

117TH CONGRESS  
1ST SESSION

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

To amend the Internal Revenue Code of 1986 to provide a tax credit for investors in start-up businesses, to provide a credit for wages paid by start-up businesses to their first employees, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. WYDEN (for himself, Ms. HASSAN, Mr. CARDIN, and Ms. CORTEZ MASTO) 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 a tax credit for investors in start-up businesses, to provide a credit for wages paid by start-up businesses to their first employees, 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 “Providing Real Oppor-  
5 tunities for Growth to Rising Entrepreneurs for Sustained  
6 Success (PROGRESS) Act”.

1 **SEC. 2. SMALL BUSINESS INVESTOR TAX CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-  
3 chapter A of chapter 1 of the Internal Revenue Code of  
4 1986 is amended by adding at the end the following new  
5 section:

6 **“SEC. 45U. SMALL BUSINESS INVESTOR TAX CREDIT.**

7 “(a) GENERAL RULE.—For purposes of section 38,  
8 the small business investor credit determined under this  
9 section for any taxable year is an amount equal to the  
10 sum of the credit amounts determined for the taxable year  
11 for all qualified investments of the taxpayer.

12 “(b) CREDIT AMOUNT.—For purposes of this sec-  
13 tion—

14 “(1) IN GENERAL.—The term ‘credit amount’  
15 means, with respect to any qualified investment in a  
16 qualifying business entity, the lesser of—

17 “(A) 10 percent of the amount of the  
18 qualified investment determined under sub-  
19 section (c)(3) for the taxable year, or

20 “(B) an amount equal to—

21 “(i) 50 percent of such qualified in-  
22 vestment, reduced (but not below zero) by

23 “(ii) the amount of the credit deter-  
24 mined under this section with respect to  
25 such qualified investment of the taxpayer  
26 for all preceding taxable years.

1 “(2) OVERALL DOLLAR LIMITATION.—

2 “(A) IN GENERAL.—The credit amount de-  
3 termined under paragraph (1) with respect to  
4 any qualified investment of a taxpayer in a  
5 qualifying business entity for any taxable year  
6 shall not exceed the lesser of—

7 “(i) \$10,000 (as increased for the tax-  
8 able year by the cost-of-living adjustment  
9 under subsection (e)(2)), or

10 “(ii) an amount equal to—

11 “(I) an amount equal to 5 times  
12 the amount under clause (i) for the  
13 taxable year, reduced (but not below  
14 zero) by

15 “(II) the amount of the credit  
16 determined under this section with re-  
17 spect to such qualified investment of  
18 the taxpayer for all preceding taxable  
19 years.

20 “(B) NO CREDIT AMOUNT BY REASON OF  
21 COST-OF-LIVING ADJUSTMENT AFTER OVERALL  
22 LIMIT FIRST REACHED.—No credit amount  
23 shall be determined under this section with re-  
24 spect to any qualified investment of a taxpayer  
25 in a qualifying business entity for any taxable

1 year after the first taxable year for which the  
2 amount determined under subclause (II) of sub-  
3 paragraph (A)(ii) equals or exceeds the amount  
4 determined under subclause (I) of such sub-  
5 paragraph.

6 “(3) REDUCTION IN CREDIT AMOUNT WHERE  
7 LOAN RATE EXCEEDS PRIME RATE.—

8 “(A) IN GENERAL.—If—

9 “(i) the rate of interest (expressed as  
10 an annual percentage rate) on a qualified  
11 investment which is a qualifying loan, ex-  
12 ceeds

13 “(ii) the bank prime rate as of the  
14 first day of the month in which the loan is  
15 entered into (or such other time as the  
16 Secretary may specify),

17 then each of the amounts determined under  
18 subparagraphs (A) and (B)(i) of paragraph (1)  
19 shall be reduced (but not below zero) by the  
20 amount which bears the same ratio to such  
21 amount as the number of full percentage points  
22 by which such rate of interest exceeds such  
23 bank prime rate bears to 25.

24 “(B) SPECIAL RULES WHERE QUALIFYING  
25 LOANS TREATED AS PART OF SINGLE INVEST-



1                   “(II) the recalculation of the an-  
2                   nual percentage rate where the terms  
3                   of the loan are modified after the loan  
4                   is entered into, and

5                   “(III) the proper taking into ac-  
6                   count of lump sum payments, orienta-  
7                   tion and application fees, closing fees,  
8                   invoice discounting fees and any other  
9                   loan fees.

10                  “(ii) BANK PRIME RATE.—For pur-  
11                  poses of subparagraph (A)(ii), the term  
12                  ‘bank prime rate’ means the average pre-  
13                  dominant prime rate quoted by commercial  
14                  banks to large businesses, as determined  
15                  by the Board of Governors of the Federal  
16                  Reserve System.

17                  “(4) SPECIAL RULES FOR PASS-THRU ENTI-  
18                  TIES.—For purposes of this subsection, if a qualified  
19                  investment in a qualifying business entity is made by  
20                  a partnership, trust, S corporation, or other pass-  
21                  thru entity, the limitations under this subsection  
22                  shall apply at the entity level.

23                  “(c) QUALIFIED INVESTMENT.—For purposes of this  
24                  section—

1           “(1) IN GENERAL.—The term ‘qualified invest-  
2           ment’ means, with respect to any qualifying business  
3           entity, either of the following of the taxpayer:

4                   “(A) The direct or indirect acquisition of  
5                   stock, or a capital interest, in the entity at its  
6                   original issue solely in exchange for cash.

7                   “(B) A qualifying loan made to the entity.  
8           If a taxpayer has or had more than 1 qualified in-  
9           vestment in any qualifying business entity for the  
10          taxable year or any prior taxable year, all such in-  
11          vestments shall be treated as a single qualified in-  
12          vestment for purposes of applying this section.

13           “(2) EXCEPTION FOR INVESTMENTS MADE BY  
14          QUALIFIED ACTIVE INVESTORS AND RELATED PER-  
15          SONS.—Such term shall not include any acquisition  
16          or loan made by a taxpayer who, immediately before  
17          the acquisition or loan, is a qualified active investor  
18          in the qualifying business entity or is related to any  
19          qualified active investor.

20           “(3) AMOUNT OF QUALIFIED INVESTMENT.—  
21          The amount of a taxpayer’s qualified investment  
22          with respect to any qualifying business entity for  
23          any taxable year shall be the monthly average for  
24          months ending within the taxable year of—

1           “(A) the taxpayer’s aggregate unadjusted  
2 bases in all stock or interests described in para-  
3 graph (1)(A) as of the close of each such  
4 month, and

5           “(B) the aggregate outstanding principal  
6 amount of all qualified loans described in para-  
7 graph (1)(B) as of the close of each such  
8 month.

9           “(4) SPECIAL RULES FOR TRANSFERS OF  
10 QUALIFYING LOANS.—

11           “(A) IN GENERAL.—If a taxpayer sells, ex-  
12 changes, or otherwise transfers all or any por-  
13 tion of a qualifying loan which is a qualified in-  
14 vestment in a qualifying business entity, such  
15 investment shall be treated as a qualified in-  
16 vestment in the hands of the transferee (and  
17 not of the transferor) for periods after the  
18 transfer. This paragraph shall also apply to any  
19 subsequent transfer of such interest.

20           “(B) COORDINATION OF LIMITS.—In ap-  
21 plying subsection (b) to any qualifying loan  
22 treated as a qualified investment of a transferee  
23 under this paragraph—

24           “(i) all credits determined under this  
25 section for any periods before the transfer



1 with respect to the qualified investment of  
2 any prior holder of such investment shall  
3 be taken into account under paragraphs  
4 (1)(B)(ii) and (2)(A)(ii)(II) of such sub-  
5 section in the same manner as if such  
6 credits were determined for the transferee  
7 for prior taxable years, and

8 “(ii) if only a portion of the qualified  
9 investment was transferred, the amount  
10 taken into account under such paragraphs  
11 by reason of clause (i) shall be ratably re-  
12 duced to reflect only the portion so trans-  
13 ferred.

14 “(d) QUALIFYING BUSINESS ENTITY.—For purposes  
15 of this section—

16 “(1) DEFINITION.—

17 “(A) IN GENERAL.—The term ‘qualifying  
18 business entity’ means, with respect to any  
19 qualified investment, any entity which is en-  
20 gaged in 1 or more trades or businesses and  
21 with respect to which—

22 “(i) the qualified active investor own-  
23 ership requirements of paragraph (2) are  
24 met immediately before and after the  
25 qualified investment,

1                   “(ii) the wage requirements of para-  
2                   graph (3) are met, and

3                   “(iii) the certification requirements of  
4                   paragraph (4) are met.

5                   “(B) ENTITIES UNDER COMMON CON-  
6                   TROL.—For purposes of this section, all quali-  
7                   fying business entities treated as a single em-  
8                   ployer under subsection (a) or (b) of section 52  
9                   or subsection (m) or (o) of section 414 shall be  
10                  treated as a single qualifying business entity.

11                  “(2) QUALIFIED ACTIVE INVESTOR OWNERSHIP  
12                  REQUIREMENTS.—The requirements of this para-  
13                  graph are met with respect to any entity if qualified  
14                  active investors own directly or indirectly—

15                         “(A) in the case of a corporation, more  
16                         than 50 percent (by vote and value) of the  
17                         stock in the corporation, and

18                         “(B) in the case of any other entity, more  
19                         than 50 percent of the capital or profits inter-  
20                         ests in the entity.

21                  “(3) WAGE REQUIREMENTS.—

22                         “(A) IN GENERAL.—The requirements of  
23                         this paragraph are met with respect to any enti-  
24                         ty if the entity, during the taxable year of the

1 entity preceding the taxable year in which the  
2 qualified investment is made—

3 “(i) employed at least 1 full-time em-  
4 ployee, or employees constituting a full-  
5 time equivalent employee, in 1 or more  
6 trades or businesses of the entity, and

7 “(ii) paid W-2 wages to such employee  
8 or employees with respect to such employ-  
9 ment.

10 “(B) CERTAIN WAGES NOT TAKEN INTO  
11 ACCOUNT.—W-2 wages shall not be taken into  
12 account under subparagraph (A) if paid by an  
13 entity to an employee, and such employee shall  
14 not be taken into account under subparagraph  
15 (A)(i), during any period the employee is—

16 “(i) a qualified active investor, or

17 “(ii) an employee other than a quali-  
18 fied active investor who is a 5-percent  
19 owner (as defined in section  
20 416(i)(1)(B)(i)) of the entity.

21 “(C) W-2 WAGES.—The term ‘W-2 wages’  
22 means, with respect to any entity, the amounts  
23 described in paragraphs (3) and (8) of section  
24 6051(a) paid by the entity with respect to em-  
25 ployment of employees by the entity.

1           “(D) FULL-TIME EMPLOYEES AND  
2 EQUIVALENTS.—For purposes of this para-  
3 graph—

4           “(i) the term ‘full-time employee’ has  
5 the meaning given to such term by section  
6 4980H(c)(4), and

7           “(ii) the determination of the number  
8 of employees constituting a full-time equiv-  
9 alent shall be made in the same manner as  
10 under section 4980H(c)(2)(E).

11           “(4) CERTIFICATION REQUIREMENTS.—

12           “(A) IN GENERAL.—The requirements of  
13 this paragraph are met with respect to any enti-  
14 ty if the entity certifies, in such form and man-  
15 ner and at such time as the Secretary may pre-  
16 scribe, that, at the time of the qualified invest-  
17 ment, the entity—

18           “(i) is engaged in 1 or more trades or  
19 businesses, and

20           “(ii) meets the requirements of para-  
21 graphs (2) and (3) to be treated as a  
22 qualifying business entity.

23           “(B) CERTIFICATION PROVIDED TO INVES-  
24 TORS AND SECRETARY.—An entity shall—

1           “(i) provide the certification under  
2           subparagraph (A) to the person making  
3           the qualified investment at the time such  
4           investment is made, and

5           “(ii) include such certification, and  
6           the names, addresses, and taxpayer identi-  
7           fication numbers of the entity’s qualified  
8           active investors and the persons making  
9           the qualified investment, with its return of  
10          tax for the taxable year which includes the  
11          date of the qualified investment.

12          “(C) CERTIFICATION INCLUDED WITH RE-  
13          TURN CLAIMING CREDIT.—No credit shall be  
14          determined under subsection (a) with respect to  
15          any taxpayer making a qualified investment in  
16          a qualifying business entity unless the taxpayer  
17          includes the certification under subparagraph  
18          (A) with respect to the investment with its re-  
19          turn of tax for any taxable year for which such  
20          credit is being claimed.

21          “(D) TIMELY FILED RETURN REQUIRED.—  
22          The requirements of subparagraph (B)(ii) or  
23          (C) shall be treated as met only if the return  
24          described in such subparagraph is filed on or  
25          before its due date (including extensions).

1 “(5) QUALIFIED ACTIVE INVESTOR.—

2 “(A) IN GENERAL.—The term ‘qualified  
3 active investor’ means, with respect to any enti-  
4 ty, an individual who—

5 “(i) is a citizen or resident of the  
6 United States,

7 “(ii) materially participates (within  
8 the meaning of section 469(h)) in 1 or  
9 more trades or businesses of the entity,

10 “(iii) holds stock, or a capital or prof-  
11 its interest, in the entity, and

12 “(iv) meets the income requirements  
13 of subparagraph (B).

14 “(B) INCOME REQUIREMENTS.—The re-  
15 quirements of this subparagraph are met with  
16 respect to an individual if the average annual  
17 adjusted taxable income of the individual for  
18 the 3 taxable years of the individual imme-  
19 diately preceding the taxable year in which the  
20 qualified investment is made does not exceed  
21 the applicable amount.

22 “(C) APPLICABLE AMOUNT.—For purposes  
23 of this paragraph, the term ‘applicable amount’  
24 means, with respect to any taxable year in  
25 which a qualified investment is made—

1           “(i) in the case of an individual not  
2           described in clause (ii), \$100,000 (as in-  
3           creased for the taxable year by the cost-of-  
4           living adjustment under subsection (e)(2)),  
5           and

6           “(ii) in the case of an individual who  
7           is a married individual filing a joint return  
8           or who is a head of household (as defined  
9           in section 2(b)) for the taxable year, an  
10          amount equal to 2 times the amount in ef-  
11          fect under clause (i) for the taxable year.

12          “(D) RULES FOR DETERMINING AVERAGE  
13          TAXABLE INCOME.—For purposes of this para-  
14          graph—

15               “(i) a married individual filing a sepa-  
16               rate return of tax for any taxable year  
17               shall include the adjusted taxable income  
18               of their spouse in computing the individ-  
19               ual’s average adjusted taxable income for  
20               any period unless the Secretary determines  
21               that the spouse’s information is not avail-  
22               able to the individual, and

23               “(ii) the Secretary shall prescribe  
24               rules for the determination of average ad-  
25               justed taxable income in cases where the

1 individual had different filing statuses for  
2 the 3 taxable years described in subpara-  
3 graph (B).

4 “(E) ADJUSTED TAXABLE INCOME.—The  
5 term ‘adjusted taxable income’ means taxable  
6 income computed without regard to the deduc-  
7 tions under sections 172 and 199A.

8 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-  
9 poses of this section—

10 “(1) RELATED PERSONS.—A person shall be  
11 treated as related to another person if the person  
12 bears a relationship to such other person described  
13 in section 267(b), except that section 267(b) shall be  
14 applied by substituting ‘5 percent’ for ‘50 percent’  
15 each place it appears.

16 “(2) COST-OF-LIVING ADJUSTMENTS.—In the  
17 case of any taxable year beginning after 2022, the  
18 \$10,000 amount under subsection (b)(2)(A)(i) and  
19 the \$100,000 amount under subsection (d)(5)(C)(i)  
20 shall each be increased by an amount equal to—

21 “(A) such dollar amount, multiplied by

22 “(B) the cost-of-living adjustment under  
23 section 1(f)(3) for the calendar year in which  
24 the taxable year begins, determined by sub-



1           stituting ‘2021’ for ‘2016’ in subparagraph  
2           (A)(ii) thereof.

3           If any increase in such \$10,000 amount is not a  
4           multiple of \$100, such increase shall be rounded to  
5           the next lowest multiple of \$100 and if any increase  
6           in such \$100,000 amount is not a multiple of  
7           \$1,000, such increase shall be rounded to the next  
8           lowest multiple of \$1,000.

9           “(3) RULES RELATING TO ENTITIES.—

10           “(A) SOLE PROPRIETORSHIPS.—If a tax-  
11           payer carries on 1 or more trades or businesses  
12           as sole proprietorships, all such trades or busi-  
13           nesses shall be treated as a single entity for  
14           purposes of applying this section.

15           “(B) APPLICATION TO DISREGARDED EN-  
16           TITIES.—In the case of any entity with a single  
17           owner which is disregarded as an entity sepa-  
18           rate from its owner for purposes of this title,  
19           this section shall be applied in the same manner  
20           as if such entity were a corporation.

21           “(f) REGULATIONS.—The Secretary shall prescribe  
22           such regulations or other guidance as may be necessary  
23           to carry out the provisions of this section.”.

24           (b) CREDIT TO BE PART OF GENERAL BUSINESS  
25           CREDIT.—Section 38(b) of such Code is amended by strik-

1 ing “plus” at the end of paragraph (32), by striking the  
2 period at the end of paragraph (33) and inserting “, plus”,  
3 and by adding at the end the following new paragraph:

4 “(34) the small business investor credit deter-  
5 mined under section 45U(a).”.

6 (c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
7 IMUM TAX.—Section 38(c)(4)(B) of such Code is amended  
8 by redesignating clauses (x), (xi), and (xii) as clauses (xi),  
9 (xii), and (xiii), respectively, and by inserting after clause  
10 (ix) the following new clause:

11 “(x) the credit determined under sec-  
12 tion 45U,”.

13 (d) CLERICAL AMENDMENT.—The table of sections  
14 for subpart D of part IV of subchapter A of chapter 1  
15 of such Code is amended by adding at the end the fol-  
16 lowing new item:

“Sec. 45U. Small business investor tax credit.”.

17 (e) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to qualified investments made in  
19 taxable years beginning after December 31, 2021.

20 **SEC. 3. FIRST EMPLOYEE BUSINESS WAGE CREDIT.**

21 (a) ALLOWANCE OF CREDIT.—

22 (1) IN GENERAL.—Subpart D of part IV of  
23 subchapter A of chapter 1 of the Internal Revenue  
24 Code of 1986, as amended by section 2, is amended  
25 by adding at the end the following new section:

1 **“SEC. 45V. FIRST EMPLOYEE BUSINESS WAGE CREDIT.**

2 “(a) GENERAL RULE.—For purposes of section 38,  
3 in the case of a qualifying business entity, the first em-  
4 ployee business wage credit determined under this section  
5 for any taxable year is an amount equal to 25 percent  
6 of the qualified wages of the entity for the taxable year.

7 “(b) DOLLAR LIMITATIONS.—

8 “(1) IN GENERAL.—The amount of the credit  
9 determined under subsection (a) with respect to any  
10 qualifying business entity for any taxable year shall  
11 not exceed the lesser of—

12 “(A) \$10,000 (as increased for the taxable  
13 year by the cost-of-living adjustment under sub-  
14 section (f)), or

15 “(B) the excess (if any) of—

16 “(i) an amount equal to 4 times the  
17 amount under subparagraph (A) for the  
18 taxable year, over

19 “(ii) the amount of the credit deter-  
20 mined under this section with respect to  
21 such entity for all preceding taxable years.

22 “(2) NO CREDIT BY REASON OF COST-OF-LIV-  
23 ING ADJUSTMENT AFTER OVERALL LIMIT FIRST  
24 REACHED.—No credit shall be determined under this  
25 section with respect to any qualifying business entity  
26 for any taxable year after the first taxable year for

1       which the amount determined under clause (ii) of  
2       paragraph (1)(B) equals or exceeds the amount de-  
3       termined under clause (i) of such paragraph.

4           “(3) PASS-THRU ENTITIES.—If a qualifying  
5       business entity is a partnership, trust, S corporation,  
6       or other pass-thru entity, the limitations under this  
7       subsection shall apply at the entity level.

8           “(c) QUALIFIED WAGES.—For purposes of this sec-  
9       tion—

10           “(1) IN GENERAL.—The term ‘qualified wages’  
11       means, with respect to any qualifying business enti-  
12       ty, the amount of W-2 wages paid or incurred dur-  
13       ing any eligible taxable year to employees for serv-  
14       ices performed in connection with a trade or busi-  
15       ness of the entity.

16           “(2) EXCEPTION FOR QUALIFIED ACTIVE IN-  
17       VESTORS AND 5-PERCENT OWNER-EMPLOYEES.—W-  
18       2 wages shall not be taken into account under para-  
19       graph (1) if paid by an entity to an employee, and  
20       such employee shall not be taken into account under  
21       paragraph (3)(A), during any period the employee  
22       is—

23           “(A) a qualified active investor, or

1           “(B) an employee other than a qualified  
2 active investor who is a 5-percent owner (as de-  
3 fined in section 416(i)(1)(B)(i)) of the entity.

4           “(3) ELIGIBLE TAXABLE YEAR.—

5           “(A) IN GENERAL.—The term ‘eligible tax-  
6 able year’ means any taxable year of a quali-  
7 fying business entity—

8           “(i) which occurs during the period—

9           “(I) beginning with the first tax-  
10 able year of the entity in which the  
11 entity employed at least 1 full-time  
12 employee (or employees constituting a  
13 full-time equivalent employee) in 1 or  
14 more trades or businesses of the enti-  
15 ty during the taxable year and paid  
16 W-2 wages to such employee or em-  
17 ployees with respect to such employ-  
18 ment, and

19           “(II) ending with the last taxable  
20 year for which a credit may be deter-  
21 mined for the entity under this section  
22 by reason of the limitation under sub-  
23 section (b)(2), and

24           “(ii) in the case of a taxable year  
25 other than the first taxable year described

1 in clause (i)(I), with respect to which the  
2 entity meets the employment and wage re-  
3 quirements of such clause.

4 Such term shall not include any taxable year  
5 during such a period if the first taxable year  
6 described in clause (i)(I) of the entity (or any  
7 predecessor) begins before January 1, 2020.

8 “(B) W-2 WAGES; FULL-TIME EMPLOY-  
9 EES.—For purposes of this subsection, W-2  
10 wages, full-time employees, and full-time em-  
11 ployee equivalents shall be determined in the  
12 same manner as under section 45U.

13 “(d) QUALIFYING BUSINESS ENTITY.—For purposes  
14 of this section—

15 “(1) QUALIFYING BUSINESS ENTITY DE-  
16 FINED.—

17 “(A) IN GENERAL.—The term ‘qualifying  
18 business entity’ means, with respect to any tax-  
19 able year for which a credit under this section  
20 is being determined, any entity—

21 “(i) which is engaged in 1 or more  
22 trades or businesses,

23 “(ii) with respect to which the quali-  
24 fied active investor ownership requirements  
25 of paragraph (2) of section 45U(d) are met

1 as of the close of such taxable year (rather  
2 than immediately before and after the  
3 qualified investment), and

4 “(iii) with respect to which the certifi-  
5 cation requirements of paragraph (2) are  
6 met.

7 “(B) ENTITIES UNDER COMMON CON-  
8 TROL.—For purposes of this section—

9 “(i) IN GENERAL.—All qualifying  
10 business entities treated as a single em-  
11 ployer under subsection (a) or (b) of sec-  
12 tion 52 or subsection (m) or (o) of section  
13 414 shall be treated as a single qualifying  
14 business entity.

15 “(ii) ALLOCATION OF CREDIT.—Ex-  
16 cept as provided in regulations, the credit  
17 under this section shall be allocated among  
18 the entities comprising the single entity de-  
19 scribed in clause (i) in proportion to the  
20 qualified wages of each such entity taken  
21 into account under subsection (a).

22 “(2) CERTIFICATION REQUIREMENTS.—

23 “(A) IN GENERAL.—The requirements of  
24 this paragraph are met with respect to any enti-  
25 ty for any taxable year described in paragraph

1 (1) if the entity certifies, in such form and  
2 manner and at such time as the Secretary may  
3 prescribe, that the entity meets the require-  
4 ments described in clauses (i) and (ii) of para-  
5 graph (1)(A).

6 “(B) CERTIFICATION PROVIDED TO SEC-  
7 RETARY.—An entity shall include the certifi-  
8 cation under subparagraph (A), and the names,  
9 addresses, and taxpayer identification numbers  
10 of the entity’s qualified active investors (and  
11 employees who are 5-percent owners described  
12 in subsection (c)(2)(B)), with its return of tax  
13 for the taxable year to which the certification  
14 relates. The requirement of this subparagraph  
15 is met only if such return is filed before its due  
16 date (including extensions).

17 “(3) QUALIFIED ACTIVE INVESTOR.—For pur-  
18 poses of this section (including applying the require-  
19 ments of paragraph (2) of section 45U(d) for pur-  
20 poses of paragraph (1)(A)(ii)), the term ‘qualified  
21 active investor’ has the same meaning given such  
22 term by section 45U(d)(5), except that such section  
23 shall be applied separately for each taxable year de-  
24 scribed in paragraph (1) (rather than the taxable  
25 year of the qualified investment).



1           “(e) ELECTION TO APPLY CREDIT AGAINST PAY-  
2 ROLL TAXES.—

3           “(1) IN GENERAL.—At the election of a quali-  
4 fying business entity, section 3111(g) shall apply to  
5 the payroll tax credit portion of the credit otherwise  
6 determined under subsection (a) for the taxable year  
7 and such portion shall not be treated (other than for  
8 purposes of section 280C) as a credit determined  
9 under subsection (a).

10           “(2) PAYROLL TAX CREDIT PORTION.—For  
11 purposes of this subsection, the payroll tax credit  
12 portion of the credit determined under subsection  
13 (a) with respect to any qualifying business entity for  
14 any taxable year is the least of—

15           “(A) the amount specified in the election  
16 made under this subsection,

17           “(B) the credit determined under sub-  
18 section (a) for the taxable year (determined be-  
19 fore the application of this subsection), or

20           “(C) in the case of a qualifying business  
21 entity other than a partnership, estate, S cor-  
22 poration or other pass-thru entity, the amount  
23 of the business credit carryforward under sec-  
24 tion 39 carried from the taxable year (deter-

1           mined before the application of this subsection  
2           to the taxable year).

3           “(3) ELECTION.—

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

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

8                 “(ii) shall be made on or before the  
9           due date (including extensions) of the re-  
10          turn for the taxable year, and

11                “(iii) may be revoked only with the  
12          consent of the Secretary.

13                “(B) SPECIAL RULE FOR PASS-THRU ENTI-  
14          TIES.—In the case of a partnership, estate, S  
15          corporation, or other pass-thru entity, the elec-  
16          tion made under this subsection shall be made  
17          at the entity level.

18                “(f) COST-OF-LIVING ADJUSTMENTS.—In the case of  
19          any taxable year beginning after 2022, the \$10,000  
20          amount under subsection (b)(1)(A) shall be increased by  
21          an amount equal to—

22                “(1) such dollar amount, multiplied by

23                “(2) the cost-of-living adjustment under section  
24          1(f)(3) for the calendar year in which the taxable

1 year begins, determined by substituting ‘2021’ for  
2 ‘2016’ in subparagraph (A)(ii) thereof.

3 If any increase in such amount is not a multiple of \$100,  
4 such increase shall be rounded to the next lowest multiple  
5 of \$100.

6 “(g) OTHER RULES.—For purposes of this section—

7 “(1) RULES RELATING TO ENTITIES.—Rules  
8 similar to the rules of section 45U(e)(3) shall apply.

9 “(2) ELECTION NOT TO HAVE CREDIT APPLY.—

10 “(A) IN GENERAL.—A taxpayer may elect  
11 not to have this section apply for any taxable  
12 year.

13 “(B) OTHER RULES.—Rules similar to the  
14 rules of paragraphs (2) and (3) of section 51(j)  
15 shall apply for purposes of this paragraph.

16 “(3) CERTAIN OTHER RULES MADE APPLICA-  
17 BLE.—Rules similar to the rules of subsections (c),  
18 (d), and (e) of section 52 shall apply.

19 “(h) REGULATIONS.—The Secretary shall prescribe  
20 such regulations or other guidance as may be necessary  
21 to carrying out the provisions of this section, including  
22 regulations—

23 “(1) preventing the avoidance of the limitations  
24 under this section in cases in which there is a suc-  
25 cessor or new qualified business entity with respect

1 to the same trade or business for which a prede-  
2 cessor qualified business entity already claimed the  
3 credit under this section,

4 “(2) to minimize compliance and recordkeeping  
5 burdens under the provisions of this section, and

6 “(3) for recapturing the benefit of credits deter-  
7 mined under section 3111(g) in cases where there is  
8 a recapture or a subsequent adjustment to the pay-  
9 roll tax credit portion of the credit determined under  
10 subsection (a), including requiring amended income  
11 tax returns in the cases where there is such an ad-  
12 justment.”.

13 (2) CREDIT TO BE PART OF GENERAL BUSI-  
14 NESS CREDIT.—Section 38(b) of such Code, as  
15 amended by section 2, is amended by striking “plus”  
16 at the end of paragraph (33), by striking the period  
17 at the end of paragraph (34) and inserting “, plus”,  
18 and by adding at the end the following new para-  
19 graph:

20 “(35) the first employee business wage credit  
21 determined under section 45V(a).”.

22 (3) CREDIT ALLOWED AGAINST ALTERNATIVE  
23 MINIMUM TAX.—Section 38(c)(4)(B) of such Code,  
24 as amended by section 2, is amended by redesign-  
25 nating clauses (xi), (xii), and (xiii) as clauses (xii),

1 (xiii), and (xiv), respectively, and by inserting after  
2 clause (x) the following new clause:

3 “(xi) the credit determined under sec-  
4 tion 45V,”.

5 (4) CLERICAL AMENDMENT.—The table of sec-  
6 tions for subpart D of part IV of subchapter A of  
7 chapter 1 of such Code, as amended by section 2, is  
8 amended by adding at the end the following new  
9 item:

“Sec. 45V. First employee business wage credit.”.

10 (b) PAYROLL TAX CREDIT.—Section 3111 of the In-  
11 ternal Revenue Code of 1986 is amended by adding at the  
12 end the following new subsection:

13 “(g) CREDIT FOR FIRST EMPLOYEE BUSINESS WAGE  
14 EXPENSES.—

15 “(1) IN GENERAL.—In the case of a taxpayer  
16 who has made an election under section 45V(e) for  
17 a taxable year, there shall be allowed as a credit  
18 against the tax imposed by subsection (a) for the  
19 first calendar quarter which begins after the date on  
20 which the taxpayer files the return for the taxable  
21 year an amount equal to the payroll tax credit por-  
22 tion determined under section 45V(e)(2).

23 “(2) LIMITATION.—The credit allowed by para-  
24 graph (1) shall not exceed the tax imposed by sub-  
25 section (a) for any calendar quarter on the wages



1           clude any amount taken into account in  
2           determining the credit under section  
3           45V.”.

4           (B) Section 45A(b)(1) of such Code is  
5           amended by adding at the end the following:

6           “(C) COORDINATION WITH FIRST EM-  
7           PLOYEE WAGE CREDIT.—The term ‘qualified  
8           wages’ shall not include wages if any portion of  
9           such wages is taken into account in determining  
10          the credit under section 45V.”.

11          (C) Section 1396(c)(3) of such Code is  
12          amended—

13                 (i) by striking “section 51” each place  
14                 it appears and inserting “section 45V or  
15                 51”, and

16                 (ii) by inserting “AND FIRST EM-  
17                 PLOYEE WAGE” after “OPPORTUNITY” in  
18                 the heading thereof.

19          (d) EFFECTIVE DATE.—The amendments made by  
20          this section shall apply to taxable years beginning after  
21          December 31, 2021.