

116TH CONGRESS
2D SESSION

S. 3593

To amend the Internal Revenue Code of 1986 to expand and modify the credit for increasing research activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2020

Mr. COONS (for himself, Mr. ROBERTS, Ms. CORTEZ MASTO, Mr. YOUNG, Ms. HASSAN, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to expand and modify the credit for increasing research activities, 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 “Furthering Our Recov-
5 ery With American Research & Development Act” or the
6 “FORWARD Act”.

7 **SEC. 2. TREATMENT OF CREDIT FOR QUALIFIED SMALL**
8 **BUSINESSES.**

9 (a) GROSS RECEIPTS TEST.—

1 (1) IN GENERAL.—Clause (i) of section
2 41(h)(3)(A) of the Internal Revenue Code of 1986
3 is amended—

4 (A) by striking “\$5,000,000” in subclause
5 (I) and inserting “\$20,000,000”, and

6 (B) by striking “gross receipts” in sub-
7 clause (II) and inserting “gross receipts in ex-
8 cess of \$25,000”.

9 (2) DEFINITION OF GROSS RECEIPTS.—

10 (A) IN GENERAL.—Clause (i) of section
11 41(h)(3)(A)(i) of such Code, as amended by
12 paragraph (1), is further amended—

13 (i) by striking “(as determined under
14 the rules of section 448(c)(3), without re-
15 gard to subparagraph (A) thereof)” in sub-
16 clause (I), and

17 (ii) by striking “(as so determined)”
18 in subclause (II).

19 (B) DEFINITION.—Subparagraph (A) of
20 section 41(h)(3) of such Code, as so amended,
21 is further amended by adding at the end the
22 following flush sentence:

23 “For purposes of the preceding sentence, gross
24 receipts shall be determined under the rules of
25 section 448(c)(3) without regard to subpara-

1 graph (A) thereof, except that such term shall
2 not include any contributions to the capital of
3 a corporation (other than contributions by a
4 shareholder) or any amount described in section
5 118(b) (other than receipts from customers in
6 exchange for goods or services).”.

7 (b) STARTUP DATE.—Subclause (II) of section
8 41(h)(3)(A)(i) of the Internal Revenue Code of 1986 is
9 amended by striking “5-taxable-year period” and inserting
10 “8-taxable-year period”.

11 (c) LIMITATION ON ELECTION AMOUNT.—Clause (i)
12 of section 41(h)(4)(B) of the Internal Revenue Code of
13 1986 is amended by striking “\$250,000” and inserting
14 “\$1,000,000”.

15 (d) LIMITATION ON ELECTION.—Clause (ii) of sec-
16 tion 41(h)(4)(B) of the Internal Revenue Code of 1986
17 is amended by striking “5 or more” and inserting “8 or
18 more”.

19 (e) PAYROLL TAX CREDIT PORTION.—Paragraph (2)
20 of section 41(h) of the Internal Revenue Code of 1986
21 is amended—

22 (1) by striking subparagraph (C),

23 (2) by adding “or” at the end of subparagraph

24 (A), and

1 (3) by striking “, or” at the end of subpara-
2 graph (B) and inserting a period.

3 (f) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2019.

6 **SEC. 3. INCLUSION OF EMPLOYEE TRAINING EXPENSES.**

7 (a) IN GENERAL.—Paragraph (1) of section 41(b) of
8 the Internal Revenue Code of 1986 is amended—

9 (1) by striking “and” at the end of subpara-
10 graph (A),

11 (2) by striking the period at the end of sub-
12 paragraph (B) and inserting “, and”, and

13 (3) by adding at the end the following new sub-
14 paragraph:

15 “(C) employee training expenses.”.

16 (b) EMPLOYEE TRAINING EXPENSES.—Subsection
17 (b) of section 41 of the Internal Revenue Code of 1986
18 is amended—

19 (1) by redesignating paragraph (4) as para-
20 graph (5), and

21 (2) by inserting after paragraph (3) the fol-
22 lowing new paragraph:

23 “(4) EMPLOYEE TRAINING EXPENSES.—

24 “(A) IN GENERAL.—The term ‘employee
25 training expenses’ means any wages paid or in-

1 curred to an employee in connection with train-
 2 ing for the employee to perform qualified serv-
 3 ices described in clause (i) or (ii) of paragraph
 4 (2)(B). Such term does not include wages paid
 5 or incurred in connection with general employer
 6 training which does not specifically pertain to
 7 such qualified services.

8 “(B) WAGES, ETC.—For purposes of this
 9 paragraph—

10 “(i) IN GENERAL.—The term ‘wages’
 11 shall not include any amount taken into
 12 account under paragraph (2)(A)(i).

13 “(ii) RULES.—The rules of paragraph
 14 (2)(D) shall apply.”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to expenses paid or incurred in
 17 taxable years beginning after December 31, 2019.

18 **SEC. 4. INCREASED CREDIT RATE FOR CERTAIN RESEARCH**
 19 **ACTIVITIES.**

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

23 “(i) SPECIAL RULES FOR CERTAIN HIGH-BENEFIT
 24 RESEARCH ACTIVITIES.—

25 “(1) CERTAIN COLLABORATIVE RESEARCH.—

1 “(A) IN GENERAL.—In the case of any
2 qualified research expenses described in sub-
3 paragraph (B), as applicable—

4 “(i) subsection (a)(1) shall be applied
5 by substituting ‘25 percent’ for ‘20 per-
6 cent’,

7 “(ii) subsection (c)(4)(A) shall be ap-
8 plied by substituting ‘17.5 percent’ for ‘14
9 percent’, and

10 “(iii) subsection (c)(4)(B)(ii) shall be
11 applied by substituting ‘7.5 percent’ for ‘6
12 percent’.

13 “(B) EXPENSES DESCRIBED.—

14 “(i) IN GENERAL.—Qualified research
15 expenses described in this subparagraph
16 are qualified research expenses incurred by
17 the taxpayer with respect to qualified re-
18 search in collaboration with 1 or more
19 other entities, which may include a quali-
20 fied organization described in subpara-
21 graph (A), (B), or (C) of subsection (e)(6),
22 an organization which is a Federal labora-
23 tory (within the meaning of subsection
24 (b)(3)(D)(i)(III)), or a qualified research

1 consortium (as defined in subsection
2 (b)(3)(C)(ii)).

3 “(ii) CONTRIBUTION REQUIRE-
4 MENT.—A collaboration shall be taken into
5 account under clause (i) only if each entity
6 involved in the collaboration provides or
7 performs more than 1/2 of its pro rata
8 share of the work hours for the research.

9 “(2) RESEARCH BY UNITED STATES MANUFAC-
10 TURERS.—

11 “(A) IN GENERAL.—In the case of a quali-
12 fied domestic manufacturer, this section shall
13 be applied—

14 “(i) by increasing the 20 percent
15 amount in subsection (a)(1) by the bonus
16 amount,

17 “(ii) by increasing the 14 percent
18 amount under subsection (c)(4)(A) by the
19 alternative simplified bonus amount, and

20 “(iii) by increasing the 6 percent
21 amount under subsection (c)(4)(B)(ii) by
22 the subsection (c)(4)(B) bonus amount.

23 “(B) QUALIFIED DOMESTIC MANUFAC-
24 TURER.—For purposes of this subsection—

1 “(i) IN GENERAL.—The term ‘quali-
 2 fied domestic manufacturer’ means a tax-
 3 payer who has domestic production gross
 4 receipts which are more than 50 percent of
 5 total gross receipts.

6 “(ii) DOMESTIC PRODUCTION GROSS
 7 RECEIPTS.—The term ‘domestic production
 8 gross receipts’ has the meaning given to
 9 such term under section 199(c)(4) (as in
 10 effect on December 31, 2017).

11 “(C) BONUS AMOUNT; ALTERNATIVE SIM-
 12 PLIFIED BONUS AMOUNT; SUBSECTION
 13 (c)(4)(B) AMOUNT.—For purposes of subpara-
 14 graph (A):

“If the percentage of total gross receipts which are domestic production gross receipts is:	The bonus amount is the following number of percentage points:	The alternative simplified bonus amount is the following number of percentage points:	The subsection (c)(4)(B) bonus amount is the following number of percentage points:
More than 50% but not more than 60%	1	0.7	0.3
More than 60% but not more than 70%	2	1.4	0.6
More than 70% but not more than 80%	3	2.1	0.9
More than 80% but not more than 90%	4	2.8	1.2
More than 90%	5	3.5	1.5.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2020.

4 **SEC. 5. TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS**
5 **INSURANCE TRUST FUND.**

6 There are hereby appropriated to the Federal Old-
7 Age and Survivors Trust Fund and the Federal Disability
8 Insurance Trust Fund established under section 201 of
9 the Social Security Act (42 U.S.C. 401) amounts equal
10 to the reduction in revenues to the Treasury from the
11 taxes under section 3111(a) of the Internal Revenue Code
12 of 1986 by reason of the amendments made by sections
13 2, 3, and 4. Amounts appropriated by the preceding sen-
14 tence shall be transferred from the general fund at such
15 times and in such manner as to replicate to the extent
16 possible the transfers which would have occurred to such
17 Trust Fund had such amendments not been enacted.

18 **SEC. 6. SUPPORT FOR SMALL BUSINESS RESEARCH AND**
19 **DEVELOPMENT.**

20 (a) DEFINITIONS.—In this section—

21 (1) the term “Administrator” means the Ad-
22 ministrator of the Small Business Administration;

23 (2) the term “Commissioner” means the Com-
24 missioner of Internal Revenue;

1 (3) the term “small business concern” has the
2 meaning given the term in section 3(a) of the Small
3 Business Act (15 U.S.C. 632(a)); and

4 (4) the term “small business development cen-
5 ter” means a small business development center de-
6 scribed in section 21 of the Small Business Act (15
7 U.S.C. 648).

8 (b) IRS AND SBA PARTNERSHIPS.—Beginning not
9 later than 180 days after the date of enactment of this
10 Act, the Commissioner, in consultation with the Adminis-
11 trator, shall develop partnership agreements that—

12 (1) provide for the development of—

13 (A) basic training, including in-person or
14 modular training sessions, relating to Federal
15 income tax credits that benefit small business
16 concerns and startups, especially credits for re-
17 search and experimentation; and

18 (B) informational materials relating to
19 such credits, including Internal Revenue Service
20 guidance documents;

21 (2) provide the basic training and informational
22 materials developed under paragraph (1)—

23 (A) through electronic resources, including
24 internet-based webinars; and

1 (B) at physical locations, including small
2 business development centers; and

3 (3) make such materials available to—

4 (A) business development programs admin-
5 istered by the Small Business Administration,
6 including women’s business centers, Veteran
7 Business Outreach Centers, and U.S. Export
8 Assistance Centers, and nonprofit research
9 partners such as the Service Corps of Retired
10 Executives authorized under section 8(b)(1)(B)
11 of the Small Business Act (15 U.S.C.
12 637(b)(1)(B)); and

13 (B) business development entities that
14 partner with Small Business Administration
15 programs, including universities, nonprofits,
16 business incubators, and business accelerators.

17 (c) REPORTING REQUIREMENT.—Not later than 180
18 days after the date of enactment of this Act, the Commis-
19 sioner, in consultation with the Administrator, shall sub-
20 mit to Congress a report describing how the Internal Rev-
21 enue Service in partnership with the Small Business Ad-
22 ministration will provide outreach and educational mate-
23 rials to small business concerns, businesses of medium
24 size, and startups regarding section 41(h) of the Internal
25 Revenue Code of 1986.

1 (d) SMALL BUSINESS DEVELOPMENT CENTERS.—
2 Section 21(c)(3) of the Small Business Act (15 U.S.C.
3 648(c)(3)) is amended—

4 (1) in subparagraph (T), by striking “and” at
5 the end;

6 (2) in the first subparagraph (U) (relating to
7 encouraging and assisting the provision of succession
8 planning), by striking the period at the end of clause
9 (v) and inserting a semicolon;

10 (3) in the second subparagraph (U) (relating to
11 providing training in conjunction with the United
12 States Patent and Trademark Office)—

13 (A) by redesignating that subparagraph as
14 subparagraph (V); and

15 (B) in clause (ii)(II), by striking the period
16 at the end and inserting “; and”; and

17 (4) by adding at the end the following:

18 “(W) in conjunction with the Internal Rev-
19 enue Service, providing informational materials,
20 education, and basic training—

21 “(i) to small business concerns relat-
22 ing to Federal income tax credits available
23 under the Internal Revenue Code of 1986,
24 including—

1 “(I) credits available to busi-
2 nesses generally; and

3 “(II) credits available to small
4 business concerns and startups spe-
5 cifically, especially credits for research
6 and experimentation; and

7 “(ii) that may be delivered—

8 “(I) in person; or

9 “(II) through a website.”.

10 (e) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated \$2,000,000 per year to
12 carry out the requirements of this section.

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