

114TH CONGRESS  
1ST SESSION

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

To amend the Internal Revenue Code of 1986 to provide for special treatment of the research credit for certain startup companies, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. ROBERTS (for himself, Mr. COONS, and Mr. SCHUMER) 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 provide for special treatment of the research credit for certain startup companies, 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 “Innovators Job Cre-  
5 ation Act of 2015”.

1 **SEC. 2. TREATMENT OF RESEARCH CREDIT FOR CERTAIN**  
2 **STARTUP COMPANIES.**

3 (a) IN GENERAL.—Section 41 of the Internal Rev-  
4 enue Code of 1986 is amended by adding at the end the  
5 following new subsection:

6 “(i) TREATMENT OF CREDIT FOR QUALIFIED SMALL  
7 BUSINESSES.—

8 “(1) IN GENERAL.—At the election of a quali-  
9 fied small business for any taxable year, section  
10 3111(f) shall apply to the payroll tax credit portion  
11 of the credit otherwise determined under subsection  
12 (a) for the taxable year and such portion shall not  
13 be treated (other than for purposes of section 280C)  
14 as a credit determined under subsection (a).

15 “(2) PAYROLL TAX CREDIT PORTION.—For  
16 purposes of this subsection, the payroll tax credit  
17 portion of the credit determined under subsection  
18 (a) with respect to any qualified small business for  
19 any taxable year is the least of—

20 “(A) the amount specified in the election  
21 made under this subsection,

22 “(B) the credit determined under sub-  
23 section (a) for the taxable year (determined be-  
24 fore the application of this subsection), or

25 “(C) in the case of a qualified small busi-  
26 ness other than a partnership or S corporation,

1 the amount of the business credit carryforward  
2 under section 39 carried from the taxable year  
3 (determined before the application of this sub-  
4 section to the taxable year).

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

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

10 “(i) a corporation or partnership, if—

11 “(I) the gross receipts (as deter-  
12 mined under the rules of section  
13 448(c)(3), without regard to subpara-  
14 graph (A) thereof) of such entity for  
15 the taxable year is less than  
16 \$5,000,000, and

17 “(II) such entity did not have  
18 gross receipts (as so determined) for  
19 any taxable year preceding the 5-tax-  
20 able-year period ending with such tax-  
21 able year, and

22 “(ii) any person (other than a cor-  
23 poration or partnership) who meets the re-  
24 quirements of subclauses (I) and (II) of  
25 clause (i), determined—

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

3 “(II) by only taking into account  
4 the aggregate gross receipts received  
5 by such person in carrying on all  
6 trades or businesses of such person.

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

10 “(4) ELECTION.—

11 “(A) IN GENERAL.—Any election under  
12 this subsection for any taxable year—

13 “(i) shall specify the amount of the  
14 credit to which such election applies,

15 “(ii) shall be made on or before the  
16 due date (including extensions) of—

17 “(I) in the case of a qualified  
18 small business which is a partnership,  
19 the return required to be filed under  
20 section 6031,

21 “(II) in the case of a qualified  
22 small business which is an S corpora-  
23 tion, the return required to be filed  
24 under section 6037, and

1                   “(III) in the case of any other  
2                   qualified small business, the return of  
3                   tax for the taxable year, and

4                   “(iii) may be revoked only with the  
5                   consent of the Secretary.

6                   “(B) LIMITATIONS.—

7                   “(i) AMOUNT.—The amount specified  
8                   in any election made under this subsection  
9                   shall not exceed \$250,000.

10                  “(ii) NUMBER OF TAXABLE YEARS.—

11                  A person may not make an election under  
12                  this subsection if such person (or any other  
13                  person treated as a single taxpayer with  
14                  such person under paragraph (5)(A)) has  
15                  made an election under this subsection for  
16                  5 or more preceding taxable years.

17                  “(C) SPECIAL RULE FOR PARTNERSHIPS

18                  AND S CORPORATIONS.—In the case of a quali-  
19                  fied small business which is a partnership or S  
20                  corporation, the election made under this sub-  
21                  section shall be made at the entity level.

22                  “(5) AGGREGATION RULES.—

23                  “(A) IN GENERAL.—Except as provided in  
24                  subparagraph (B), all persons or entities treat-  
25                  ed as a single taxpayer under subsection (f)(1)

1 shall be treated as a single taxpayer for pur-  
2 poses of this subsection.

3 “(B) SPECIAL RULES.—For purposes of  
4 this subsection and section 3111(f)—

5 “(i) each of the persons treated as a  
6 single taxpayer under subparagraph (A)  
7 may separately make the election under  
8 paragraph (1) for any taxable year, and

9 “(ii) the \$250,000 amount under  
10 paragraph (4)(B)(i) shall be allocated  
11 among all persons treated as a single tax-  
12 payer under subparagraph (A) in the same  
13 manner as under subparagraph (A)(ii) or  
14 (B)(ii) of subsection (f)(1), whichever is  
15 applicable.

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

19 “(A) regulations to prevent the avoidance  
20 of the purposes of the limitations and aggrega-  
21 tion rules under this subsection through the use  
22 of successor companies or other means,

23 “(B) regulations to minimize compliance  
24 and record-keeping burdens under this sub-  
25 section, and

1           “(C) regulations for recapturing the ben-  
2           efit of credits determined under section 3111(f)  
3           in cases where there is a subsequent adjustment  
4           to the payroll tax credit portion of the credit  
5           determined under subsection (a), including re-  
6           quiring amended income tax returns in the  
7           cases where there is such an adjustment.”.

8           (b) CREDIT ALLOWED AGAINST FICA TAXES.—Sec-  
9           tion 3111 of the Internal Revenue Code of 1986 is amend-  
10          ed by adding at the end the following new subsection:

11          “(f) CREDIT FOR RESEARCH EXPENDITURES OF  
12          QUALIFIED SMALL BUSINESSES.—

13                 “(1) IN GENERAL.—In the case of a taxpayer  
14                 who has made an election under section 41(i) for a  
15                 taxable year, there shall be allowed as a credit  
16                 against the tax imposed by subsection (a) for the  
17                 first calendar quarter which begins after the date on  
18                 which the taxpayer files the return specified in sec-  
19                 tion 41(i)(4)(A)(ii) an amount equal to the payroll  
20                 tax credit portion determined under section 41(i)(2).

21                 “(2) LIMITATION.—The credit allowed by para-  
22                 graph (1) shall not exceed the tax imposed by sub-  
23                 section (a) for any calendar quarter on the wages  
24                 paid with respect to the employment of all individ-  
25                 uals in the employ of the employer.

1           “(3) CARRYOVER OF UNUSED CREDIT.—If the  
2           amount of the credit under paragraph (1) exceeds  
3           the limitation of paragraph (2) for any calendar  
4           quarter, such excess shall be carried to the suc-  
5           ceeding calendar quarter and allowed as a credit  
6           under paragraph (1) for such quarter.

7           “(4) DEDUCTION ALLOWED FOR CREDITED  
8           AMOUNTS.—The credit allowed under paragraph (1)  
9           shall not be taken into account for purposes of de-  
10          termining the amount of any deduction allowed  
11          under chapter 1 for taxes imposed under subsection  
12          (a).”.

13          (c) EFFECTIVE DATE.—The amendments made by  
14          this section shall apply to credits determined for taxable  
15          years beginning after December 31, 2014.

16 **SEC. 3. RESEARCH CREDIT ALLOWED AGAINST ALTER-**  
17 **NATIVE MINIMUM TAX.**

18          (a) IN GENERAL.—Subparagraph (B) of section  
19          38(c)(4) of the Internal Revenue Code of 1986 is amend-  
20          ed—

21                 (1) by redesignating clauses (ii), (iii), (iv), (v),  
22                 (vi), (vii), (viii), and (ix) as clauses (iii), (iv), (v),  
23                 (vi), (vii), (viii), (ix), and (x), respectively, and

24                 (2) by inserting after clause (i) the following  
25                 new clause:

1                   “(ii) the credit determined under sec-  
2                   tion 41 with respect to an eligible small  
3                   business (as defined in paragraph (5)(C),  
4                   after application of rules similar to the  
5                   rules of paragraph (5)(D)),”.

6           (b) **EFFECTIVE DATE.**—The amendments made by  
7 this section shall apply to credits determined for taxable  
8 years beginning after December 31, 2014, and to  
9 carrybacks of such credits.