

113TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to extend and modify the research and development credit to encourage innovation.

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IN THE SENATE OF THE UNITED STATES

Mr. ROBERTS (for himself and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to extend and modify the research and development credit to encourage innovation.

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 “Innovators Job Cre-  
5 ation Act”.

6 **SEC. 2. PERMANENT EXTENSION.**

7 (a) IN GENERAL.—Section 41 of the Internal Rev-  
8 enue Code of 1986 is amended by striking subsection (h)  
9 and inserting the following:

1           “(h) **TERMINATION OF ALTERNATIVE INCREMENTAL**  
2 **CREDIT.**—No election under subsection (c)(4) shall apply  
3 to taxable years beginning after December 31, 2008.”.

4           (b) **EFFECTIVE DATE.**—The amendment made by  
5 this section shall apply to amounts paid or incurred after  
6 December 31, 2013.

7 **SEC. 3. CREDIT ALLOWED AGAINST ALTERNATIVE MIN-**  
8 **IMUM TAX.**

9           Subparagraph (B) of section 38(c)(4) of the Internal  
10 Revenue Code of 1986 is amended—

11           (1) by redesignating clauses (ii), (iii), (iv), (v),  
12 (vi), (vii), (viii), and (ix) as clauses (iii), (iv), (v),  
13 (vi), (vii), (viii), (ix), and (x), respectively, and

14           (2) by inserting after clause (i) the following  
15 new clause:

16                           “(ii) the credit determined under sec-  
17 tion 41 to the extent attributable to  
18 amounts paid or incurred after December  
19 31, 2013.”.

20 **SEC. 4. PERMANENT 5-YEAR CARRYBACK FOR RESEARCH**  
21 **CREDITS OF SMALL BUSINESSES.**

22           (a) **IN GENERAL.**—Paragraph (4) of section 39(a) of  
23 the Internal Revenue Code of 1986 is amended to read  
24 as follows:

1           “(4) 5-YEAR CARRYBACK FOR RESEARCH CRED-  
2           ITS OF SMALL BUSINESSES.—Notwithstanding sub-  
3           section (d), in the case of credits determined under  
4           section 41 with respect to an eligible small business  
5           (as defined in section 38(e)(5)(C)) in taxable years  
6           beginning after December 31, 2013—

7                   “(A) paragraph (1) shall be applied by  
8                   substituting ‘each of the 5 taxable years’ for  
9                   ‘the taxable year’ in subparagraph (A) thereof,  
10                  and

11                  “(B) paragraph (2) shall be applied—

12                           “(i) by substituting ‘25 taxable years’  
13                           for ‘21 taxable years’ in subparagraph (A)  
14                           thereof, and

15                           “(ii) by substituting ‘24 taxable years’  
16                           for ‘20 taxable years’ in subparagraph (B)  
17                           thereof.”.

18           (b) EFFECTIVE DATE.—The amendment made by  
19           this section shall apply to taxable years beginning after  
20           December 31, 2013.

21   **SEC. 5. ELECTION PERMITTED ON AMENDED RETURN.**

22           (a) IN GENERAL.—Paragraph (5) of section 41(c) of  
23           the Internal Revenue Code of 1986 is amended by adding  
24           at the end the following new subparagraph:

1           “(D) SPECIAL RULE REGARDING TIMING  
2           OF ELECTION.—An election under this para-  
3           graph may be made by means of an amendment  
4           to the return of tax for the taxable year for  
5           which made.”.

6           (b) EFFECTIVE DATE.—The amendment made by  
7           this section shall apply to taxable years beginning after  
8           December 31, 2013.

9   **SEC. 6. TREATMENT OF RESEARCH CREDIT FOR CERTAIN**  
10                                   **STARTUP COMPANIES.**

11           (a) IN GENERAL.—

12                   (1) IN GENERAL.—Section 41 of the Internal  
13           Revenue Code of 1986 is amended by adding at the  
14           end the following new subsection:

15           “(i) TREATMENT OF CREDIT TO QUALIFIED SMALL  
16           BUSINESSES.—

17                   “(1) IN GENERAL.—At the election of a quali-  
18           fied small business, the payroll tax credit portion of  
19           the credit determined under subsection (a) shall be  
20           treated as a credit allowed under section 3111(f)  
21           (and not under this section).

22                   “(2) PAYROLL TAX CREDIT PORTION.—For  
23           purposes of this subsection, the payroll tax credit  
24           portion of the credit determined under subsection

1 (a) for any taxable year is so much of such credit  
2 as does not exceed \$250,000.

3 “(3) QUALIFIED SMALL BUSINESS.—For pur-  
4 poses of this subsection—

5 “(A) IN GENERAL.—The term ‘qualified  
6 small business’ means, with respect to any tax-  
7 able year—

8 “(i) a corporation, partnership, or S  
9 corporation if—

10 “(I) the gross receipts (as deter-  
11 mined under subsection (c)(7)) of  
12 such entity for the taxable year is less  
13 than \$5,000,000, and

14 “(II) such entity did not have  
15 gross receipts (as so determined) for  
16 any period preceding the 5-taxable-  
17 year period ending with such taxable  
18 year, and

19 “(ii) any person not described in sub-  
20 paragraph (A) if clauses (i) and (ii) of sub-  
21 paragraph (A) applied to such person, de-  
22 termined—

23 “(I) by substituting ‘person’ for  
24 ‘entity’ each place it appears), and

1                   “(II) in the case of an individual,  
2                   by only taking into account the aggre-  
3                   gate gross receipts received by such  
4                   individual in carrying on trades or  
5                   businesses of such individual.

6                   “(B) LIMITATION.—Such term shall not  
7                   include an organization which is exempt from  
8                   taxation under section 501.

9                   “(4) ELECTION.—

10                   “(A) IN GENERAL.—In the case of a part-  
11                   nership or S corporation, an election under this  
12                   subsection shall be made at the entity level.

13                   “(B) REVOCATION.—An election under  
14                   this subsection may not be revoked without the  
15                   consent of the Secretary.

16                   “(C) LIMITATION.—A taxpayer may not  
17                   make an election under this subsection if such  
18                   taxpayer has made an election under this sub-  
19                   section for 5 or more preceding taxable years.

20                   “(5) AGGREGATION RULES.—For purposes of  
21                   determining the \$250,000 limitation under para-  
22                   graph (2) and determining gross receipts under  
23                   paragraph (3), all members of the same controlled  
24                   group of corporations (within the meaning of section  
25                   267(f)) and all persons under common control (with-

1 in the meaning of section 52(b) but determined by  
2 treating an interest of more than 50 percent as a  
3 controlling interest) shall be treated as 1 person.

4 “(6) REGULATIONS.—The Secretary shall pre-  
5 scribe such regulations as may be necessary to carry  
6 out the purposes of this subsection, including—

7 “(A) regulations to prevent the avoidance  
8 of the purposes of paragraph (3) through the  
9 use of successor companies or other means,

10 “(B) regulations to minimize compliance  
11 and record-keeping burdens under this sub-  
12 section for start-up companies, and

13 “(C) regulations for recapturing the ben-  
14 efit of credits determined under section 3111(f)  
15 in cases where there is a subsequent adjustment  
16 to the payroll tax credit portion of the credit  
17 determined under subsection (a), including re-  
18 quiring amended returns in the cases where  
19 there is such an adjustment.”.

20 (2) CONFORMING AMENDMENT.—Section  
21 280C(e) of the Internal Revenue Code of 1986 is  
22 amended by adding at the end the following new  
23 paragraph:

24 “(5) TREATMENT OF QUALIFIED SMALL BUSI-  
25 NESS CREDIT.—For purposes of determining the

1 amount of any credit under section 41(a) under this  
2 subsection, any election under section 41(i) shall be  
3 disregarded.”.

4 (b) CREDIT ALLOWED AGAINST FICA TAXES.—

5 (1) IN GENERAL.—Section 3111 of the Internal  
6 Revenue Code of 1986 is amended by adding at the  
7 end the following new subsection:

8 “(f) CREDIT FOR RESEARCH EXPENDITURES OF  
9 QUALIFIED SMALL BUSINESSES.—

10 “(1) IN GENERAL.—In the case of a qualified  
11 small business which has made an election under  
12 section 41(i), there shall be allowed as a credit  
13 against the tax imposed by subsection (a) on wages  
14 paid with respect to the employment of all employees  
15 of the qualified small business for days in an appli-  
16 cable calendar quarter an amount equal to the pay-  
17 roll tax credit portion of the research credit deter-  
18 mined under section 41(a).

19 “(2) CARRYOVER OF UNUSED CREDIT.—In any  
20 case in which the payroll tax credit portion of the re-  
21 search credit determined under section 41(a) exceeds  
22 the tax imposed under subsection (a) for an applica-  
23 ble calendar quarter—

1           “(A) the succeeding calendar quarter shall  
2           be treated as an applicable calendar quarter,  
3           and

4           “(B) the amount of credit allowed under  
5           paragraph (1) shall be reduced by the amount  
6           of credit allowed under such paragraph for all  
7           preceding applicable calendar quarters.

8           “(3) ALLOCATION OF CREDIT FOR CON-  
9           TROLLED GROUPS, ETC.—In determining the  
10          amount of the credit under this subsection—

11          “(A) all persons treated as a single tax-  
12          payer under section 41 shall be treated as a  
13          single taxpayer under this section, and

14          “(B) the credit (if any) allowable by this  
15          section to each such member shall be its pro-  
16          portionate share of the qualified research ex-  
17          penses, basic research payments, and amounts  
18          paid or incurred to energy research Consor-  
19          tiums, giving rise to the credit allowable under  
20          section 41.

21          “(4) DEFINITIONS.—For purposes of this sub-  
22          section—

23          “(A) APPLICABLE CALENDAR QUARTER.—  
24          The term ‘applicable calendar quarter’ means—

1                   “(i) the first calendar quarter fol-  
2                   lowing the date on which the qualified  
3                   small business files a return under section  
4                   6012 for the taxable year for which the  
5                   payroll tax credit portion of the research  
6                   credit under section 41(a) is determined,  
7                   and

8                   “(ii) any succeeding calendar quarter  
9                   treated as an applicable calendar quarter  
10                  under paragraph (2)(A).

11                  “For purposes of determining the date on  
12                  which a return is filed, rules similar to the rules  
13                  of section 6513 shall apply.

14                  “(B) OTHER TERMS.—Any term used in  
15                  this subsection which is also used in section 41  
16                  shall have the meaning given such term under  
17                  section 41.”.

18                  (2) TRANSFERS TO FEDERAL OLD-AGE AND  
19                  SURVIVORS INSURANCE TRUST FUND.—There are  
20                  hereby appropriated to the Federal Old-Age and  
21                  Survivors Trust Fund and the Federal Disability In-  
22                  surance Trust Fund established under section 201  
23                  of the Social Security Act (42 U.S.C. 401) amounts  
24                  equal to the reduction in revenues to the Treasury  
25                  by reason of the amendments made by paragraph

1       (1). Amounts appropriated by the preceding sen-  
2       tence shall be transferred from the general fund at  
3       such times and in such manner as to replicate to the  
4       extent possible the transfers which would have oc-  
5       curred to such Trust Fund had such amendments  
6       not been enacted.

7       (c) EFFECTIVE DATE.—The amendments made by  
8       this section shall apply to taxable years beginning after  
9       December 31, 2013.