To amend the Internal Revenue Code of 1986 to create a refundable tax credit for travel expenditures, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. Cortez Masto (for herself and Mr. Cramer) 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 create a refundable tax credit for travel expenditures, 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 “Hospitality and Com-
5 merce Job Recovery Act of 2021”.
6 SEC. 2. ESTABLISHMENT OF TAX CREDIT TO SUPPORT THE
7 CONVENTION AND TRADE SHOW INDUSTRY.
8 (a) In General.—For purposes of section 38 of the
9 Internal Revenue Code of 1986, the convention and trade
show restart credit shall be treated as a credit listed at
the end of subsection (b) of such section. For purposes
of this section, the convention and trade show restart cred-
it for any taxable year is an amount equal to the sum
of—

(1) 50 percent of the qualified participation
costs paid or incurred by a taxpayer during such
taxable year, and

(2) in the case of an eligible provider, 100 per-
cent of the qualified restart costs paid or incurred
by such provider during such taxable year.

(b) QUALIFIED PARTICIPATION COSTS.—For pur-
poses of this section, the term “qualified participation
costs” means any costs or expenses paid or incurred by
the taxpayer after December 31, 2020, for any employee
or officer of the taxpayer to attend or participate in a
qualified event, including registration fees, lodging, and
costs with respect to carrying out an exhibition relating
to the taxpayer. Such term shall not include any costs
which are not necessary for the attendance or participa-
tion of such employee or officer at such event.

(c) ELIGIBLE PROVIDER; QUALIFIED RESTART
COSTS.—In this section—

(1) ELIGIBLE PROVIDER.—The term “eligible
provider” means any person which—
(A) provides facilities at which a qualified event may be held, or

(B) sponsors, operates, or is otherwise responsible for the administration of a qualified event.

(2) Qualified restart costs.—The term “qualified restart costs” means any costs paid or incurred by an eligible provider after December 31, 2020, in reopening after such date a facility described in paragraph (1)(A) which was closed or forced to reduce services due to the virus SARS–CoV–2 or coronavirus disease 2019 (referred to in this section as “COVID–19”), including—

(A) any renovation, remediation, personal protective equipment, cleaning, or additional labor and rental costs related to preventing individuals present in such facility from contracting COVID–19, and

(B) any testing of employees of the taxpayer or guests of such facility for symptoms of COVID–19.

(d) Qualified event.—

(1) In general.—In this section, the term “qualified event” means—
(A) a convention, seminar, or similar meeting (as such terms are used in section 274 of the Internal Revenue Code of 1986),

(B) a business meeting (as such term is used in such section), or

(C) a trade show,

which takes place after December 31, 2021.

(2) TRADE SHOW. — For purposes of this subsection, the term “trade show” means any exhibition at which different businesses within a particular industry promote their products and services.

(e) DENIAL OF DOUBLE BENEFIT. — No deduction shall be allowed under any provision of chapter 1 of the Internal Revenue Code of 1986 with respect to any amount taken in account in determining the credit allowed to a taxpayer under this section.

(f) LOCATION REQUIREMENT. — No credit shall be allowed under this section with respect to any qualified event unless such event is held within the United States (including any territory or possession of the United States).

(g) PAYROLL CREDIT FOR NONPROFIT EMPLOYERS.—

(1) IN GENERAL. — In the case of an organization which is described in section 501(c) of the In-
ternal Revenue Code of 1986 and exempt from tax
under section 501(a) of such Code, the credit deter-
mined under this section shall be allowed as a credit
against applicable employment taxes paid by such
organization for calendar quarters in the taxable
year, and not treated as a credit listed at the end
of section 38(b) of such Code.

(2) LIMITATIONS AND REFUNDABILITY.—

(A) CREDIT LIMITED TO EMPLOYMENT
TAXES.—The credit allowed by paragraph (1)
with respect to calendar quarters in any taxable
year shall not exceed the applicable employment
taxes (reduced by any credits allowed under
subsections (e) and (f) of section 3111 of the
Internal Revenue Code of 1986 and sections
7001 and 7003 of the Families First
Coronavirus Response Act) on the wages paid
with respect to the employment of all the em-
ployees of the organization for such taxable
year.

(B) REFUNDABILITY OF EXCESS CRED-
IT.—

(i) IN GENERAL.—If the amount of
the credit under paragraph (1) exceeds the
limitation of subparagraph (A) for any cal-
endar quarter, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of the Internal Revenue Code of 1986.

(ii) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any amounts due to the employer under this paragraph shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(3) APPLICABLE EMPLOYMENT TAXES.—For purposes of this subsection, the term “applicable employment taxes” means the following:

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

(B) So much of the taxes imposed under section 3221(a) of such Code as are attributable to the rate in effect under section 3111(a) of such Code.

(h) REGULATIONS AND GUIDANCE.—The Secretary of the Treasury (or the Secretary’s delegate) may prescribe such regulations and other guidance as may be appropriate or necessary to carry out the purposes of this section.
(i) **TERMINATION.**—This section shall not apply to any costs paid or incurred in taxable years beginning after December 31, 2024.

**SEC. 3. EXTENSION OF EMPLOYEE RETENTION TAX CREDIT.**

(a) **IN GENERAL.**—Section 2301(m) of the CARES Act (Public Law 116–136) is amended by striking “July 1, 2021” and inserting “January 1, 2022”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to calendar quarters beginning after June 30, 2021.

**SEC. 4. SUSPENSION OF LIMITATION ON ENTERTAINMENT, ETC. EXPENSES RELATED TO TRADE OR BUSINESS.**

(a) **IN GENERAL.**—Section 274 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(q) **SPECIAL RULES FOR TAXABLE YEARS 2021 THROUGH 2022.**—In the case of a taxable year beginning after December 31, 2020, and before January 1, 2023—

“(1) subsection (a)(1)(A) shall not apply to any expense if the taxpayer establishes that the item was directly related to, or, in the case of an item directly preceding or following a substantial and bona fide business discussion (including business meetings at
a convention or otherwise), that such item was associated with, the active conduct of the taxpayer’s trade or business, except that the deduction under this section with respect to any such expense shall in no event exceed the portion of such expense with respect to which the taxpayer so establishes,

“(2) in the case of a club, subsection (a)(1)(B) shall not apply if the taxpayer establishes that the facility was used primarily for the furtherance of the taxpayer’s trade or business and that the item was directly related to the active conduct of such trade or business,

“(3) no deduction or credit shall be allowed for any item (not including any qualified nonpersonal use vehicle (as defined in subsection (i)) with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such an activity, unless the taxpayer substantiates by adequate records or by sufficient evidence corroborating the taxpayer’s own statement—

“(A) the amount of such expense or other item,
“(B) the time and place of the entertainment, amusement, recreation, or use of the facility or property

“(C) the business purpose of the expense or other item, and

“(D) the business relationship to the taxpayer of the persons entertained or using the facility or property,

except as the Secretary may by regulations provide in the case of an expense which does not exceed an amount prescribed pursuant to such regulations,

“(4) in determining the amount allowable as a deduction under this chapter for any ticket for any activity or facility described in paragraph (3), the amount taken into account shall not exceed the face value of such ticket, except that—

“(A) this paragraph shall not apply to any ticket for any sports event—

“(i) which is organized for the primary purpose of benefiting an organization which is described in section 501(c)(3) and exempt from tax under section 501(a),

“(ii) all of the net proceeds of which are contributed to such organization, and
“(iii) which utilizes volunteers for substantially all of the work performed in carrying out such event, and

“(B) in the case of a skybox or other private luxury box leased for more than 1 event, the amount allowable as a deduction under this chapter with respect to such events shall not exceed the sum of the face value of non-luxury box seat tickets for the seats in such box covered by the lease (determined by treating 2 or more related leases as 1 lease),

“(5) the amount allowable as a deduction under this chapter for any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such activity, shall not exceed 50 percent of the amount of such expense or item which would (but for this paragraph) be allowable as a deduction under this chapter, and

“(6) paragraph (5) shall not apply to any expense if—

“(A) such expense is described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),
“(B) such expense is excludable from the gross income of the recipient under section 132 by reason of subsection (e) thereof (relating to de minimis fringes), or

“(C) such expense is covered by a package involving a ticket described in paragraph (4)(A).”.

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

SEC. 5. ESTABLISHMENT OF TAX CREDIT TO SUPPORT THE RESTAURANT INDUSTRY.

(a) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, in the case of an eligible taxpayer, the restaurant and dining restart credit shall be treated as a credit listed at the end of subsection (b) of such section. For purposes of this section, the restaurant and dining restart credit for any taxable year is an amount equal to the qualified restart costs paid or incurred by the eligible taxpayer during the taxable year.

(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term “eligible taxpayer” means a taxpayer—

(1) which owns a trade or business devoted to preparation of food and beverages for on-premises consumption or carry out (not including a trade or
business which sells items other than prepared food
and beverages), or

(2) which owns property on which such a trade
or business operates, if more than 50 percent of the
square footage of such property is devoted to prepara-
tion of, and seating for on-premises consumption
of, prepared meals.

(c) QUALIFIED RESTART COSTS.—For purposes of
this section, the term “qualified restart costs” means any
costs paid or incurred by an eligible taxpayer on or after
the date of the enactment of this Act in reopening a trade
or business or property described in subsection (b), or in-
creasing meal and beverage services provided by such
trade or business or at such property, which was closed
or forced to reduce services due to the virus SARS–CoV–
2 or coronavirus disease 2019 (referred to in this section
as “COVID–19”), including—

(1) any renovation, remediation, or additional
labor and rental costs related to preventing individ-
uals present at such trade or business or on such
property from contracting COVID–19; and

(2) any testing of employees of the eligible tax-
payer or guests of such trade or business or such
property for symptoms of COVID–19.
For purposes of the preceding sentence, a trade or business shall be treated as having reduced services if such trade or business reduced hours of operation, number of employees or employee hours, or capacity of seating areas, closed seating areas, or took any other measures which reduced services provided or operations of the trade or business as determined by the Secretary of the Treasury.

(d) **Denial of Double Benefit.**—No deduction shall be allowed under any provision of chapter 1 of the Internal Revenue Code of 1986 with respect to any amount taken in account in determining the credit allowed to a taxpayer under this section.

(e) **Regulations and Guidance.**—The Secretary of the Treasury (or the Secretary’s delegate) may prescribe such regulations and other guidance as may be appropriate or necessary to carry out the purposes of this section.

(f) **Termination.**—This section shall not apply to any costs paid or incurred in taxable years beginning after December 31, 2022.

**SEC. 6. CREDIT FOR TRAVEL EXPENDITURES.**

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 36 the following new section:
"SEC. 36A. CREDIT FOR TRAVEL EXPENDITURES.

(a) ALLOWANCE OF CREDIT.—In the case of an individual who pays or incurs any qualified travel expenses during a taxable year, there shall be allowed as a credit against the tax imposed by this subtitle for such taxable year an amount equal to 50 percent of such expenses.

(b) LIMITATIONS.—

(1) DOLLAR LIMITATION.—The credit allowed under subsection (a) for any taxable year shall not exceed the sum of—

(A) $1,500 ($750 in the case of a married individual filing a separate return), plus

(B) $500 for each qualifying child (as defined in section 152(c)) of the individual, but not to exceed $1,500.

(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

(A) IN GENERAL.—The amount allowable as a credit under subsection (a) (after the application of paragraph (1) and determined without regard to this paragraph) for the taxable year shall be reduced (but not below zero) by $2 for every $50 by which the taxpayer’s modified adjusted gross income for such taxable year exceeds $75,000 ($150,000 in the case of a joint return).
“(B) MODIFIED ADJUSTED GROSS INCOME.—The term ‘modified adjusted gross income’ means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

“(c) QUALIFIED TRAVEL EXPENSE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified travel expense’ means any amount paid or incurred for travel within the United States which is at least 50 miles from the individual’s home and includes an overnight stay, including amounts paid or incurred for food and beverages, lodging, recreation, transportation, amusement or entertainment, including live entertainment and sporting events, and gasoline.

“(2) MINIMUM AMOUNT.—Any expense (determined by treating all items on a single receipt as 1 expense) which is less than $25 shall not be taken into account under paragraph (1).

“(3) UNITED STATES.—The term ‘United States’ includes the territories and possessions of the United States.

“(4) EXCEPTION.—For purposes of paragraph (1), amounts paid with respect to a residence or
other lodging owned by the individual shall not be
treated as qualified travel expenses.

“(d) **Election To Carry Credit To Preceding Year.**—At the election of the taxpayer, any credit allowable under this section for a taxable year may be carried back (in its entirety) to the preceding taxable year and treated as a credit allowed under this subpart for such year.

“(e) **Restrictions.**—No credit shall be allowed to an individual under subsection (a) with respect to a qualified travel expense if—

“(1) the individual receives a refund or reimbursement from any person for the expense,

“(2) a deduction is allowed under section 162 with respect to the expense,

“(3) a deduction under section 151 with respect to individual is allowable to another taxpayer for such taxable year, or

“(4) the individual does not attach sufficient evidence of the expense, as prescribed by the Secretary, to the return of tax for such taxable year.

“(f) **Termination.**—This section shall not apply to any qualified travel expenses paid or incurred after December 31, 2023.”
(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 36 the following new item:

(c) CONFORMING AMENDMENT.—Section 6211(b)(4)(A) of the Internal Revenue Code of 1986 is amended by inserting “, 36A” after “36”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2020.

SEC. 7. ESTABLISHMENT OF TEMPORARY TAX CREDIT FOR UNMERCHANTABLE INVENTORY.

(a) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, in the case of an eligible taxpayer, the unmerchantable inventory credit shall be treated as a credit listed at the end of subsection (b) of such section. For purposes of this subsection, the unmerchantable inventory credit for any taxable year beginning after December 31, 2019, and ending before April 1, 2021, shall be equal to 90 percent of the qualified unmerchantable inventory costs incurred by the eligible taxpayer during such taxable year.
(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term “eligible taxpayer” means any taxpayer which—

(1) on March 13, 2020, was engaged in an active trade or business of selling food or beverage inventory as a manufacturer, importer, wholesale distributor, or retailer, and

(2) with respect to such trade or business—

(A) on or after March 13, 2020, held qualified unmerchantable inventory, or

(B) incurred costs described in subsection (c)(1)(A)(i).

(c) QUALIFIED UNMERCHANTABLE INVENTORY COSTS.—

(1) IN GENERAL.—For purposes of this section, the qualified unmerchantable inventory costs incurred by an eligible taxpayer during any taxable year shall be equal to—

(A) an amount equal to the sum of—

(i) any costs described in section 263A(a)(2) of the Internal Revenue Code of 1986 with respect to the purchase or acquisition of any qualified unmerchantable inventory during such taxable year,
(ii) any costs relating to disposal or destruction of any qualified unmerchantable inventory during such taxable year, and

(iii) any amount paid or credited by such eligible taxpayer during such taxable year to any other person for purposes of apportioning or sharing costs relating to products which, in the hands of such eligible taxpayer, would be deemed to be qualified unmerchantable inventory, minus

(B) an amount equal to the sum of—

(i) any amount received by such eligible taxpayer during such taxable year from any other person for purposes of apportioning or sharing costs with respect to qualified unmerchantable inventory,

(ii) any amounts compensated by insurance for any loss sustained by such eligible taxpayer during such taxable year with respect to qualified unmerchantable inventory, and

(iii) any amounts received under the Coronavirus Food Assistance Program
under part 9 of title 7, Code of Federal Regulations (or successor regulations).

(2) DIRECT COSTS FOR MANUFACTURERS.—In the case of a manufacturer, the costs described in paragraph (1)(A)(i) shall include any transportation costs which would not otherwise have been capitalized pursuant to section 263A of the Internal Revenue Code of 1986.

(d) QUALIFIED UNMERCHANTABLE INVENTORY.—

(1) IN GENERAL.—For purposes of this section, the term “qualified unmerchantable inventory” means any food or beverage inventory which—

(A) was manufactured or acquired by the eligible taxpayer, and

(B) became unmerchantable during the period beginning on March 13, 2020, and ending on September 30, 2020.

(2) UNMERCHANTABLE.—For purposes of this subsection, the term “unmerchantable” shall include any food or beverage products which cannot be sold due to—

(A) spoilage,

(B) expiration pursuant to the manufacturer code date or applicable industry freshness standards, or
(C) a change or limitation in market conditions resulting in the lack of a customary and reasonable market for such products.

(e) Election to Have Credit Not Apply.—

(1) In general.—A taxpayer may elect to have this section not apply for any taxable year.

(2) Time for making election.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

(3) Manner of making election.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary of the Treasury, or the Secretary’s delegate, may by regulations prescribe.

(f) Denial of Double Benefit.—No deduction shall be allowed under any provision of chapter 1 of the Internal Revenue Code of 1986 with respect to any amount taken in account in determining the credit allowed to a taxpayer under this section.