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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to provide a tax credit to small businesses for certain qualified cybersecurity expenditures.

IN THE HOUSE OF REPRESENTATIVES

Mr. FITZGERALD introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide a tax credit to small businesses for certain qualified cybersecurity expenditures.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Cyber-
5 security Act of 2024”.

6 **SEC. 2. CYBERSECURITY CREDIT.**

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

1 1986 is amended by adding at the end the following new
2 section:

3 **“SEC. 45BB. CYBERSECURITY CREDIT.**

4 “(a) IN GENERAL.—For the purposes of section 38,
5 in the case of an eligible small business, the amount of
6 the cybersecurity credit determined under this section with
7 respect to an eligible defense contract for any taxable year
8 is an amount equal to 30 percent of the amount of the
9 qualified cybersecurity expenditures paid or incurred by
10 the taxpayer during such taxable year with respect to such
11 contract.

12 “(b) LIMITATION.—

13 “(1) IN GENERAL.—The cybersecurity credit
14 for an eligible small business determined under sub-
15 section (a) shall not exceed \$50,000 for any taxable
16 year, reduced by the aggregate amount of credits al-
17 lowed to the taxpayer under this section for all prior
18 taxable years.

19 “(2) CONTROLLED GROUPS.—For purposes of
20 this subsection, all persons treated as a single em-
21 ployer under subsection (a) or (b) of section 52 or
22 subsection (m) or (o) of section 414 shall be treated
23 as a single taxpayer.

24 “(c) ELIGIBLE DEFENSE CONTRACT.—For purposes
25 of this section—

1 “(1) IN GENERAL.—The term ‘eligible defense
2 contract’ means, with respect to any taxpayer—

3 “(A) any contract awarded to such tax-
4 payer by the Department of Defense if such
5 taxpayer is required to make an assessment de-
6 scribed in paragraph (1) or (2) of subsection
7 (d), or pay or incur costs described in sub-
8 section (d)(3), with respect to the taxpayer’s
9 performance under such contract, and

10 “(B) any subcontract (at any tier) which
11 requires the taxpayer’s performance of any obli-
12 gation under a contract described in subpara-
13 graph (A) if such taxpayer is required to make
14 an assessment described in paragraph (1) or
15 (2) of subsection (d), or pay or incur costs de-
16 scribed in subsection (d)(3), with respect to the
17 taxpayer’s performance under such subcontract.

18 “(2) APPLICATION TO GRANTS, ETC.—For pur-
19 poses of paragraph (1), the terms ‘contract’ and
20 ‘subcontract’ include any grant, other transaction
21 agreement, or other form of non-procurement instru-
22 ment.

23 “(d) QUALIFIED CYBERSECURITY EXPENDITURES.—
24 For the purposes of this section, the term ‘qualified cyber-
25 security expenditures’ means the following costs paid or

1 incurred by the taxpayer, in the ordinary course of the
2 taxpayer’s trade or business, with respect to an eligible
3 defense contract:

4 “(1) Costs of a CMMC Certification Assess-
5 ment described in section 170.17 or 170.18 of title
6 32, Code of Federal Regulations (CFR) if such As-
7 sessment is required by Defense Federal Acquisition
8 Regulation System (DFARS) 252.204-7021, ‘Cyber-
9 security Maturity Model Certification Requirements’.

10 “(2) Cost of a Joint Surveillance Assessment
11 if—

12 “(A) such Assessment is—

13 “(i) conducted by an authorized or ac-
14 credited CMMC third party assessment or-
15 ganization in accordance with sections
16 170.09, 170.11, and 170.13 of title 32,
17 CFR, working in conjunction with the De-
18 fense Contract Management Agency De-
19 fense Industrial Base Cybersecurity As-
20 sessment Center, and

21 “(ii) performed in accordance with the
22 version of NIST SP 800-171 specified in
23 sections 170.1 and 170.5 of title 32, CFR,
24 and

1 “(B) such cost is paid or incurred to ac-
2 complish follow-up action to correct or resolve
3 gaps indicated by such assessment.

4 “(3) Costs paid or incurred to resolve Plans of
5 Actions and Milestones (POA&Ms) authorized by as-
6 sessments described in paragraph (1) or (2).

7 “(e) ELIGIBLE SMALL BUSINESS.—For purposes of
8 this section, the term ‘eligible small business’ means, with
9 respect to any taxable year, a taxpayer that—

10 “(1) at all times during such taxable year, is a
11 small business concern (as defined under section 3
12 of the Small Business Act (15 U.S.C. 632)),

13 “(2) employs not more than 50 employees as of
14 the first day of such taxable year, and

15 “(3) as of the end of such taxable year—

16 “(A) is registered with the United States
17 Government as a prime contractor or subcon-
18 tractor (as such terms are defined in section
19 8701 of title 41, United States Code), and

20 “(B) is not an entity identified on any Of-
21 fice of Foreign Assets and Control list of sanc-
22 tioned programs or individuals, including but
23 not limited to the Bureau of Industry and Secu-
24 rity Entity List.

1 “(f) DENIAL OF DOUBLE BENEFIT.—No deduction
2 or credit otherwise allowable shall be allowed for that por-
3 tion of the qualified cybersecurity expenditures which is
4 equal to the credit allowed under subsection (a) with re-
5 spect to such expenditures.

6 “(g) BASIS ADJUSTMENT.—For purposes of this sub-
7 title, if a credit is allowed under this section for any cap-
8 ital expenditure with respect to any property, the increase
9 in the basis of such property which would (but for this
10 subsection) result from such capital expenditure shall be
11 reduced by the amount of the credit so allowed.

12 “(h) TERMINATION.—An amount shall not be treated
13 as a qualified cybersecurity expenditure unless such
14 amount is paid or incurred before January 1, 2032.”.

15 (b) CREDIT TO BE PART OF GENERAL BUSINESS
16 CREDIT.—Section 38(b) of such Code is amended by strik-
17 ing “plus” at the end of paragraph (40), by striking the
18 period at the end of paragraph (41) and inserting “, plus”,
19 and by adding at the end the following new paragraph:

20 “(42) in the case of an eligible small business
21 (as defined in section 45BB, the cybersecurity credit
22 determined under section 45BB(a)).”.

23 (c) CREDIT ALLOWED AGAINST AMT.—Section
24 38(c)(4)(B) of such Code is amended by redesignating
25 clauses (x) through (xii) as clauses (xi) through (xiii), re-

1 spectively, and by inserting after clause (ix) the following
2 new clause:

3 “(x) the credit determined under sec-
4 tion 45BB.”.

5 (d) CLERICAL AMENDMENT.—The table of sections
6 for subpart D of part IV of subchapter A of chapter 1
7 of such Code is amended by adding at the end the fol-
8 lowing new item:

“Sec. 45BB. Cybersecurity credit.”.

9 (e) REPORT.—

10 (1) IN GENERAL.—The Commissioner of Inter-
11 nal Revenue, after consultation with the Secretary of
12 Defense and the Administrator of the Small Busi-
13 ness Administration, shall submit, on an annual
14 basis beginning 2 years after the date of the enact-
15 ment of this Act, to the Committees on Ways and
16 Means, Armed Services, and Small Business of the
17 House of Representatives and the Committees on Fi-
18 nance, Armed Services, and Small Business and En-
19 trepreneurship of the Senate a report that contains
20 the following:

21 (A) The number of taxpayers expected to
22 claim the credit determined under section 45BB
23 of the Internal Revenue Code of 1986 with re-
24 spect to taxable years ending in the current cal-
25 endar year.

1 (B) The estimated average amount of the
2 credit with respect to taxpayers described in
3 subparagraph (B) for taxable years ending in
4 the current calendar year.

5 (2) INFORMATION DISCLOSURE.—Upon request
6 by the Commissioner of Internal Revenue, the head
7 of each Federal agency shall provide such informa-
8 tion (including information collected through the
9 Federal Procurement Data System and Federal
10 Subcontracting Reporting System) as such Commis-
11 sioner may require for purposes of completing the
12 report described in paragraph (1).

13 (f) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to amounts paid or incurred in tax-
15 able years beginning after December 31, 2023.