

117TH CONGRESS  
1ST SESSION

# S. 551

To amend the Internal Revenue Code of 1986 to expand the Employee Retention Tax Credit to include certain startup businesses.

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## IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, MARCH 1), 2021

Ms. HASSAN (for herself and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to expand the Employee Retention Tax Credit to include certain startup businesses.

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 “Recovery Startup As-  
5 sistance Act”.

6 **SEC. 2. EXPANSION OF EMPLOYEE RETENTION TAX CREDIT**

7 **TO INCLUDE CERTAIN STARTUP BUSINESSES.**

8 (a) IN GENERAL.—Section 2301 of the CARES Act,  
9 as amended by sections 206 and 207 of the Taxpayer Cer-

1 tainty and Disaster Tax Relief Act of 2020 (Public Law  
2 116–260), is amended—

3 (1) in subsection (c)—

4 (A) in paragraph (2)(A)(ii)—

5 (i) in subclause (I), by striking “or”  
6 at the end,

7 (ii) in subclause (II), by striking the  
8 period at the end and inserting “, or”, and

9 (iii) by inserting after subclause (II)  
10 the following:

11 “(III) the employer is a recovery  
12 startup business (as defined in para-  
13 graph (6)).”

14 (B) by redesignating paragraph (6) as  
15 paragraph (7), and

16 (C) by inserting after paragraph (5) the  
17 following:

18 “(6) RECOVERY STARTUP BUSINESS.—

19 “(A) IN GENERAL.—The term ‘recovery  
20 startup business’ means any employer which—

21 “(i) began carrying on a trade or  
22 business after February 15, 2020,

23 “(ii) had less than 50 full-time em-  
24 ployees (as defined in section 4980H(c)(4)  
25 of the Internal Revenue Code of 1986, ex-

1           cept that subparagraph (A) of such section  
2           shall be applied by substituting ‘quarter’  
3           for ‘month’) during the calendar quarter  
4           for which the credit is determined under  
5           subsection (a),

6           “(iii) did not have gross receipts (as  
7           determined under the rules of section  
8           448(e)(3) of such Code, without regard to  
9           subparagraph (A) thereof) in excess of  
10          \$25,000 for any taxable year preceding the  
11          5-taxable-year period ending with the tax-  
12          able year preceding such quarter, and

13          “(iv) elected to have this paragraph  
14          apply for such quarter.

15          “(B) PHASEOUT OF CREDIT.—In the case  
16          of any recovery startup business, the amount of  
17          the credit allowed under subsection (a) for any  
18          calendar quarter (as determined without regard  
19          to this subparagraph) shall be reduced (but not  
20          below zero) by an amount equal to 1 percent of  
21          the amount of such credit for each \$40,000 (or  
22          fraction thereof) by which the gross receipts (as  
23          determined under the rules of section 448(e)(3)  
24          of the Internal Revenue Code of 1986, without  
25          regard to subparagraph (A) thereof) of such

1 business for the last taxable year ending before  
2 such quarter exceeds \$1,000,000.

3 “(C) EXTENSIONS AND MODIFICATIONS.—

4 “(i) LIMITATION ON NUMBER OF EM-  
5 PLOYEES.—In the case of a recovery start-  
6 up business, the amount of qualified wages  
7 which may be taken into account under  
8 subsection (a) by such employer for any  
9 calendar quarter shall not exceed \$50,000.

10 “(ii) LIMITATION ON NUMBER OF  
11 QUARTERS.—

12 “(I) IN GENERAL.—Subject to  
13 subclause (II), in the case of a recov-  
14 ery startup business, the credit al-  
15 lowed under subsection (a) shall only  
16 apply to wages paid during any period  
17 of 2 consecutive calendar quarters (as  
18 elected by such business), as reduced  
19 by the total number of calendar quar-  
20 ters in which the recovery startup  
21 business—

22 “(aa) claimed the credit  
23 under this section, and

1                   “(bb) did not make an elec-  
2                   tion described in subparagraph  
3                   (A)(iv).

4                   “(II) EXCLUSION.—The period  
5                   described in subclause (I) shall not in-  
6                   clude any calendar quarter which ends  
7                   before the later of—

8                   “(aa) the date of enactment  
9                   of the Recovery Startup Assist-  
10                  ance Act, or

11                  “(bb) the date on which  
12                  such business began operations.

13                  “(iii) EXTENSION.—In the case of a  
14                  recovery startup business, subsection (m)  
15                  shall be applied by substituting ‘January  
16                  1, 2022’ for ‘July 1, 2021’.”,

17                  (2) in subsection (j)(2), by adding at the end  
18                  the following:

19                  “(D) RECOVERY STARTUP BUSINESS.—  
20                  Without regard to subparagraphs (A) through  
21                  (C), under rules provided by the Secretary, a  
22                  recovery startup business may elect for any cal-  
23                  endar quarter to receive an advance payment of  
24                  the credit under subsection (a) (after applica-

1           tion of subsection (c)(6)) for such quarter.”,  
2           and

3           (3) in subsection (l)—

4                 (A) in paragraph (2), by striking “and” at  
5           the end,

6                 (B) in paragraph (3), by striking the pe-  
7           riod at the end and inserting “, and”, and

8                 (C) by inserting after paragraph (3) the  
9           following:

10                 “(4) to prevent fraudulent and abusive claims  
11           of the credit allowed under subsection (a) by recov-  
12           ery startup businesses.”.

13           (b) EFFECTIVE DATE.—The amendments made by  
14           this section shall apply to calendar quarters beginning  
15           after December 31, 2020.

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