

110TH CONGRESS
1ST SESSION

S. 2209

To amend the Internal Revenue Code of 1986 to provide incentives to improve America's research competitiveness, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 2007

Mr. HATCH (for himself, Mr. BAUCUS, Ms. CANTWELL, Mr. SMITH, Mr. CRAPO, Ms. SNOWE, Mrs. LINCOLN, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives to improve America's research competitiveness, 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 "Research Credit Im-
5 provement Act of 2007".

1 **SEC. 2. SIMPLIFICATION OF RESEARCH AND DEVELOP-**
2 **MENT CREDIT.**

3 (a) TRANSITION TO FULLY-IMPLEMENTED SIM-
4 PLIFIED CREDIT FOR QUALIFIED RESEARCH EX-
5 PANSES.—

6 (1) PHASE-OUT OF TRADITIONAL CREDIT.—
7 Section 41(a) of the Internal Revenue Code of 1986
8 is amended—

9 (A) by striking “20 percent” each place it
10 appears and inserting “the applicable percent-
11 age”, and

12 (B) by adding at the end the following new
13 flush sentence:

14 “For purposes of this subsection, the term ‘applicable per-
15 centage’ means 20 percent with respect to taxable years
16 beginning in 2008 and 2009.”.

17 (2) PHASE-IN OF SIMPLIFIED CREDIT.—Section
18 41(c)(5)(A) of such Code is amended—

19 (A) by striking “12 percent” and inserting
20 “the applicable percentage”, and

21 (B) by adding at the end the following new
22 sentence: “For purposes of the preceding sen-
23 tence, the term ‘applicable percentage’ means
24 16 percent with respect to taxable years begin-
25 ning in 2008 and 18 percent with respect to
26 taxable years beginning in 2009.”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to taxable years begin-
3 ning after December 31, 2007.

4 (b) FULLY-IMPLEMENTED SIMPLIFIED CREDIT FOR
5 QUALIFIED RESEARCH EXPENSES.—

6 (1) IN GENERAL.—Subsection (a) of section 41
7 of the Internal Revenue Code of 1986 (relating to
8 credit for increasing research activities) is amended
9 to read as follows:

10 “(a) DETERMINATION OF CREDIT.—

11 “(1) IN GENERAL.—For purposes of section 38,
12 the research credit determined under this section for
13 the taxable year shall be equal to 20 percent of so
14 much of the qualified research expenses for such
15 taxable year as exceeds 50 percent of the average
16 qualified research expenses for the 3 taxable years
17 preceding the taxable year for which the credit is
18 being determined.

19 “(2) SPECIAL RULE IN CASE OF NO QUALIFIED
20 RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAX-
21 ABLE YEARS.—

22 “(A) TAXPAYERS TO WHICH PARAGRAPH
23 APPLIES.—The credit under this section shall
24 be determined under this paragraph if the tax-
25 payer has no qualified research expenses in at

1 least 1 of the 3 taxable years preceding the tax-
2 able year for which the credit is being deter-
3 mined.

4 “(B) CREDIT RATE.—The credit deter-
5 mined under this paragraph shall be equal to
6 10 percent of the qualified research expenses
7 for the taxable year.”.

8 (2) CONFORMING AMENDMENT.—Section 41 of
9 such Code is amended by striking subsection (c).

10 (c) UNIFORM REIMBURSEMENT RATES FOR ALL
11 CONTRACT RESEARCH EXPENSES OTHER THAN
12 AMOUNTS PAID FOR BASIC RESEARCH.—

13 (1) IN GENERAL.—Section 41(b)(3) of the In-
14 ternal Revenue Code of 1986 (relating to contract
15 research expenses) is amended—

16 (A) by striking “65 percent” and inserting
17 “80 percent”, and

18 (B) by striking subparagraphs (C) and
19 (D).

20 (2) BASIC RESEARCH PAYMENTS.—Section
21 41(b) of such Code is amended by redesignating
22 paragraph (4) as paragraph (5) and by inserting
23 after paragraph (3) the following new paragraph:

24 “(4) BASIC RESEARCH PAYMENTS.—

1 “(A) IN GENERAL.—In the case of basic
2 research payments by the taxpayer, paragraph
3 (3)(A) shall be applied by substituting ‘100 per-
4 cent’ for ‘80 percent’.

5 “(B) BASIC RESEARCH PAYMENTS DE-
6 FINED.—For purposes of this paragraph—

7 “(i) IN GENERAL.—The term ‘basic
8 research payment’ means, with respect to
9 any taxable year, any amount paid in cash
10 during such taxable year by a corporation
11 to any qualified organization for basic re-
12 search but only if—

13 “(I) such payment is pursuant to
14 a written agreement between such cor-
15 poration and such qualified organiza-
16 tion, and

17 “(II) such basic research is to be
18 performed by such qualified organiza-
19 tion.

20 “(ii) EXCEPTION TO REQUIREMENT
21 THAT RESEARCH BE PERFORMED BY THE
22 ORGANIZATION.—In the case of a qualified
23 organization described in clause (iii) or (iv)
24 of subparagraph (C), subclause (II) of
25 clause (i) shall not apply.

1 “(C) QUALIFIED ORGANIZATION.—For
2 purposes of this paragraph, the term ‘qualified
3 organization’ means any of the following orga-
4 nizations:

5 “(i) EDUCATIONAL INSTITUTIONS.—

6 Any educational organization which—

7 “(I) is an institution of higher
8 education (within the meaning of sec-
9 tion 3304(f)), and

10 “(II) is described in section
11 170(b)(1)(A)(ii).

12 “(ii) CERTAIN SCIENTIFIC RESEARCH
13 ORGANIZATIONS.—Any organization not
14 described in clause (i) which—

15 “(I) is described in section
16 501(c)(3) and is exempt from tax
17 under section 501(a),

18 “(II) is organized and operated
19 primarily to conduct scientific re-
20 search, and

21 “(III) is not a private founda-
22 tion.

23 “(iii) SCIENTIFIC TAX-EXEMPT ORGA-
24 NIZATIONS.—Any organization which—

1 “(I) is described in section
2 501(c)(3) (other than a private foun-
3 dation) or section 501(c)(6),

4 “(II) is exempt from tax under
5 section 501(a),

6 “(III) is organized and operated
7 primarily to promote scientific re-
8 search by qualified organizations de-
9 scribed in clause (i) pursuant to writ-
10 ten research agreements, and

11 “(IV) currently expends substan-
12 tially all of its funds or substantially
13 all of the basic research payments re-
14 ceived by it for grants to, or contracts
15 for basic research with, an organiza-
16 tion described in clause (i).

17 “(iv) CERTAIN GRANT ORGANIZA-
18 TIONS.—Any organization not described in
19 clause (ii) or (iii) which—

20 “(I) is described in section
21 501(c)(3) and is exempt from tax
22 under section 501(a) (other than a
23 private foundation),

24 “(II) is established and main-
25 tained by an organization established

1 before July 10, 1981, which meets the
2 requirements of subclause (I),

3 “(III) is organized and operated
4 exclusively for the purpose of making
5 grants to organizations described in
6 clause (i) pursuant to written research
7 agreements for purposes of basic re-
8 search, and

9 “(IV) makes an election, rev-
10 ocable only with the consent of the
11 Secretary, to be treated as a private
12 foundation for purposes of this title
13 (other than section 4940, relating to
14 excise tax based on investment in-
15 come).

16 “(D) DEFINITIONS AND SPECIAL RULES.—
17 For purposes of this paragraph—

18 “(i) BASIC RESEARCH.—The term
19 ‘basic research’ means any original inves-
20 tigation for the advancement of scientific
21 knowledge not having a specific commercial
22 objective, except that such term shall not
23 include—

24 “(I) basic research conducted
25 outside of the United States, and

1 “(II) basic research in the social
2 sciences, arts, or humanities.

3 “(ii) TRADE OR BUSINESS QUALIFICA-
4 TION.—For purposes of applying para-
5 graph (1) to this paragraph, any basic re-
6 search payments shall be treated as an
7 amount paid in carrying on a trade or
8 business of the taxpayer in the taxable
9 year in which it is paid (without regard to
10 the provisions of paragraph (3)(B)).

11 “(iii) CERTAIN CORPORATIONS NOT
12 ELIGIBLE.—The term ‘corporation’ shall
13 not include—

14 “(I) an S corporation,

15 “(II) a personal holding company
16 (as defined in section 542), or

17 “(III) a service organization (as
18 defined in section 414(m)(3)).”.

19 (3) CONFORMING AMENDMENTS.—

20 (A) Section 41 of such Code is amended by
21 striking subsection (e).

22 (B) Section 41(f) of such Code is amended
23 by striking paragraph (6).

24 (d) PERMANENT EXTENSION OF CREDIT.—

1 (1) IN GENERAL.—Section 41 of the Internal
2 Revenue Code of 1986 is amended by striking sub-
3 section (h).

4 (2) CONFORMING AMENDMENT.—Paragraph (1)
5 of section 45C(b) of such Code is amended by strik-
6 ing subparagraph (D).

7 (3) EFFECTIVE DATE.—The amendments made
8 by this subsection shall apply to taxable years begin-
9 ning after December 31, 2006.

10 (e) CONFORMING AMENDMENTS.—

11 (1) Section 41 of the Internal Revenue Code of
12 1986 is amended by redesignating subsections (d),
13 (f), and (g) as subsections (c), (d), and (e), respec-
14 tively.

15 (2) Paragraphs (2)(A) and (5) (as redesignated
16 by subsection (b)(2)) of section 41(b) of such Code
17 are each amended by striking “subsection (f)(1)”
18 and inserting “subsection (d)(1)”.

19 (3) Sections 45C(d)(3), 45G(e)(2), and
20 936(h)(5)(C)(i)(IV)(e) of such Code are each
21 amended by striking “section 41(f)” and inserting
22 “section 41(d)”.

23 (4) Section 54(l)(3)(A) of such Code is amend-
24 ed by striking “section 41(g)” and inserting “section
25 41(e)”.

1 (5) Section 170(e)(4)(B)(i) of such Code is
2 amended by striking “subparagraph (A) or subpara-
3 graph (B) of section 41(e)(6)” and inserting “clause
4 (i) or (ii) of section 41(b)(4)(C)”.

5 (6) Sections 197(f)(1)(C), 197(f)(9)(C)(i)(II),
6 and 280C(b)(3) of such Code are each amended by
7 striking “section 41(f)(1)” and inserting “section
8 41(d)(1)”.

9 (7) Section 280C(b)(3) of such Code is amend-
10 ed by striking “section 41(f)(5)” and inserting “sec-
11 tion 41(d)(5)”.

12 (8) Section 280C(b)(3) of such Code is amend-
13 ed by striking “section 41(f)(1)(B)” and inserting
14 “section 41(d)(1)(B)”.

15 (9) Section 280C(c)(1) of such Code is amend-
16 ed by striking “section 41(e)(2)” and inserting “sec-
17 tion 41(b)(4)(B)”.

18 (10) Section 280C(c)(2)(A) of such Code is
19 amended by striking “section 41(a)(1)” and insert-
20 ing “section 41(a)”.

21 (11) Sections 936(j)(5)(D) and 965(c)(2)(C)(i)
22 of such Code are each amended by striking “section
23 41(f)(3)” and inserting “section 41(d)(3)”.

1 (f) EFFECTIVE DATE.—Except as otherwise provided
2 in this section, the amendments made by this section shall
3 apply to taxable years beginning after December 31, 2009.

4 (g) STUDY OF COMPLIANCE WITH SUBSTANTIATION
5 REQUIREMENTS.—The Secretary of the Treasury or his
6 delegate shall, not later than 1 year after the date of the
7 enactment of this Act, conduct a study of taxpayer compli-
8 ance with the substantiation requirements for claiming the
9 credit allowed under section 41 of the Internal Revenue
10 Code of 1986, including a study of—

11 (1) whether taxpayers maintain adequate record
12 keeping to determine eligibility for, and correct
13 amount of, the credit,

14 (2) the impact of failure to comply with such
15 requirements on the oversight and enforcement re-
16 sponsibilities of the Internal Revenue Service, and

17 (3) the burdens imposed on other taxpayers by
18 failure to comply with such requirements.

19 The Secretary shall report the results of such study to
20 the Committee on Ways and Means of the House of Rep-
21 resentatives and the Committee on Finance of the Senate,
22 including any recommendations for administrative or leg-
23 islative actions which could be taken to improve compli-
24 ance with such requirements.

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