 percent’ for ‘at least 80 per-
23 cent’ each place it appears in section 1504(a). A
24 partnership or any other entity (other than a cor-
25 poration) shall be treated as a member of an ex-

1 panded affiliated group if such entity is controlled
2 (within the meaning of section 954(d)(3)) by mem-
3 bers of such group (including any entity treated as
4 a member of such group by reason of this para-
5 graph).

6 “(5) OPERATING EXPENSES NOT TAKEN INTO
7 ACCOUNT.—Any amount paid or incurred in connec-
8 tion with the ongoing operation of a business unit
9 shall not be treated as an amount paid or incurred
10 in connection with the establishment or elimination
11 of such business unit.

12 “(c) SPECIAL RULES.—

13 “(1) APPLICATION TO DEDUCTIONS FOR DE-
14 PRECIATION AND AMORTIZATION.—In the case of
15 any portion of a specified outsourcing expense which
16 is not deductible in the taxable year in which paid
17 or incurred, such portion shall neither be chargeable
18 to capital account nor amortizable.

19 “(2) POSSESSIONS TREATED AS PART OF THE
20 UNITED STATES.—For purposes of this section, the
21 term ‘United States’ shall be treated as including
22 each possession of the United States (including the
23 Commonwealth of Puerto Rico and the Common-
24 wealth of the Northern Mariana Islands).

1 “(d) REGULATIONS.—The Secretary shall prescribe
 2 such regulations or other guidance as may be necessary
 3 or appropriate to carry out the purposes of this section,
 4 including regulations which provide (or create a rebuttable
 5 presumption) that certain establishments of business units
 6 outside the United States will be treated as relocations
 7 (based on timing or such other factors as the Secretary
 8 may provide) of business units eliminated within the
 9 United States.”.

10 (b) LIMITATION ON SUBPART F INCOME OF CON-
 11 TROLLED FOREIGN CORPORATIONS DETERMINED WITH-
 12 OUT REGARD TO SPECIFIED OUTSOURCING EXPENSES.—
 13 Subsection (c) of section 952 of such Code is amended
 14 by adding at the end the following new paragraph:

15 “(4) EARNINGS AND PROFITS DETERMINED
 16 WITHOUT REGARD TO SPECIFIED OUTSOURCING EX-
 17 PENSES.—For purposes of this subsection, earnings
 18 and profits of any controlled foreign corporation
 19 shall be determined without regard to any specified
 20 outsourcing expense (as defined in section
 21 280I(b)).”.

22 (c) CLERICAL AMENDMENT.—The table of sections
 23 for part IX of subchapter B of chapter 1 of such Code
 24 is amended by adding at the end the following new item:

“Sec. 280I. Outsourcing expenses.”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to amounts paid or incurred after
 3 the date of the enactment of this Act.

4 **SEC. 4. DENIAL OF CERTAIN DEDUCTIONS AND ACCOUNT-**
 5 **ING METHODS FOR OUTSOURCING EMPLOY-**
 6 **ERS.**

7 (a) IN GENERAL.—Part IX of subchapter B of chap-
 8 ter 1 of the Internal Revenue Code of 1986, as amended
 9 by section 3, is amended by adding at the end the fol-
 10 lowing new section:

11 **“SEC. 280J. LIMITATIONS FOR OUTSOURCING EMPLOYERS.**

12 “(a) IN GENERAL.—During the disallowance period,
 13 an applicable taxpayer—

14 “(1) may not use the method provided in sec-
 15 tion 472(b) in inventorying goods,

16 “(2) may not use the lower of cost or market
 17 method of determining inventories for purposes of
 18 determining income, and

19 “(3) shall not be allowed any deduction under
 20 section 163 for interest paid or accrued on indebted-
 21 ness.

22 “(b) APPLICABLE TAXPAYER.—For purposes of sub-
 23 section (a), the term ‘applicable taxpayer’ means a tax-
 24 payer which—

1 “(1) during the taxable year, has served written
2 notice under subsection (a) of section 3 of the Work-
3 er Adjustment and Retraining Notification Act
4 which includes an outsourcing statement described
5 in subsection (e) of such section, and

6 “(2) the cumulative employment loss (excluding
7 any part-time employees) for positions at facilities
8 owned by such taxpayer which will be moved to a
9 country outside of the United States, as determined
10 pursuant to any outsourcing statements served by
11 such taxpayer during such taxable year, exceeds 50
12 employees.

13 “(c) DISALLOWANCE PERIOD.—For purposes of sub-
14 section (a), the disallowance period is the period of 3 tax-
15 able years after the taxable year in which the statements
16 described in subsection (b)(2) are required to be served.

17 “(d) EXPANDED AFFILIATED GROUP TREATED AS
18 SINGLE TAXPAYER.—For purposes of this section, the
19 members of an expanded affiliated group (as defined in
20 section 280I(b)(4)) shall be treated as a single taxpayer.

21 “(e) REGULATIONS.—The Secretary shall prescribe
22 such regulations or other guidance as may be necessary
23 or appropriate to carry out the purposes of this section.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for part IX of subchapter B of chapter 1 of the Internal

1 Revenue Code of 1986, as amended by section 3, is
 2 amended by adding at the end the following new item:

“Sec. 280J. Limitations for outsourcing employers.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to taxable years beginning after
 5 the date of the enactment of this Act.

6 **SEC. 5. CURRENT YEAR INCLUSION OF NET CFC TESTED IN-**
 7 **COME.**

8 (a) REPEAL OF TAX-FREE DEEMED RETURN ON IN-
 9 VESTMENTS.—

10 (1) IN GENERAL.—Section 951A(a) of the In-
 11 ternal Revenue Code of 1986 is amended by striking
 12 “global intangible low-taxed income” and inserting
 13 “net CFC tested income”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) Section 951A of such Code is amended
 16 by striking subsections (b) and (d).

17 (B) Section 951A(e)(1) of such Code is
 18 amended by striking “subsections (b),
 19 (c)(1)(A), and” and inserting “subsections
 20 (c)(1)(A) and”.

21 (C) Section 951A(f) of such Code is
 22 amended to read as follows:

23 “(f) TREATMENT AS SUBPART F INCOME FOR CER-
 24 TAIN PURPOSES.—

1 “(1) IN GENERAL.—Except as provided in para-
 2 graph (2), any net CFC tested income included in
 3 gross income under subsection (a) shall be treated in
 4 the same manner as an amount included under sec-
 5 tion 951(a)(1)(A) for purposes of applying sections
 6 168(h)(2)(B), 535(b)(10), 851(b), 904(h)(1), 959,
 7 961, 962, 993(a)(1)(E), 996(f)(1), 1248(b)(1),
 8 1248(d)(1), 6501(e)(1)(C), 6654(d)(2)(D), and
 9 6655(e)(4).

10 “(2) EXCEPTION.—The Secretary shall provide
 11 rules for the application of paragraph (1) to other
 12 provisions of this title in any case in which the de-
 13 termination of subpart F income is required to be
 14 made at the level of the controlled foreign corpora-
 15 tion.”.

16 (D) Section 960(d)(2)(A) of such Code is
 17 amended by striking “global intangible low-
 18 taxed income (as defined in section 951A(b))”
 19 and inserting “net CFC tested income (as de-
 20 fined in section 951A(c))”.

21 (b) REPEAL OF REDUCED RATE OF TAX ON NET
 22 CFC TESTED INCOME.—

23 (1) IN GENERAL.—Part VIII of subchapter B
 24 of chapter 1 of such Code is amended by striking

1 section 250 (and by striking the item relating to
2 such section in the table of sections of such part).

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 59A(c)(4)(B)(i) of such Code
5 is amended by striking “section 172, 245A, or
6 250” and inserting “section 172 or 245A”.

7 (B) Section 172(d) of such Code is amend-
8 ed by striking paragraph (9).

9 (C) Section 246(b)(1) of such Code is
10 amended—

11 (i) by striking “subsection (a) and (b)
12 of section 245, and section 250” and in-
13 serting “and subsection (a) and (b) of sec-
14 tion 245”; and

15 (ii) by striking “subsection (a) and
16 (b) of section 245, and 250” and inserting
17 “and subsection (a) and (b) of section
18 245”.

19 (D) Section 469(i)(3)(F)(iii) is amended
20 by striking “222, and 250” and inserting “and
21 222”.

22 (c) NET CFC TESTED INCOME DETERMINED WITH-
23 OUT REGARD TO HIGH TAX FOREIGN INCOME.—Section
24 951A(c)(2)(A)(i) of such Code is amended by redesign-
25 ating subclauses (IV) and (V) as subclauses (V) and

1 (VI), respectively, and by inserting after subclause (III)
 2 the following new subclause:

3 “(IV) any item of income subject
 4 to an effective rate of income tax im-
 5 posed by a foreign country greater
 6 than the maximum rate of tax speci-
 7 fied in section 11,”.

8 (d) REPEAL OF EXCLUSION OF FOREIGN OIL AND
 9 GAS EXTRACTION INCOME FROM THE DETERMINATION
 10 OF TESTED INCOME.—Section 951A(c)(2)(A)(i) of such
 11 Code, as amended by subsection (c) is amended—

12 (1) by adding “and” at the end of subclause

13 (IV);

14 (2) by striking “and” at the end of subclause

15 (V) and inserting “over”; and

16 (3) by striking subclause (VI).

17 (e) INCREASE IN DEEMED PAID CREDIT FOR TAXES
 18 PROPERLY ATTRIBUTABLE TO TESTED INCOME.—

19 (1) IN GENERAL.—Section 960(d) of such Code
 20 is amended by striking “80 percent of”.

21 (2) CONFORMING AMENDMENT.—Section 78 of
 22 such Code is amended by striking “(determined
 23 without regard to the phrase “80 percent of” in sub-
 24 section (d)(1) thereof”.

25 (f) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as otherwise pro-
 2 vided in this subsection, the amendments made by
 3 this section shall apply to taxable years of foreign
 4 corporations beginning after December 31, 2019,
 5 and to taxable years of United States shareholders
 6 in which or with which such taxable years of foreign
 7 corporations end.

8 (2) REPEAL OF REDUCED RATE OF TAX; IN-
 9 CREASE IN DEEMED PAID CREDIT.—The amend-
 10 ments made by subsections (b) and (e) shall apply
 11 to taxable years beginning after December 31, 2019.

12 **SEC. 6. RECAPTURE OF CREDITS FOR OUTSOURCING EM-**
 13 **PLOYERS.**

14 (a) IN GENERAL.—Part IV of subchapter A of chap-
 15 ter 1 of the Internal Revenue Code of 1986 is amended
 16 by adding at the end the following new subpart:

17 **“Subpart H—Recapture of Credits for Outsourcing**
 18 **Employers**

“Sec. 54. Recapture of credits for outsourcing employers.

19 **“SEC. 54. RECAPTURE OF CREDITS FOR OUTSOURCING EM-**
 20 **PLOYERS.**

21 “(a) IN GENERAL.—Pursuant to regulations pre-
 22 scribed by the Secretary, in the case of a taxpayer which
 23 owns a facility for which there is an outsourcing event dur-
 24 ing the taxable year, the tax under this chapter for such

1 taxable year shall be increased by the amount equal to
2 the sum of—

3 “(1) any credits allowed under this chapter re-
4 lating to expenses for design, construction, oper-
5 ation, or maintenance of such facility during the 5
6 taxable years preceding such taxable year, and

7 “(2) any grants provided by the Secretary in
8 lieu of credits described in paragraph (1) during the
9 5 taxable years preceding such taxable year.

10 “(b) OUTSOURCING EVENT.—For purposes of sub-
11 section (a), the term ‘outsourcing event’ means a plant
12 closing or mass layoff (as described in section 2(a) of the
13 Worker Adjustment and Retraining Notification Act) in
14 which the employment loss (excluding any part-time em-
15 ployees) for positions which will be moved to a country
16 outside of the United States, as determined pursuant to
17 the outsourcing statement (as described in paragraph (1)
18 of such section 3(e) of such Act) served by the taxpayer
19 during the taxable year, exceeds 50 employees.

20 “(c) EXPANDED AFFILIATED GROUP TREATED AS
21 SINGLE TAXPAYER.—For purposes of this section, the
22 members of an expanded affiliated group (as defined in
23 section 280I(b)(4)) shall be treated as a single taxpayer.”.

1 (b) CLERICAL AMENDMENT.—The table of subparts
 2 for part IV of subchapter A of chapter 1 of such Code
 3 is amended by adding at the end the following new item:

“SUBPART H. RECAPTURE OF CREDITS FOR OUTSOURCING EMPLOYERS”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 the date of the enactment of this Act.

7 **SEC. 7. CREDIT FOR INSOURCING EXPENSES.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
 9 chapter A of chapter 1 of the Internal Revenue Code of
 10 1986 is amended by adding at the end the following new
 11 section:

12 **“SEC. 45T. CREDIT FOR INSOURCING EXPENSES.**

13 “(a) IN GENERAL.—For purposes of section 38, the
 14 insourcing expenses credit for any taxable year is an
 15 amount equal to 20 percent of the eligible insourcing ex-
 16 penses of the taxpayer which are taken into account in
 17 such taxable year under subsection (d).

18 “(b) ELIGIBLE INSOURCING EXPENSES.—For pur-
 19 poses of this section—

20 “(1) IN GENERAL.—The term ‘eligible
 21 insourcing expenses’ means—

22 “(A) eligible expenses paid or incurred by
 23 the taxpayer in connection with the elimination
 24 of any business unit of the taxpayer (or of any
 25 member of any expanded affiliated group in

1 which the taxpayer is also a member) located
 2 outside the United States, and

3 “(B) eligible expenses paid or incurred by
 4 the taxpayer in connection with the establish-
 5 ment of any business unit of the taxpayer (or
 6 of any member of any expanded affiliated group
 7 in which the taxpayer is also a member) located
 8 within—

9 “(i) a HUBZone (as defined in sec-
 10 tion 3(p)(2) of the Small Business Act (15
 11 U.S.C. 632(p)(2))), or

12 “(ii) a low-income community (as de-
 13 scribed in section 45D(e)),

14 if such establishment constitutes the relocation of
 15 the business unit so eliminated. For purposes of the
 16 preceding sentence, a relocation shall not be treated
 17 as failing to occur merely because such elimination
 18 occurs in a different taxable year than such estab-
 19 lishment.

20 “(2) ELIGIBLE EXPENSES.—The term ‘eligible
 21 expenses’ means—

22 “(A) any amount for which a deduction is
 23 allowed to the taxpayer under section 162, and

24 “(B) permit and license fees, lease broker-
 25 age fees, equipment installation costs, and, to

1 the extent provided by the Secretary, other
2 similar expenses.

3 Such term does not include any compensation which
4 is paid or incurred in connection with severance
5 from employment and, to the extent provided by the
6 Secretary, any similar amount.

7 “(3) BUSINESS UNIT.—The term ‘business unit’
8 means—

9 “(A) any trade or business, and

10 “(B) any line of business, or functional
11 unit, which is part of any trade or business.

12 “(4) EXPANDED AFFILIATED GROUP.—The
13 term ‘expanded affiliated group’ means an affiliated
14 group as defined in section 1504(a), determined
15 without regard to section 1504(b)(3) and by sub-
16 stituting ‘more than 50 percent’ for ‘at least 80 per-
17 cent’ each place it appears in section 1504(a). A
18 partnership or any other entity (other than a cor-
19 poration) shall be treated as a member of an ex-
20 panded affiliated group if such entity is controlled
21 (within the meaning of section 954(d)(3)) by mem-
22 bers of such group (including any entity treated as
23 a member of such group by reason of this para-
24 graph).

1 “(5) EXPENSES MUST BE PURSUANT TO
2 INSOURCING PLAN.—Amounts shall be taken into ac-
3 count under paragraph (1) only to the extent that
4 such amounts are paid or incurred pursuant to a
5 written plan to carry out the relocation described in
6 paragraph (1).

7 “(6) OPERATING EXPENSES NOT TAKEN INTO
8 ACCOUNT.—Any amount paid or incurred in connec-
9 tion with the on-going operation of a business unit
10 shall not be treated as an amount paid or incurred
11 in connection with the establishment or elimination
12 of such business unit.

13 “(c) INCREASED DOMESTIC EMPLOYMENT REQUIRE-
14 MENT.—No credit shall be allowed under this section un-
15 less the number of full-time equivalent employees of the
16 taxpayer for the taxable year for which the credit is
17 claimed exceeds the number of full-time equivalent em-
18 ployees of the taxpayer for the last taxable year ending
19 before the first taxable year in which such eligible
20 insourcing expenses were paid or incurred. For purposes
21 of this subsection, full-time equivalent employees has the
22 meaning given such term under section 45R(d) (and the
23 applicable rules of section 45R(e)). All employers treated
24 as a single employer under subsection (b), (c), (m), or (o)

1 of section 414 shall be treated as a single employer for
2 purposes of this subsection.

3 “(d) CREDIT ALLOWED UPON COMPLETION OF
4 INSOURCING PLAN.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), eligible insourcing expenses shall be taken
7 into account under subsection (a) in the taxable year
8 during which the plan described in subsection (b)(5)
9 has been completed and all eligible insourcing ex-
10 penses pursuant to such plan have been paid or in-
11 curred.

12 “(2) ELECTION TO APPLY EMPLOYMENT TEST
13 AND CLAIM CREDIT IN FIRST FULL TAXABLE YEAR
14 AFTER COMPLETION OF PLAN.—If the taxpayer
15 elects the application of this paragraph, eligible
16 insourcing expenses shall be taken into account
17 under subsection (a) in the first taxable year after
18 the taxable year described in paragraph (1).

19 “(e) POSSESSIONS TREATED AS PART OF THE
20 UNITED STATES.—For purposes of this section, the term
21 ‘United States’ shall be treated as including each posses-
22 sion of the United States (including the Commonwealth
23 of Puerto Rico and the Commonwealth of the Northern
24 Mariana Islands).

1 “(f) REGULATIONS.—The Secretary shall prescribe
 2 such regulations or other guidance as may be necessary
 3 or appropriate to carry out the purposes 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 (31),
 7 by striking the period at the end of paragraph (32) and
 8 inserting “, plus”, and by adding at the end the following
 9 new paragraph:

10 “(33) the insourcing expenses credit determined
 11 under section 45T(a).”.

12 (c) CLERICAL AMENDMENT.—The table of sections
 13 for subpart D of part IV of subchapter A of chapter 1
 14 of such Code is amended by adding at the end the fol-
 15 lowing new item:

“Sec. 45T. Credit for insourcing expenses.”.

16 (d) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to amounts paid or incurred after
 18 the date of the enactment of this Act.

19 (e) APPLICATION TO UNITED STATES POSSES-
 20 SIONS.—

21 (1) PAYMENTS TO POSSESSIONS.—

22 (A) MIRROR CODE POSSESSIONS.—The
 23 Secretary of the Treasury shall make periodic
 24 payments to each possession of the United
 25 States with a mirror code tax system in an

1 amount equal to the loss to that possession by
2 reason of section 45T of the Internal Revenue
3 Code of 1986. Such amount shall be determined
4 by the Secretary of the Treasury based on in-
5 formation provided by the government of the re-
6 spective possession.

7 (B) OTHER POSSESSIONS.—The Secretary
8 of the Treasury shall make annual payments to
9 each possession of the United States which does
10 not have a mirror code tax system in an
11 amount estimated by the Secretary of the
12 Treasury as being equal to the aggregate bene-
13 fits that would have been provided to residents
14 of such possession by reason of section 45T of
15 such Code if a mirror code tax system had been
16 in effect in such possession. The preceding sen-
17 tence shall not apply with respect to any posses-
18 sion of the United States unless such possession
19 has a plan, which has been approved by the
20 Secretary of the Treasury, under which such
21 possession will promptly distribute such pay-
22 ment to the residents of such possession.

23 (2) COORDINATION WITH CREDIT ALLOWED
24 AGAINST UNITED STATES INCOME TAXES.—No cred-
25 it shall be allowed against United States income

1 taxes under section 45T of such Code to any per-
2 son—

3 (A) to whom a credit is allowed against
4 taxes imposed by the possession by reason of
5 such section, or

6 (B) who is eligible for a payment under a
7 plan described in paragraph (1)(B).

8 (3) DEFINITIONS AND SPECIAL RULES.—

9 (A) POSSESSIONS OF THE UNITED
10 STATES.—For purposes of this section, the
11 term “possession of the United States” includes
12 the Commonwealth of Puerto Rico and the
13 Commonwealth of the Northern Mariana Is-
14 lands.

15 (B) MIRROR CODE TAX SYSTEM.—For pur-
16 poses of this section, the term “mirror code tax
17 system” means, with respect to any possession
18 of the United States, the income tax system of
19 such possession if the income tax liability of the
20 residents of such possession under such system
21 is determined by reference to the income tax
22 laws of the United States as if such possession
23 were the United States.

24 (C) TREATMENT OF PAYMENTS.—For pur-
25 poses of section 1324(b)(2) of title 31, United

1 States Code, the payments under this section
 2 shall be treated in the same manner as a refund
 3 due from sections referred to in such section
 4 1324(b)(2).

5 **SEC. 8. AUTHORITY FOR FEDERAL CONTRACTING OFFI-**
 6 **CERS TO TAKE THE OUTSOURCING OF JOBS**
 7 **FROM THE UNITED STATES INTO ACCOUNT**
 8 **IN AWARDING CONTRACTS.**

9 (a) DEPARTMENT OF DEFENSE AND RELATED
 10 AGENCY CONTRACTS.—

11 (1) CONSIDERATION OF OUTSOURCING.—

12 (A) IN GENERAL.—Chapter 137 of title
 13 10, United States Code, is amended by insert-
 14 ing after section 2327 the following new sec-
 15 tion:

16 **“§ 2327a. Contracts: consideration of outsourcing of**
 17 **jobs**

18 **“(a) DISCLOSURE OF OUTSOURCING OF JOBS.—**

19 **“(1) IN GENERAL.—**The head of an agency
 20 shall require a contractor that submits a bid or pro-
 21 posal in response to a solicitation issued by the
 22 agency to disclose in that bid or proposal if the con-
 23 tractor, or a subsidiary of the contractor, owns a fa-
 24 cility for which there is an outsourcing event during

1 the three-year period ending on the date of the sub-
2 mittal of the bid or proposal.

3 “(2) OUTSOURCING EVENT.—For purposes of
4 paragraph (1), the term ‘outsourcing event’ means a
5 plant closing or mass layoff (as described in section
6 2(a) of the Worker Adjustment and Retraining Noti-
7 fication Act) in which the employment loss (exclud-
8 ing any part-time employees) for positions which will
9 be moved to a country outside of the United States,
10 as determined pursuant to the outsourcing state-
11 ment (as described in paragraph (1) of such section
12 3(e) of such Act) served by the taxpayer during the
13 taxable year, exceeds 50 employees.

14 “(b) CONSIDERATION AUTHORIZED.—(1) Agency
15 contracting officers considering bids or proposals in re-
16 sponse to a solicitation issued by the agency shall take
17 into account any disclosure made pursuant to subsection
18 (a) in such bids and proposals.

19 “(2) The head of an agency shall establish a negative
20 preference of no less than 10 percent of the cost of a con-
21 tract for purposes of evaluating a bid or proposal of a con-
22 tractor that makes a disclosure pursuant to subsection (a).

23 “(c) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that agency contracting officers should, using sec-
25 tion 2304(b)(3) of this title, exclude contractors making

1 a disclosure pursuant to subsection (a) in response to so-
 2 licitations issued by the agency from the bidding process
 3 in connection with such solicitations on the grounds that
 4 the actions described in the disclosures are against the
 5 public interests of the United States.

6 “(d) ANNUAL REPORT.—The head of each agency
 7 shall submit to Congress each year a report on the fol-
 8 lowing:

9 “(1) The number of solicitations made by the
 10 agency during the preceding year for which disclo-
 11 sures were made pursuant to subsection (a) in re-
 12 sponsive bids or proposals.

13 “(2) The number of contracts awarded by the
 14 agency during the preceding year in which such dis-
 15 closures were taken into account in the contract
 16 award.”.

17 (B) CLERICAL AMENDMENT.—The table of
 18 sections at the beginning of chapter 137 of such
 19 title is amended by inserting after the item re-
 20 lating to section 2327 the following new item:

“2327a. Contracts: consideration of outsourcing of jobs.”.

21 (2) EXCLUSION OF FIRMS FROM SOURCES.—
 22 Section 2304(b) of such title is amended—

23 (A) by redesignating paragraphs (3) and
 24 (4) as paragraphs (4) and (5), respectively;

1 (B) by inserting after paragraph (2) the
 2 following new paragraph:

3 “(3) The head of an agency may provide for the pro-
 4 curement of property and services covered by this chapter
 5 using competitive procedures but excluding a source mak-
 6 ing a disclosure pursuant to section 2327a(a) of this title
 7 in the bid or proposal in response to the solicitation issued
 8 by the agency if the head of the agency determines that
 9 the actions described by disclosure are against the public
 10 interests of the United States and the source is to be ex-
 11 cluded on those grounds. Any such determination shall
 12 take into account the sense of Congress set forth in section
 13 2327a(c) of this title.”; and

14 (C) in paragraph (4), as so redesignated,
 15 by striking “paragraphs (1) and (2)” and in-
 16 serting “paragraphs (1), (2), and (3)”.

17 (b) OTHER FEDERAL CONTRACTS.—

18 (1) CONSIDERATION OF OUTSOURCING.—Chap-
 19 ter 35 of title 41, United States Code, is amended
 20 by inserting after section 3303 the following new
 21 section:

22 **“§ 3303a. Bidders outsourcing jobs: disclosure of out-**
 23 **sourcing; consideration of outsourcing in**
 24 **award; exclusion from sources**

25 “(a) DISCLOSURE OF OUTSOURCING OF JOBS.—

1 “(1) IN GENERAL.—The head of an executive
2 agency shall require a contractor that submits a bid
3 or proposal in response to a solicitation issued by
4 the executive agency to disclose in that bid or pro-
5 posal if the contractor, or a subsidiary of the con-
6 tractor, owns a facility for which there is an out-
7 sourcing event during the three-year period ending
8 on the date of the submittal of the bid or proposal.

9 “(2) OUTSOURCING EVENT.—For purposes of
10 paragraph (1), the term ‘outsourcing event’ means a
11 plant closing or mass layoff (as described in section
12 2(a) of the Worker Adjustment and Retraining Noti-
13 fication Act) in which the employment loss (exclud-
14 ing any part-time employees) for positions which will
15 be moved to a country outside of the United States,
16 as determined pursuant to the outsourcing state-
17 ment (as described in paragraph (1) of such section
18 3(e) of such Act) served by the taxpayer during the
19 taxable year, exceeds 50 employees.

20 “(b) CONSIDERATION AUTHORIZED.—(1) Con-
21 tracting officers of an executive agency considering bids
22 or proposals in response to a solicitation issued by the ex-
23 ecutive agency shall take into account any disclosure made
24 pursuant to subsection (a) in such bids and proposals.

1 “(2) The head of an executive agency shall establish
2 a negative preference of no less than 10 percent of the
3 cost of a contract for purposes of evaluating a bid or pro-
4 posal of a contractor that makes a disclosure pursuant to
5 subsection (a).

6 “(c) EXCLUSION FROM SOURCES.—

7 “(1) IN GENERAL.—The head of an executive
8 agency may provide for the procurement of property
9 and services using competitive procedures but ex-
10 cluding a source making a disclosure under sub-
11 section (a) in the bid or proposal in response to the
12 solicitation issued by the executive agency if the
13 head of the executive agency determines that the ac-
14 tions described by disclosure are against the public
15 interests of the United States and the source is to
16 be excluded on those grounds. Any such determina-
17 tion shall take into account the sense of Congress
18 set forth in paragraph (2).

19 “(2) SENSE OF CONGRESS.—It is the sense of
20 Congress that contracting officers of executive agen-
21 cies may use paragraph (1) to exclude contractors
22 making a disclosure pursuant to subsection (a) in re-
23 sponse to a solicitation issued by the executive agen-
24 cy from the bidding process in connection with the
25 solicitation on the grounds that the actions described

1 by the disclosure are against the public interests of
2 the United States.

3 “(d) ANNUAL REPORT.—The head of each executive
4 agency shall submit to Congress each year a report on the
5 following:

6 “(1) The number of solicitations made by the
7 executive agency during the preceding year for which
8 disclosures were made pursuant to subsection (a) in
9 responsive bids or proposals.

10 “(2) The number of contracts awarded to con-
11 tractors that disclosed having outsourced more than
12 50 jobs during the preceding three years.”.

13 (2) CLERICAL AMENDMENT.—The table of sec-
14 tions at the beginning of chapter 35 of such title is
15 amended by inserting after the item relating to sec-
16 tion 3303 the following new item:

“3303a. Bidders outsourcing jobs: disclosure of outsourcing; consideration of
outsourcing in award; exclusion from sources.”.

17 (3) CONFORMING AMENDMENT.—Section
18 3301(a) of such title is amended by inserting
19 “3303a(c),” after “3303,”.

20 (c) REGULATIONS.—

21 (1) IN GENERAL.—Not later than 180 days
22 after the date of the enactment of this Act, the Fed-
23 eral Acquisition Regulatory Council, in consultation
24 with the heads of relevant agencies, shall amend the

1 Federal Acquisition Regulation and the Defense
2 Federal Acquisition Regulation Supplement to carry
3 out the requirements of section 3303a of title 41,
4 United States Code, and section 2327a of title 10,
5 United States Code, as added by this section.

6 (2) DEFINITION OF OUTSOURCING.—For pur-
7 poses of defining outsourcing pursuant to paragraph
8 (1), the Federal Acquisition Regulatory Council may
9 utilize regulations prescribed by the Secretary of
10 Labor.

11 (d) RULE OF CONSTRUCTION.—This section, and the
12 amendments made by this section, shall be applied in a
13 manner consistent with United States obligations under
14 international agreements.

15 **SEC. 9. AUTHORITY FOR FEDERAL AGENCIES TO TAKE THE**
16 **OUTSOURCING OF JOBS FROM THE UNITED**
17 **STATES INTO ACCOUNT FOR GRANTS, LOANS,**
18 **AND LOAN GUARANTEES.**

19 (a) DISCLOSURE OF OUTSOURCING OF JOBS.—

20 (1) IN GENERAL.—The head of any Federal
21 agency, or their delegate, shall require any entity
22 that submits a request for an applicable agency ac-
23 tion to disclose in the request if such entity, or any
24 subsidiary of such entity, owns a facility for which
25 there is an outsourcing event during the 3-year pe-

1 riod ending on the date of the submission of the re-
2 quest.

3 (2) OUTSOURCING EVENT.—For purposes of
4 paragraph (1), the term “outsourcing event” means
5 a plant closing or mass layoff (as described in sec-
6 tion 2(a) of the Worker Adjustment and Retraining
7 Notification Act) in which the employment loss (ex-
8 cluding any part-time employees) for positions which
9 will be moved to a country outside of the United
10 States, as determined pursuant to the outsourcing
11 statement (as described in paragraph (1) of such
12 section 3(e) of such Act), exceeds 50 employees.

13 (b) CONSIDERATION AUTHORITY.—

14 (1) IN GENERAL.—In considering a request by
15 an entity for an applicable agency action, the head
16 of any Federal agency, as well as any officers, em-
17 ployees, and contractors of such Agency, shall take
18 into account any disclosure made pursuant to sub-
19 section (a) for purposes of such request.

20 (2) NEGATIVE PREFERENCE.—The head of any
21 Federal agency shall establish a negative preference
22 of not less than 10 percent of the scoring evaluation
23 for any request for an applicable agency action by
24 an entity that makes a disclosure pursuant to sub-
25 section (a).

1 (c) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that Federal agencies should, in considering requests
3 by entities for any applicable agency action, exclude enti-
4 ties making a disclosure of an outsourcing event pursuant
5 to subsection (a) on the grounds that the actions described
6 in the disclosures are against the public interests of the
7 United States.

8 (d) ANNUAL REPORT.—The head of each Federal
9 agency shall submit to Congress each year a report on the
10 following:

11 (1) The number of entities making a disclosure
12 of an outsourcing event pursuant to subsection (a)
13 in regards to a request for applicable agency action
14 during the preceding year.

15 (2) The number of requests for applicable agen-
16 cy action which were granted by the agency during
17 the preceding year in which such disclosures were
18 taken into account.

19 (e) APPLICABLE AGENCY ACTION.—For purposes of
20 this section, the term “applicable agency action” means
21 any grant, loan, or loan guarantee awarded or issued by
22 a Federal agency.

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