

116TH CONGRESS  
2D SESSION

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

To amend the CARES Act to modify the employee retention tax credit to secure the paychecks and benefits of workers, to provide a refundable credit against payroll taxes for the operating costs of employers, to amend the Internal Revenue Code of 1986 to provide a small business rebate, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

---

Mr. WARNER (for himself, Mr. SANDERS, Mr. JONES, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

---

**A BILL**

To amend the CARES Act to modify the employee retention tax credit to secure the paychecks and benefits of workers, to provide a refundable credit against payroll taxes for the operating costs of employers, to amend the Internal Revenue Code of 1986 to provide a small business rebate, 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, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Paycheck Security Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—EMPLOYER CREDITS

Sec. 101. Paycheck security credit.  
 Sec. 102. Credit for employer operating expenses.  
 Sec. 103. Advance payments of credits.  
 Sec. 104. Administration.  
 Sec. 105. Public disclosure.  
 Sec. 106. Employee notification.

TITLE II—SMALL BUSINESS REBATE

Sec. 201. Small business rebate.

TITLE III—OTHER PROVISIONS

Sec. 301. Additional appropriations for Department of Treasury.  
 Sec. 302. GAO report.

3 **TITLE I—EMPLOYER CREDITS**

4 **SEC. 101. PAYCHECK SECURITY CREDIT.**

5 (a) AMOUNT OF CREDIT.—Section 2301(a) of the  
 6 CARES Act is amended—

7 (1) by striking “In the case of” and inserting  
 8 the following:

9 “(1) ALLOWANCE OF CREDIT.—In the case of”,

10 (2) by striking “an amount equal to 50 per-  
 11 cent” and inserting “an amount equal to the sum  
 12 of—

13 “(A) 100 percent”,

14 (3) by striking the period at the end and insert-  
 15 ing “, plus

16 “(B) in the case of an eligible employer for  
 17 which the average number of full-time employ-

1           ees (within the meaning of section 4980H of  
2           the Internal Revenue Code of 1986) employed  
3           by such eligible employer during 2019 was not  
4           greater than 100, 50 percent of all other wages  
5           with respect to each employee of such employer  
6           for the calendar quarter.”, and

7           (4) by adding at the end the following new  
8           paragraph:

9           “(2) PHASEOUT.—In the case of an eligible em-  
10          ployer for which the gross receipts for the calendar  
11          quarter exceed 80 percent of gross receipts for the  
12          same calendar quarter in the prior year, the amount  
13          of credit allowed under paragraph (1) (determined  
14          without regard to this paragraph) shall be reduced  
15          (but not below zero) by an amount that bears the  
16          same ratio to such amount of credit as—

17                   “(A) the excess of—

18                           “(i) 85 percent, over

19                                   “(ii) the percentage by which the tax-  
20          payer’s gross receipts for the calendar  
21          quarter exceed the taxpayer’s gross re-  
22          ceipts for the same calendar quarter in the  
23          prior year, bears to

24                           “(B) 5 percent.”.

1 (b) MODIFICATION OF LIMITATION.—Section  
2 2301(b)(1) of the CARES Act is amended by striking “for  
3 all calendar quarters shall not exceed \$10,000” and insert-  
4 ing “shall not exceed—

5 “(A) \$22,500 for any calendar quarter, or  
6 “(B) \$90,000 for all calendar quarters.”.

7 (c) DEFINITION OF ELIGIBLE EMPLOYER.—Section  
8 2301(c)(2) of the CARES Act is amended to read as fol-  
9 lows:

10 “(2) ELIGIBLE EMPLOYER.—

11 “(A) IN GENERAL.—The term ‘eligible em-  
12 ployer’ means any employer—

13 “(i) which was carrying on a trade or  
14 business during calendar year 2020,

15 “(ii) which meets the requirements of  
16 subparagraph (B),

17 “(iii) with respect to any calendar  
18 quarter, for which the gross receipts (with-  
19 in the meaning of section 448(c) of the In-  
20 ternal Revenue Code of 1986) for the cal-  
21 endar quarter are less than 85 percent of  
22 gross receipts for the same calendar quar-  
23 ter in the prior year.

1           “(B) REQUIREMENTS.—An employer  
2 meets the requirements of this subparagraph if  
3 such employer—

4           “(i) did not have gross receipts for the  
5 last taxable year ending in 2019 of more  
6 than \$1,000,000,000, and

7           “(ii) did not have on hand on March  
8 1, 2020, cash and cash equivalents of more  
9 than an amount equal to 150 percent of  
10 the wages paid by the employer during cal-  
11 endar year 2019.

12           “(C) TAX-EXEMPT ORGANIZATIONS.—In  
13 the case of an organization which is described  
14 in section 501(c) of the Internal Revenue Code  
15 of 1986 and exempt from tax under section  
16 501(a) of such Code—

17           “(i) subparagraph (A)(i) shall apply  
18 to all operations of such organization, and

19           “(ii) any reference in this section to  
20 gross receipts shall be treated as a ref-  
21 erence to gross receipts within the meaning  
22 of section 6033 of such Code.

23           “(D) EXCEPTIONS.—The term ‘eligible  
24 employer’ shall not include—

1                   “(i) any employer that is a debtor in  
2                   a case under chapter 7 of title 11, United  
3                   States Code, during the calendar quarter,  
4                   or

5                   “(ii) any covered entity (as defined in  
6                   section 4019).”.

7                   (d) DETERMINATION OF QUALIFIED WAGES.—

8                   (1) IN GENERAL.—Section 2301(c)(3) of the  
9                   CARES Act is amended to read as follows:

10                   “(3) QUALIFIED WAGES.—

11                   “(A) IN GENERAL.—The term ‘qualified  
12                   wages’ means wages paid with respect to any  
13                   period during the calendar quarter in which an  
14                   employee is not providing services. Such term  
15                   shall not include any wages taken into account  
16                   under section 7001 or section 7003 of the Fam-  
17                   ilies First Coronavirus Response Act.

18                   “(B) LIMITATION.—Qualified wages paid  
19                   or incurred by an eligible employer with respect  
20                   to an employee for any period described in sub-  
21                   paragraph (A) may not exceed the greater of—

22                   “(i) \$600 per week, or

23                   “(ii) the amount such employee would  
24                   have been paid (including tips which would  
25                   have been deemed to be paid by the em-

1           ployer under section 3121(q)) for working  
2           an equivalent duration during the 30 days  
3           immediately preceding such period.”.

4           (2) HEALTH PLAN EXPENSES.—Section  
5           2301(e)(5) of such Act is amended to read as fol-  
6           lows:

7           “(5) WAGES.—

8           “(A) IN GENERAL.—The term ‘wages’  
9           means wages (as defined in section 3121(a) of  
10          the Internal Revenue Code of 1986) and com-  
11          pensation (as defined in section 3231(e) of such  
12          Code).

13          “(B) ALLOWANCE FOR CERTAIN HEALTH  
14          PLAN EXPENSES.—

15          “(i) IN GENERAL.—Such term shall  
16          include amounts paid or incurred by the el-  
17          igible employer to provide and maintain a  
18          group health plan (as defined in section  
19          5000(b)(1) of the Internal Revenue Code  
20          of 1986), but only to the extent that such  
21          amounts are excluded from the gross in-  
22          come of employees by reason of section  
23          106(a) of such Code.

24          “(ii) ALLOCATION RULES.—For pur-  
25          poses of this section, amounts treated as

1 wages under clause (i) shall be treated as  
2 paid with respect to any employee (and  
3 with respect to any period) to the extent  
4 that such amounts are properly allocable to  
5 such employee (and to such period) in such  
6 manner as the Secretary may prescribe.  
7 Except as otherwise provided by the Sec-  
8 retary, such allocation shall be treated as  
9 properly made if made on the basis of  
10 being pro rata among periods of cov-  
11 erage.”.

12 (e) CERTAIN GOVERNMENTAL EMPLOYEES ELIGIBLE  
13 FOR CREDIT.—

14 (1) IN GENERAL.—Section 2301(f) of the  
15 CARES Act is amended to read as follows:

16 “(f) CERTAIN GOVERNMENTAL EMPLOYERS.—

17 “(1) IN GENERAL.—The credit under this sec-  
18 tion shall not be allowed to the Federal Government  
19 or any agency or instrumentality thereof.

20 “(2) EXCEPTION.—Paragraph (1) shall not  
21 apply to any organization described in section  
22 501(c)(1) of the Internal Revenue Code of 1986 and  
23 exempt from tax under section 501(a) of such Code.

24 “(3) SPECIAL RULES.—In the case of any State  
25 government, Indian tribal government, or any agen-



1 cy, instrumentality, or political subdivision of the  
2 foregoing—

3 “(A) clauses (i) of subsection (c)(2)(A)  
4 shall apply to all operations of such entity, and

5 “(B) clauses (ii) and (iii) of subsection  
6 (c)(2)(A) shall not apply.”.

7 (2) COORDINATION WITH APPLICATION OF CER-  
8 TAIN DEFINITIONS.—

9 (A) IN GENERAL.—Section 2301(c)(5)(A)  
10 of the CARES Act, as amended by the pre-  
11 ceding provisions of this Act, is amended by  
12 adding at the end the following: “For purposes  
13 of the preceding sentence (other than for pur-  
14 poses of subsection (b)(2)), wages as defined in  
15 section 3121(a) of the Internal Revenue Code  
16 of 1986 shall be determined without regard to  
17 paragraphs (1), (5), (6), (7), (8), (10), (13),  
18 (18), (19), and (22) of section 3212(b) of such  
19 Code (except with respect to services performed  
20 in a penal institution by an inmate thereof).”.

21 (B) CONFORMING AMENDMENTS.—Sec-  
22 tions 2301(c)(6) of the CARES Act is amended  
23 by striking “Any term” and inserting “Except  
24 as otherwise provided in this section, any  
25 term”.

1 (f) COORDINATION WITH PAYCHECK PROTECTION  
2 PROGRAM.—

3 (1) AMENDMENT TO PAYCHECK PROTECTION  
4 PROGRAM.—Section 1106(a)(8) of the Cares Act is  
5 amended by inserting “, except that such costs shall  
6 not include qualified wages taken into account in de-  
7 termining the credit allowed under section 2301 of  
8 this Act” before the period at the end.

9 (2) AMENDMENTS TO EMPLOYEE RETENTION  
10 TAX CREDIT.—

11 (A) IN GENERAL.—Section 2301(g) of the  
12 CARES Act is amended to read as follows:

13 “(g) ELECTION TO NOT TAKE CERTAIN WAGES INTO  
14 ACCOUNT.—

15 “(1) IN GENERAL.—This section shall not apply  
16 to qualified wages paid by an eligible employer with  
17 respect to which such employer makes an election  
18 (at such time and in such manner as the Secretary  
19 may prescribe) to have this section not apply to such  
20 wages.

21 “(2) COORDINATION WITH PAYCHECK PROTEC-  
22 TION PROGRAM.—The Secretary, in consultation  
23 with the Administrator of the Small Business Ad-  
24 ministration, shall issue guidance providing that  
25 payroll costs paid or incurred during the covered pe-

1 riod shall not fail to be treated as qualified wages  
2 under this section by reason of an election under  
3 paragraph (1) to the extent that a covered loan of  
4 the eligible employer is not forgiven by reason of a  
5 decision under section 1106(g). Terms used in the  
6 preceding sentence which are also used in section  
7 1106 shall have the same meaning as when used in  
8 such section.”.

9 (B) CONFORMING AMENDMENT.—Section  
10 2301 of the CARES Act is amended by striking  
11 subsection (j).

12 (g) DENIAL OF DOUBLE BENEFIT.—Section 2301(h)  
13 of the CARES Act is amended—

14 (1) by striking paragraphs (1) and (2) and in-  
15 serting the following:

16 “(1) DENIAL OF DOUBLE BENEFIT.—Any  
17 wages taken into account in determining the credit  
18 allowed under this section shall not be taken into ac-  
19 count as wages for purposes of sections 45A, 45B,  
20 45P, 45S, 51, and 1396 of the Internal Revenue  
21 Code of 1986.”, and

22 (2) by redesignating paragraph (3) as para-  
23 graph (2).

24 (h) RECAPTURE AND ADVANCEMENT OF CREDIT.—  
25 Section 2301 of the CARES Act is amended by redesi-

1 nating subsections (l) and (m) as subsections (o) and (p),  
2 respectively, and by inserting after subsection (k) the fol-  
3 lowing:

4 “(l) RECAPTURE.—

5 “(1) IN GENERAL.—In any case in which an eli-  
6 gible employer which has been allowed a credit  
7 under this section for any calendar quarter takes  
8 any action described in paragraph (2) during the 1-  
9 year period beginning on the day after the end of  
10 such calendar quarter, the tax imposed by chapter  
11 21 or 22 of the Internal Revenue Code of 1986  
12 (whichever is applicable) for the calendar quarter in  
13 which such action occurs shall be increased by the  
14 amount of the credit so allowed.

15 “(2) ACTIONS DESCRIBED.—The following ac-  
16 tions are described in this paragraph:

17 “(A) RETURNS OF CAPITAL.—The eligible  
18 employer purchases its own stock or otherwise  
19 distributes capital (including through a divi-  
20 dend).

21 “(B) LABOR NEGOTIATIONS.—The eligible  
22 employer—

23 “(i) abrogates a collective bargaining  
24 agreement, or

1                   “(ii) does not remain neutral in any  
2                   union organizing effort.

3                   “(C) PAYROLL.—The eligible employer  
4                   pays any officer or employee a salary in an  
5                   amount that is greater than 50 times the me-  
6                   dian salary of employees during the period last-  
7                   ing one year after the end of the calendar quar-  
8                   ter in which credit is claimed.

9                   “(3) LIMITATION.—The amount of tax imposed  
10                  under paragraph (1) with respect to any calendar  
11                  quarter for all actions described in paragraph (2)  
12                  shall not exceed the amount allowed as a credit  
13                  under this section with respect to such calendar  
14                  quarter.

15                  “(m) COORDINATION WITH ADVANCE REFUNDS OF  
16 CREDIT.—

17                  “(1) IN GENERAL.—The amount of credit  
18                  which would (but for this subsection) be allowed  
19                  under this section shall be reduced (but not below  
20                  zero) by the aggregate refunds and credits made or  
21                  allowed to the taxpayer under section 103 of the  
22                  Paycheck Security Act by reason of this section. Any  
23                  failure to so reduce the credit shall be treated as  
24                  arising out of a mathematical or clerical error and

1 assessed according to section 6213(b)(1) of the In-  
2 ternal Revenue Code of 1986.

3 “(2) EXCESS ADVANCE PAYMENTS.—If the ad-  
4 vance payments to a taxpayer under section 103 of  
5 the Paycheck Security Act by reason of this section  
6 for a calendar quarter exceed the credit allowed by  
7 this section (determined without regard to para-  
8 graph (1)), the tax imposed by chapter 21 or 22 of  
9 the Internal Revenue Code of 1986 (whichever is ap-  
10 plicable) for the calendar quarter shall be increased  
11 by the amount of such excess.”.

12 (i) REGULATIONS AND GUIDANCE.—Section 2301(o)  
13 of the CARES Act, as redesignated by subsection (h), is  
14 amended—

15 (1) by striking paragraphs (1), (2), and (3),  
16 and inserting the following:

17 “(1) to require employers allowed a credit  
18 under this section to report information relevant to  
19 actions described in subsection (1)(2),”.

20 (2) by redesignating paragraphs (4) and (5) as  
21 paragraphs (2) and (3), respectively, and

22 (3) in paragraph (3), as so redesignated, by  
23 striking “subparagraphs (A)(ii) and (B) of sub-  
24 section (c)(2)” and inserting “subsections (a)(2) and  
25 (c)(2)(A)(iv)”.

1 (j) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to wages paid in calendar quarters  
3 beginning after the date of the enactment of this Act.

4 **SEC. 102. CREDIT FOR EMPLOYER OPERATING EXPENSES.**

5 (a) IN GENERAL.—

6 (1) ALLOWANCE OF CREDIT.—In the case of an  
7 eligible employer, there shall be allowed as a credit  
8 against applicable employment taxes for each cal-  
9 endar quarter an amount equal to the lesser of—

10 (A) 5 percent of the qualifying gross re-  
11 cepts of the eligible employer, or

12 (B) \$500,000.

13 (2) PHASEOUT.—In the case of an eligible em-  
14 ployer for which the gross receipts for the calendar  
15 quarter exceed 80 percent of gross receipts for the  
16 same calendar quarter in the prior year, the amount  
17 of determined under paragraph (1)(A) (determined  
18 without regard to this paragraph) shall be reduced  
19 (but not below zero) by an amount that bears the  
20 same ratio to such amount as—

21 (A) the excess of—

22 (i) 85 percent, over

23 (ii) the percentage by which the tax-  
24 payer's gross receipts for the calendar  
25 quarter exceed the taxpayer's gross re-

1                    receipts for the same calendar quarter in the  
2                    prior year, bears to

3                    (B) 5 percent.

4                    (b) LIMITATIONS AND REFUNDABILITY.—

5                    (1) CREDIT LIMITED TO EMPLOYMENT  
6                    TAXES.—The credit allowed under subsection (a)  
7                    with respect to any calendar quarter shall not exceed  
8                    the applicable employment taxes (reduced by any  
9                    credits allowed under subsections (e) and (f) of sec-  
10                    tion 3111 of the Internal Revenue Code of 1986,  
11                    sections 7001 and 7003 of the Families First  
12                    Coronavirus Response Act, and section 2301 of the  
13                    CARES Act) on the wages paid with respect to the  
14                    employment of all the employees of the eligible em-  
15                    ployer for such calendar quarter.

16                    (2) REFUNDABILITY OF EXCESS CREDIT.—

17                    (A) IN GENERAL.—If the amount of the  
18                    credit under subsection (a) (determined without  
19                    regard to paragraph (1)) exceeds the limitation  
20                    of paragraph (1) for any calendar quarter, such  
21                    excess shall be treated as an overpayment that  
22                    shall be refunded under sections 6402(a) and  
23                    6413(b) of the Internal Revenue Code of 1986.

24                    (B) TREATMENT OF PAYMENTS.—For pur-  
25                    poses of section 1324 of title 31, United States



1 Code, any amounts due to the employer under  
2 this paragraph shall be treated in the same  
3 manner as a refund due from a credit provision  
4 referred to in subsection (b)(2) of such section.

5 (c) DEFINITIONS.—For purposes of this section—

6 (1) APPLICABLE EMPLOYMENT TAXES.—The  
7 term “applicable employment taxes” means the fol-  
8 lowing:

9 (A) The taxes imposed under section  
10 3111(a) of the Internal Revenue Code of 1986.

11 (B) So much of the taxes imposed under  
12 section 3221(a) of such Code as are attrib-  
13 utable to the rate in effect under section  
14 3111(a) of such Code.

15 (2) ELIGIBLE EMPLOYER.—The term “eligible  
16 employer” means an employer which—

17 (A) is an eligible employer (as defined in  
18 section 2301(c)(2) of the CARES Act, deter-  
19 mined without regard to subparagraph (A)(ii)  
20 thereof), and

21 (B) with respect to any calendar quarter,  
22 meets the gross receipts test of section 448(c)  
23 (determined by substituting “\$41,500,000” for  
24 “\$25,000,000” in paragraph (1) thereof) for

1           the taxable year that includes the first day of  
2           the calendar quarter.

3           For purposes of subparagraph (B), in the case of  
4           any taxpayer which is not a corporation or a part-  
5           nership, the gross receipts test of section 448(c)  
6           shall be applied in the same manner as if such tax-  
7           payer were a corporation or partnership.

8           (3) QUALIFYING GROSS RECEIPTS.—The term  
9           “qualifying gross receipts” means the aggregate  
10          gross receipts of the eligible employer for the last  
11          taxable year ending before the date of the enactment  
12          of this Act.

13          (4) GROSS RECEIPTS.—

14                (A) IN GENERAL.—The term “gross re-  
15                ceipts” has the meaning given such term under  
16                section 448(c) of the Internal Revenue Code of  
17                1986.

18                (B) TAX-EXEMPT ORGANIZATIONS.—In the  
19                case of an organization which is described in  
20                section 501(c) of the Internal Revenue Code of  
21                1986 and exempt from tax under section 501(a)  
22                of such Code, any reference in this section to  
23                gross receipts shall be treated as a reference to  
24                gross receipts within the meaning of section  
25                6033 of the Internal Revenue Code of 1986.

1           (5) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Treasury or the Secretary’s del-  
3           egate.

4           (d) OTHER RULES.—For purposes of this section—

5           (1) AGGREGATION RULE.—All persons treated  
6           as a single employer under subsection (a) or (b) of  
7           section 52 of the Internal Revenue Code of 1986, or  
8           subsection (m) or (o) of section 414 of such Code,  
9           shall be treated as one employer.

10          (2) CERTAIN GOVERNMENTAL EMPLOYERS.—

11          This credit shall not apply to the Government of the  
12          United States, the government of any State or polit-  
13          ical subdivision thereof, or any agency or instrumen-  
14          tality of any of the foregoing.

15          (3) ELECTION NOT TO HAVE SECTION APPLY.—

16          This section shall not apply with respect to any eligi-  
17          ble employer for any calendar quarter if such em-  
18          ployer elects (at such time and in such manner as  
19          the Secretary may prescribe) not to have this section  
20          apply.

21          (4) THIRD PARTY PAYORS.—Any credit allowed  
22          under this section shall be treated as a credit de-  
23          scribed in section 3511(d)(2) of such Code.

24          (e) TRANSFERS TO FEDERAL OLD-AGE AND SUR-  
25          VIVORS INSURANCE TRUST FUND.—There are hereby ap-

1 appropriated to the Federal Old-Age and Survivors Insur-  
2 ance Trust Fund and the Federal Disability Insurance  
3 Trust Fund established under section 201 of the Social  
4 Security Act (42 U.S.C. 401) and the Social Security  
5 Equivalent Benefit Account established under section  
6 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C.  
7 14 231n-1(a)) amounts equal to the reduction in revenues  
8 to the Treasury by reason of this section (without regard  
9 to this subsection). Amounts appropriated by the pre-  
10 ceding sentence shall be transferred from the general fund  
11 at such times and in such manner as to replicate to the  
12 extent possible the transfers which would have occurred  
13 to such Trust Fund or Account had this section not been  
14 enacted.

15 (f) TREATMENT OF DEPOSITS.—The Secretary shall  
16 waive any penalty under section 6656 of the Internal Rev-  
17 enue Code of 1986 for any failure to make a deposit of  
18 any applicable employment taxes if the Secretary deter-  
19 mines that such failure was due to the reasonable anticipa-  
20 tion of the credit allowed under this section.

21 (g) RECAPTURE.—

22 (1) IN GENERAL.—In any case in which an eli-  
23 gible employer which has been allowed a credit  
24 under this section for any calendar quarter takes  
25 any action described in section 2301(l)(2) of the

1 CARES Act during the 1-year period beginning on  
2 the day after the end of such calendar quarter, the  
3 tax imposed by chapter 21 or 22 of the Internal  
4 Revenue Code of 1986 (whichever is applicable) for  
5 the calendar quarter in which such action occurs  
6 shall be increased by the amount of the credit so al-  
7 lowed.

8 (2) LIMITATION.—The amount of tax imposed  
9 under paragraph (1) with respect to any calendar  
10 quarter for all actions described in section  
11 2301(1)(2) of the CARES Act shall not exceed the  
12 amount allowed as a credit under this section with  
13 respect to such calendar quarter.

14 (h) COORDINATION WITH ADVANCE REFUNDS OF  
15 CREDIT.—The amount of credit which would (but for this  
16 subsection) be allowed under this section shall be reduced  
17 (but not below zero) by the aggregate refunds and credits  
18 made or allowed to the taxpayer under section 103 by rea-  
19 son of this section. Any failure to so reduce the credit shall  
20 be treated as arising out of a mathematical or clerical  
21 error and assessed according to section 6213(b)(1) of the  
22 Internal Revenue Code of 1986.

23 (i) CREDIT TREATED AS INCOME.—For purposes of  
24 the Internal Revenue Code of 1986, the amount allowed  
25 as a credit under this section for any calendar quarter

1 shall be included in income of the employer for the taxable  
2 year that includes the last day of the calendar quarter.

3 (j) REGULATIONS AND GUIDANCE.—The Secretary  
4 shall issue such forms, instructions, regulations, and guid-  
5 ance as are necessary—

6 (1) to require employers allowed a credit under  
7 this section to report information relevant to actions  
8 described in subsection (g)(1),

9 (2) with respect to the application of the credit  
10 under subsection (a) to third party payors (including  
11 professional employer organizations, certified profes-  
12 sional employer organizations, or agents under sec-  
13 tion 3504 of the Internal Revenue Code of 1986),  
14 including regulations or guidance allowing such  
15 payors to submit documentation necessary to sub-  
16 stantiate the eligible employer status of employers  
17 that use such payors, and

18 (3) for application of subsections (a)(2) in the  
19 case of any employer which was not carrying on a  
20 trade or business for all or part of the same cal-  
21 endar quarter in the prior year.

22 (k) APPLICATION.—This section shall only apply to  
23 calendar quarters beginning after the date of the enact-  
24 ment of this Act and before January 1, 2020.

1 **SEC. 103. ADVANCE PAYMENTS OF CREDITS.**

2 (a) IN GENERAL.—The Secretary of the Treasury (or  
3 the Secretary’s delegate) shall establish a program under  
4 which an employer may elect to receive an advance pay-  
5 ment of—

6 (1) the credit allowable under section 2301 of  
7 the CARES Act, and

8 (2) the credit allowable under section 102.

9 The employer shall designate the amount of any advance  
10 payment made under this section which is made by reason  
11 of each credit described in the preceding sentence.

12 (b) LIMITATIONS.—

13 (1) LIMITATION ON AMOUNT OF PAYMENT.—

14 The aggregate amount of advance payments under  
15 this section with respect to any calendar quarter  
16 shall not exceed the deemed credit amount.

17 (2) LIMITATION ON NUMBER OF ADVANCES.—

18 An employer may not make an election under the  
19 program established under subsection (a) with re-  
20 spect to more than 2 calendar quarters in any cal-  
21 endar year.

22 (c) DEEMED CREDIT AMOUNT.—For purposes of this  
23 section—

24 (1) IN GENERAL.—The term “deemed credit  
25 amount” means the sum of—

1 (A) the average quarterly wages (as de-  
2 fined in section 2301 of the CAREs Act) paid  
3 by the taxpayer in calendar year 2019, plus

4 (B) 5 percent of the qualifying gross re-  
5 cepts (as defined in section 102(e)(3)) of the  
6 taxpayer.

7 (2) SPECIAL RULE FOR SEASONAL EMPLOY-  
8 ERS.—In the case of any employer who employs sea-  
9 sonal workers (as defined in section 45R(d)(5)(B) of  
10 the Internal Revenue Code of 1986), the employer  
11 may elect to use the wages (as defined in section  
12 2301 of the CARES Act) for the calendar quarter  
13 in 2019 which corresponds to the calendar quarter  
14 to which the election relates in lieu of the amount  
15 described in paragraph (1)(A).

16 **SEC. 104. ADMINISTRATION.**

17 (a) PRIORITY.—In carrying out the provisions of sec-  
18 tion 2301 of the CARES Act and sections 3 and 4, the  
19 Secretary of the Treasury (or the Secretary's delegate)  
20 shall prioritize businesses with 100 or fewer employees.

21 (b) AUDITS.—In enforcing the requirements section  
22 2301 of the CARES Act and sections 3 and 4, the Sec-  
23 retary of the Treasury (or the Secretary's delegate) shall  
24 prioritize employers with gross receipts for the last taxable  
25 year ending in 2019 of \$1,000,000,000 or more.



1 **SEC. 105. PUBLIC DISCLOSURE.**

2 (a) QUARTERLY REPORTS.—Not later than 60 days  
3 after the date of the enactment of this Act, and once every  
4 calendar quarter thereafter, the Treasury Inspector Gen-  
5 eral for Tax Administration shall make publicly available  
6 a report on the provisions of this Act, including—

7 (1) A listing of each eligible employer that was  
8 allowed the credit under section 2301 of the CARES  
9 Act and the number of employees taken into account  
10 in determining the amount of such credit.

11 (2) A listing of each eligible employer that was  
12 allowed the credit under section 102.

13 (3) The aggregate amount of advance payments  
14 provided to each eligible employer under section 103.

15 (4) The aggregate amount of credits recaptured  
16 from each eligible employer under each of the fol-  
17 lowing provisions—

18 (A) Section 2301(l) of the CARES Act and  
19 section 102(g).

20 (B) Section 2301(m)(2) of the CARES  
21 Act.

22 (b) CONFORMING AMENDMENT.—Section 6103(l) of  
23 the Internal Revenue Code of 1986 is amended by adding  
24 at the end the following new paragraph:

25 “(23) DISCLOSURE OF RETURN INFORMATION  
26 RELATING TO PAYCHECK SECURITY CREDITS.—The

1 Treasury Inspector General for Tax Administration  
2 shall disclose to the public taxpayer information re-  
3 quired under section 105 of the Paycheck Security  
4 Act.”.

5 **SEC. 106. EMPLOYEE NOTIFICATION.**

6 (a) IN GENERAL.—Each employer shall post and  
7 keep posted on its website (if any) and in conspicuous  
8 places on the premises of the employer where notices to  
9 employees are customarily posted, a notice, to be prepared  
10 or approved by the Secretary of Labor, of the credits al-  
11 lowed to employers under section 2301 of the CARES Act  
12 and section 102.

13 (b) MODEL NOTICE.—Not later than 7 days after the  
14 date of enactment of this Act, the Secretary of Labor shall  
15 make publicly available a model of notice that meets the  
16 requirements of subsection (a).

17 **TITLE II—SMALL BUSINESS**  
18 **REBATE**

19 **SEC. 201. SMALL BUSINESS REBATE.**

20 (a) IN GENERAL.—Subchapter B of chapter 65 of  
21 subtitle F of the Internal Revenue Code of 1986 is amend-  
22 ed by inserting after section 6428 the following new sec-  
23 tion:

24 **“SEC. 6429. SMALL BUSINESS REBATE.**

25 **“(a) ALLOWANCE OF CREDIT.—**

1           “(1) IN GENERAL.—In the case of a qualifying  
2 taxpayer, there shall be allowed as a credit against  
3 the tax imposed by subtitle A for the first taxable  
4 year beginning in 2020 an amount equal to the less-  
5 er of—

6                   “(A) 30 percent of qualified gross profits  
7 of such qualifying taxpayer for the applicable  
8 taxable year, or

9                   “(B) \$75,000.

10           “(2) PHASE-OUT FOR INDIVIDUALS.—In the  
11 case of a qualifying taxpayer that is a qualified indi-  
12 vidual, the amount of the credit determined under  
13 paragraph (1) (determined without regard to this  
14 paragraph) shall be reduced (but not below zero) by  
15 the amount which bears the same ratio to such cred-  
16 it (as so determined) as—

17                   “(A) the excess of—

18                           “(i) the taxpayer’s adjusted gross in-  
19 come for the applicable taxable year, over

20                           “(ii) \$100,000 (\$200,000 in the case  
21 of a joint return), bears to

22                   “(B) \$50,000 (\$100,000 in the case of a  
23 joint return).

24           “(3) REDUCTION FOR QUALIFIED ORGANIZA-  
25 TIONS.—

1           “(A) IN GENERAL.—In the case of a quali-  
2           fying taxpayer that is a qualified organization,  
3           the amount of the credit determined under  
4           paragraph (1) (determined without regard to  
5           this paragraph) shall be reduced by the total  
6           expenditures of the organization described in  
7           section 162(e)(1) (other than expenditures de-  
8           scribed in section 6033(e)(1)(B)(ii)).

9           “(B) EXCEPTION.—This paragraph shall  
10          not apply to any organization described in sec-  
11          tion 6033(e)(1)(B)(i).

12          “(b) QUALIFYING TAXPAYER.—For purposes of this  
13          section—

14               “(1) IN GENERAL.—The term ‘qualifying tax-  
15               payer’ means any taxpayer that is a domestic C cor-  
16               poration, a qualified organization, or a qualified in-  
17               dividual that meets the gross profits test under  
18               paragraph (4) for the applicable taxable year.

19               “(2) QUALIFIED ORGANIZATION.—The term  
20               ‘qualified organization’ means any organization  
21               which is described in section 501(c) and exempt  
22               from tax under section 501(a).

23               “(3) QUALIFIED INDIVIDUAL.—The term ‘quali-  
24               fied individual’ means any individual who—

1           “(A) is a United States citizen or resident,  
2           and

3           “(B) materially participates (within the  
4           meaning of section 469(h)) in one or more  
5           trades or businesses (other than any trade or  
6           business consisting of the performance of serv-  
7           ices by the taxpayer as an employee (within the  
8           meaning of section 62(a)(1))).

9           “(4) GROSS PROFITS TEST.—

10           “(A) IN GENERAL.—A taxpayer meets the  
11           gross profits test under this section if the quali-  
12           fied gross profits of the taxpayer for the appli-  
13           cable taxable year are not more than  
14           \$1,000,000.

15           “(B) AGGREGATION RULES.—

16           “(i) IN GENERAL.—All qualifying tax-  
17           payers that are domestic C corporations or  
18           qualified organizations and that are treat-  
19           ed as a single employer under subsection  
20           (a) or (b) of section 52 or subsection (m)  
21           or (o) of section 414 shall be treated as a  
22           single person for purposes of subparagraph  
23           (A).

24           “(ii) QUALIFYING INDIVIDUALS.—All  
25           trades or businesses in which a qualified

1 individual materially participates (within  
2 the meaning of section 469(h)) shall be  
3 treated as a single trade or business for  
4 purposes of subparagraph (A).

5 “(c) QUALIFIED GROSS PROFITS.—For purposes of  
6 this section—

7 “(1) IN GENERAL.—Except as otherwise pro-  
8 vided in this subsection, the term ‘qualified gross  
9 profits’ means the excess of—

10 “(A) the gross receipts of the taxpayer as  
11 reported on the return of tax for the applicable  
12 taxable year, reduced by

13 “(B) returns and allowances and cost of  
14 goods sold as reported on the return of tax for  
15 the applicable taxable year.

16 “(2) APPLICATION TO QUALIFIED ORGANIZA-  
17 TIONS.—In the case of a qualified organization—

18 “(A) paragraph (1) shall be applied—

19 “(i) by treating the reference to gross  
20 receipts as a reference to gross receipts  
21 within the meaning of section 6033, and

22 “(ii) without regard to subparagraph  
23 (B) thereof, and

24 “(B) in the case of an organization which,  
25 for all applicable taxable years, is exempt from

1 filing a return pursuant to section 6033(a) or  
2 which is not required to include in such return  
3 the information necessary to determine the  
4 amount qualified gross receipts, such organiza-  
5 tion may submit to the Secretary (in such form  
6 and manner as is deemed appropriate by the  
7 Secretary) any information required for pur-  
8 poses of determining the amount of such gross  
9 receipts.

10 For purposes of section 6104, any information sub-  
11 mitted by an organization under subparagraph (B)  
12 shall be deemed to be information required to be fur-  
13 nished by such organization pursuant to section  
14 6033.

15 “(3) APPLICATION TO QUALIFIED INDIVID-  
16 UALS.—

17 “(A) IN GENERAL.—In the case of a quali-  
18 fied individual—

19 “(i) gross receipts, returns and allow-  
20 ances, and cost of goods sold taken into  
21 account under paragraph (1) shall only in-  
22 clude gross receipts from trades or busi-  
23 nesses described in subsection (b)(3) in  
24 which the qualified individual materially  
25 participated, and

1                   “(ii) wages received from any such  
2                   trade or business by the qualified indi-  
3                   vidual shall not be taken into account  
4                   under paragraph (1)(A).

5                   “(B) TREATMENT OF AMOUNTS FROM  
6                   PARTNERSHIPS AND S CORPORATIONS.—In the  
7                   case of any qualified individual who materially  
8                   participates (within the meaning of section  
9                   469(h)) in a trade or business of a partnership  
10                  or S corporation in which such individual is a  
11                  partner or shareholder, the amount determined  
12                  under paragraph (1) with respect to such trade  
13                  or business shall be determined using—

14                   “(i) in the case of a partnership, the  
15                   partner’s distributive share of non-sepa-  
16                   rately stated income, as reported on the re-  
17                   turn of tax for the applicable taxable year,  
18                   and

19                   “(ii) in the case of an S corporation,  
20                   the shareholder’s pro rata share of non-  
21                   separately stated income, as reported on  
22                   the return of tax for the applicable taxable  
23                   year.

24                   “(C) TREATMENT OF AMOUNTS FROM  
25                   FARMING BUSINESSES.—In the case of a quali-



1           fied individual who materially participates  
2           (within the meaning of section 469(h)) in a  
3           farming business (as defined in section  
4           263A(e)(4)), the amount of determined under  
5           paragraph (1) shall be the gross income derived  
6           from such business, as reported on the return  
7           of tax for the applicable taxable year.

8           “(d) APPLICABLE TAXABLE YEAR.—For purposes of  
9 this section, the term ‘applicable taxable year’ means—

10           “(1) the first taxable year beginning in 2019,

11           or

12           “(2) in any case in which the qualifying tax-  
13 payer did not file a tax return for the taxable year  
14 described in paragraph (1), the first taxable year be-  
15 ginning in 2018.

16           “(e) TREATMENT OF CREDIT.—

17           “(1) IN GENERAL.—The credit allowed by sub-  
18 section (a) shall be treated as allowed by subpart C  
19 of part IV of subchapter A of chapter 1.

20           “(2) CREDIT INCLUDED IN GROSS INCOME.—

21           “(A) IN GENERAL.—Except as provided in  
22 subparagraph (B), for purposes of subtitle A,  
23 the amount of any credit allowed under this  
24 section shall be included in gross income.

1                   “(B) AMOUNTS NOT TAKEN INTO ACCOUNT  
2                   FOR PURPOSES OF PREMIUM TAX CREDIT.—

3                   “(i) IN GENERAL.—For purposes of  
4                   determining modified adjusted gross in-  
5                   come under section 36B(d)(2)(B), adjusted  
6                   gross income shall not include any amount  
7                   treated as income by reason of subpara-  
8                   graph (A).

9                   “(ii) EXCEPTION.—Paragraph (1)  
10                  shall not apply to the extent such reduc-  
11                  tion results in an amount of household in-  
12                  come (as defined in section 36B(d)(2)(A))  
13                  of a taxpayer that is less than 100 percent  
14                  of the poverty line (as defined in section  
15                  36B(d)(3)) for a family of the size involved  
16                  (as determined under the rules of section  
17                  36B(d)(1)).

18                  “(f) COORDINATION WITH ADVANCE REFUNDS AND  
19                  CREDIT FOR EMPLOYER OPERATING EXPENSES.—

20                  “(1) COORDINATION WITH ADVANCE REFUNDS  
21                  OF CREDIT.—The amount of credit which would (but  
22                  for this subsection) be allowable under this section  
23                  shall be reduced (but not below zero) by the aggre-  
24                  gate refunds and credits made or allowed to the tax-  
25                  payer under subsection (g). Any failure to so reduce

1 the credit shall be treated as arising out of a mathe-  
2 matical or clerical error and assessed according to  
3 section 6213(b)(1).

4 “(2) COORDINATION WITH CREDIT FOR EM-  
5 PLOYER OPERATING EXPENSES.—The amount of the  
6 credit allowed under this section (determined with-  
7 out regard to this subsection) shall be reduced (but  
8 not below zero) by the amount of any credit allowed  
9 under section 102 of the Paycheck Security Act dur-  
10 ing the taxable year.

11 “(3) SPECIAL RULE FOR RECAPTURE OF AD-  
12 VANCED REFUNDS AND CREDITS.—

13 “(A) IN GENERAL.—In the case of any  
14 qualifying taxpayer who received a refund or  
15 credit by reason of subsection (g) and who was  
16 allowed a credit under section 102 of the Pay-  
17 check Security Act for any quarter ending on or  
18 before the last day of the taxpayer’s first tax-  
19 able year beginning in 2020, the tax imposed by  
20 chapter 1 on the taxpayer to whom such refund  
21 or credit was made or allowed shall be increased  
22 for the taxable year by the lessor of—

23 “(i) the refund or credit made or al-  
24 lowed to such taxpayer by reason of sub-  
25 section (g), or

1                   “(ii) the amount of the credit allowed  
2                   under section 102 of the Paycheck Secu-  
3                   rity Act.

4                   “(B) APPLICATION TO PARTNERSHIPS AND  
5                   S CORPORATIONS.—For purposes of applying  
6                   subparagraph (A), in the case of any partner-  
7                   ship or S corporation which was allowed a cred-  
8                   it under section 102 of the Paycheck Security  
9                   Act, each partner of such partnership shall be  
10                  treated as having been allowed a credit under  
11                  such section equal to such partner’s distributive  
12                  share of such credit and each shareholder of  
13                  such S corporation shall be treated as having  
14                  been allowed a credit equal to such share-  
15                  holder’s pro rata share of such credit.

16                  “(C) RETURN REQUIREMENT.—If the tax  
17                  imposed by chapter 1 for the taxable year is in-  
18                  creased under this paragraph, the taxpayer  
19                  shall, notwithstanding section 6012, be required  
20                  to file a return with respect to the taxes im-  
21                  posed under subtitle A.

22                  “(g) ADVANCE REFUNDS AND CREDITS.—

23                  “(1) IN GENERAL.—Any person which was a  
24                  qualifying taxpayer for such person’s last taxable  
25                  year ending before January 1, 2020, shall be treated

1 as having made a payment against the tax imposed  
2 by chapter 1 for such taxable year in an amount  
3 equal to the advance refund amount for such taxable  
4 year, regardless of whether such tax would have  
5 been imposed on such person.

6 “(2) ADVANCE REFUND AMOUNT.—For pur-  
7 poses of paragraph (1), the advance refund amount  
8 is the amount that would have been allowed as a  
9 credit under this section for such taxable year if this  
10 section (other than subsection (f) and this sub-  
11 section) had applied to such taxable year.

12 “(3) TIMING OF PAYMENTS.—The Secretary  
13 shall, subject to the provisions of this title, refund  
14 or credit any overpayment attributable to this sec-  
15 tion as rapidly as possible. No refund or credit shall  
16 be made or allowed under this subsection after De-  
17 cember 31, 2020.

18 “(4) NO INTEREST.—No interest shall be al-  
19 lowed on any overpayment attributable to this sec-  
20 tion.

21 “(h) REGULATIONS AND GUIDANCE.—The Secretary  
22 shall issue such forms, instructions, regulations, and guid-  
23 ance as are necessary, including guidance with respect to  
24 the application of subsection (f)(3)(B) to partners and  
25 partnerships with differing taxable years.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 6211(b)(4)(A) of the Internal Rev-  
3 enue Code of 1986 is amended by striking “and  
4 6428” and inserting “6428, and 6429”.

5 (2) Paragraph (2) of section 1324(b) of title  
6 31, United States Code, is amended by inserting  
7 “6429,” after “6428,”.

8 (3) The table of sections for subchapter B of  
9 chapter 65 of subtitle F of the Internal Revenue  
10 Code of 1986 is amended by inserting after the item  
11 relating to section 6428 the following:

“Sec. 6429. Small business rebate.”.

## 12 **TITLE III—OTHER PROVISIONS**

### 13 **SEC. 301. ADDITIONAL APPROPRIATIONS FOR DEPART-** 14 **MENT OF TREASURY.**

15 (a) INTERNAL REVENUE SERVICE.—There is author-  
16 ized to be appropriated, and there is appropriated, to the  
17 Internal Revenue Service \$1,000,000,000, to remain avail-  
18 able until expended, to carry out the provisions of, and  
19 amendments made by, this Act.

20 (b) TREASURY INSPECTOR GENERAL FOR TAX AD-  
21 MINISTRATION.—There is authorized to be appropriated,  
22 and there is appropriated, to the Treasury Inspector Gen-  
23 eral for Tax Administration \$25,000,000, to remain avail-  
24 able until expended, to carry out investigations, audits and  
25 other oversight activities with respect to the credits al-

1 lowed under section 2301 of the CARES Act, and sections  
2 102 and 201 of this Act, and the provisions of section  
3 103 and 105 of this Act, as authorized under the Inspec-  
4 tor General Act of 1978 (5 U.S.C. App.).

5 **SEC. 302. GAO REPORT.**

6 Not later than 5 months after the date of enactment  
7 of this Act, the Comptroller General of the United States  
8 shall issue a report evaluating the effectiveness of the op-  
9 erative provisions of and amendments made by this Act.  
10 Such report shall include recommendations on extending  
11 the applicability of such amendments and provisions and  
12 how to transition workers after the expiration such provi-  
13 sions and amendments.