118TH CONGRESS
1ST SESSION

S.

To amend the Internal Revenue Code of 1986 to enhance tax benefits for research activities.

IN THE SENATE OF THE UNITED STATES

Ms. HASSAN (for herself, Mr. YOUNG, Ms. CORTEZ MAStO, Mr. BARRASSO, Ms. SINEMA, Mr. TILLIS, Mrs. FEINSTEIN, Mr. DAINES, Mr. KELLY, Mr. HAGERTY, Mrs. MURRAY, and Mr. MORAN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to enhance tax benefits for research activities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Innovation and Jobs Act”.

SEC. 2. RESTORING IMMEDIATE EXPENSING FOR RESEARCH AND DEVELOPMENT INVESTMENTS.

(a) IN GENERAL.—Section 174 of the Internal Revenue Code of 1986 is amended to read as follows:
"SEC. 174. RESEARCH AND EXPERIMENTAL EXPENDITURES."

“(a) TREATMENT AS EXPENSES.—

“(1) IN GENERAL.—A taxpayer may treat re-
search or experimental expenditures which are paid
or incurred by him during the taxable year in con-
nection with his trade or business as expenses which
are not chargeable to capital account. The expendi-
tures so treated shall be allowed as a deduction.

“(2) WHEN METHOD MAY BE ADOPTED.—

“(A) WITHOUT CONSENT.—A taxpayer
may, without the consent of the Secretary,
adopt the method provided in this subsection
for his first taxable year for which expenditures
described in paragraph (1) are paid or incurred.

“(B) WITH CONSENT.—A taxpayer may,
with the consent of the Secretary, adopt at any
time the method provided in this subsection.

“(3) SCOPE.—The method adopted under this
subsection shall apply to all expenditures described
in paragraph (1). The method adopted shall be ad-
hered to in computing taxable income for the taxable
year and for all subsequent taxable years unless,
with the approval of the Secretary, a change to a
different method is authorized with respect to part
or all of such expenditures.
“(b) Amortization of Certain Research and Experimental Expenditures.—

“(1) In general.—At the election of the taxpayer, made in accordance with regulations prescribed by the Secretary, research or experimental expenditures which are—

“(A) paid or incurred by the taxpayer in connection with his trade or business,

“(B) not treated as expenses under subsection (a), and

“(C) chargeable to capital account but not chargeable to property of a character which is subject to the allowance under section 167 (relating to allowance for depreciation, etc.) or section 611 (relating to allowance for depletion), may be treated as deferred expenses. In computing taxable income, such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the taxpayer first realizes benefits from such expenditures).

Such deferred expenses are expenditures properly chargeable to capital account for purposes of section 1016(a)(1) (relating to adjustments to basis of property).
“(2) Time for and Scope of Election.—The election provided by paragraph (1) may be made for any taxable year, but only if made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). The method so elected, and the period selected by the taxpayer, shall be adhered to in computing taxable income for the taxable year for which the election is made and for all subsequent taxable years unless, with the approval of the Secretary, a change to a different method (or to a different period) is authorized with respect to part or all of such expenditures. The election shall not apply to any expenditure paid or incurred during any taxable year before the taxable year for which the taxpayer makes the election.

“(c) Land and Other Property.—This section shall not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of property to be used in connection with the research or experimentation and of a character which is subject to the allowance under section 167 (relating to allowance for depreciation, etc.) or section 611 (relating to allowance for depletion); but for purposes of this section allowances under section 167, and allowances under section 611, shall be considered as expenditures.
“(d) **EXPLORATION EXPENDITURES.**—This section shall not apply to any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

“(e) **ONLY REASONABLE RESEARCH EXPENDITURES ELIGIBLE.**—This section shall apply to a research or experimental expenditure only to the extent that the amount thereof is reasonable under the circumstances.

“(f) **CROSS REFERENCES.**—

“(1) For adjustments to basis of property for amounts allowed as deductions as deferred expenses under subsection (b), see section 1016(a)(14).

“(2) For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 59(e).”.

(b) **CLERICAL AMENDMENT.**—The table of sections for part VI of subchapter B of chapter 1 is amended by striking the item relating to section 174 and inserting the following new item:

“Sec. 174. Research and experimental expenditures”.

(c) **CONFORMING AMENDMENTS.**—

(1) Section 41(d)(1)(A) is amended by striking “specified research or experimental expenditures under section 174” and inserting “expenses under section 174”.
(2) Section 280C(c) is amended to read as follows:

“(c) Credit for Increasing Research Activities.—

“(1) In general.—No deduction shall be allowed for that portion of the qualified research expenses (as defined in section 41(b)) or basic research expenses (as defined in section 41(e)(2)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 41(a).

“(2) Similar rule where taxpayer capitalizes rather than deducts expenses.—If—

“(A) the amount of the credit determined for the taxable year under section 41(a)(1), exceeds

“(B) the amount allowable as a deduction for such taxable year for qualified research expenses or basic research expenses (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

“(3) Election of reduced credit.—
“(A) IN GENERAL.—In the case of any taxable year for which an election is made under this paragraph—

“(i) paragraphs (1) and (2) shall not apply, and

“(ii) the amount of the credit under section 41(a) shall be the amount determined under subparagraph (B).

“(B) AMOUNT OF REDUCED CREDIT.—The amount of credit determined under this subparagraph for any taxable year shall be the amount equal to the excess of—

“(i) the amount of credit determined under section 41(a) without regard to this paragraph, over

“(ii) the product of—

“(I) the amount described in clause (i), and

“(II) the rate of tax under section 11(b).

“(C) ELECTION.—An election under this paragraph for any taxable year shall be made not later than the time for filing the return of tax for such year (including extensions), shall be made on such return, and shall be made in
such manner as the Secretary may prescribe.

Such an election, once made, shall be irrev-
ocable.

“(4) CONTROLLED GROUPS.—Paragraph (3) of
subsection (b) shall apply for purposes of this sub-
section.”.

(d) EFFECTIVE DATE.—The amendments made by
this section shall apply to amounts paid or incurred in tax-
able years beginning after December 31, 2021.

SEC. 3. EXPANDING REFUNDABLE RESEARCH CREDIT FOR
NEW AND SMALL BUSINESSES.

(a) INCREASING CAP ON REFUNDABLE CREDIT.—

(1) IN GENERAL.—Subclause (I) of section
41(h)(4)(B)(i) of the Internal Revenue Code of 1986
is amended by striking “$250,000” and inserting
“the applicable amount”.

(2) APPLICABLE AMOUNT.—Subclause (II) of
section 41(h)(4)(B)(i) of such Code is amended to
read as follows:

“(II) APPLICABLE AMOUNT.—
For purposes of subclause (I), the ap-
licable amount is—
“(aa) in the case of any tax-
able year beginning after Decem-
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ber 31, 2022, and before January 1, 2024, $500,000,

“(bb) in the case of any taxable year beginning after December 31, 2023, and before January 1, 2025, $525,000,

“(cc) in the case of any taxable year beginning after December 31, 2024, and before January 1, 2026, $550,000,

“(dd) in the case of any taxable year beginning after December 31, 2025, and before January 1, 2027, $575,000,

“(ee) in the case of any taxable year beginning after December 31, 2026, and before January 1, 2028, $600,000,

“(ff) in the case of any taxable year beginning after December 31, 2027, and before January 1, 2029, $625,000,

“(gg) in the case of any taxable year beginning after Decem-
ber 31, 2028, and before January 1, 2030, $650,000,

“(hh) in the case of any taxable year beginning after December 31, 2029, and before January 1, 2031, $675,000,

“(ii) in the case of any taxable year beginning after December 31, 2030, and before January 1, 2032, $700,000,

“(jj) in the case of any taxable year beginning after December 31, 2031, and before January 1, 2033, $725,000, and

“(kk) in the case of any taxable year beginning after December 31, 2032, $750,000.”.

(3) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 41(h)(5)(B) of such Code is amended by striking “each of the $250,000 amounts” and inserting “the applicable amount”.

(B) Section 3111(f) of such Code is amended—

(i) in paragraph (1)—
(I) by striking “(applied without regard to subclause (II) thereof), and” and inserting a period,

(II) by striking subparagraph (B), and

(III) by striking “for a taxable year” and all that follows through “allowed as a credit” and inserting “for a taxable year, there shall be allowed as a credit”,

(ii) in paragraph (2)—

(I) by striking “paragraph (1)(A)” and inserting “paragraph (1)”, and

(II) by striking “, and the credit allowed by paragraph (1)(B) shall not exceed the tax imposed by subsection (b) for any calendar quarter,”, and

(iii) in paragraph (4)—

(I) by striking “credits” and inserting “credit”, and

(II) by striking “or (b)”.}

(b) Extension of Eligibility and Applicability of Election.—
(1) **Startup Date.**—Subclause (II) of section 41(h)(3)(A)(i) of the Internal Revenue Code of 1986 is amended by striking “5-taxable-year period” and inserting “8-taxable-year period”.

(2) **Extension of Limitation on Election.**—Clause (ii) of section 41(h)(4)(B) of such Code is amended by striking “5 or more” and inserting “8 or more”.

(e) **Gross Receipts Test.**—Clause (i) of section 41(h)(3)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking “$5,000,000” in subclause (I) and inserting “$15,000,000”, and

(2) by striking “gross receipts” in subclause (II) and inserting “gross receipts in excess of $25,000”.

(d) **Effective Date.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2022.

SEC. 4. INCREASING ACCESS TO THE RESEARCH CREDIT FOR STARTUPS.

(a) **In General.**—Paragraph (4) of section 41(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:
“(D) Special rules for qualified small businesses.—In the case of a qualified small business (as defined in subsection (h)(3))—

“(i) subparagraph (A) shall be applied by substituting ‘20 percent’ for ‘14 percent’, and

“(ii) if subparagraph (B) applies to such taxpayer, at the election of the taxpayer—

“(I) subparagraph (B)(ii) shall be applied by substituting ‘10 percent’ for ‘6 percent’, or

“(II) in lieu of applying subparagraph (B), the average under subparagraph (A) shall be determined by disregarding any taxable year in the 3-year period described in such subparagraph in which there were no qualified research expenses.”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.