

112TH CONGRESS
1ST SESSION

S. 1577

To amend the Internal Revenue Code of 1986 to increase and make permanent the alternative simplified research credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2011

Mr. BAUCUS (for himself, Mr. HATCH, Mr. KERRY, Ms. SNOWE, Mr. WYDEN, Mr. CRAPO, Ms. STABENOW, Mr. CORNYN, Ms. CANTWELL, and Mr. MENENDEZ) 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 increase and make permanent the alternative simplified research credit, 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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Greater Research Opportunities With Tax Help Act” or
6 “GROWTH Act”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
2 shall be considered to be made to a section or other provi-
3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. PERMANENT EXTENSION AND MODIFICATION OF**
5 **RESEARCH CREDIT.**

6 (a) SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH
7 EXPENSES.—Subsection (a) of section 41 is amended to
8 read as follows:

9 “(a) GENERAL RULE.—For purposes of section 38,
10 the research credit determined under this section for the
11 taxable year shall be an amount equal to 20 percent of
12 so much of the qualified research expenses for the taxable
13 year as exceeds 50 percent of the average qualified re-
14 search expenses for the 3 taxable years preceding the tax-
15 able year for which the credit is being determined.”.

16 (b) SPECIAL RULES AND TERMINATION OF BASE
17 AMOUNT CALCULATION.—

18 (1) IN GENERAL.—Subsection (c) of section 41
19 is amended to read as follows:

20 “(c) SPECIAL RULE IN CASE OF NO QUALIFIED RE-
21 SEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE
22 YEARS.—

23 “(1) TAXPAYERS TO WHICH SUBSECTION AP-
24 PLIES.—The credit under this section shall be deter-
25 mined under this subsection, and not under sub-

1 section (a), if, in any one of the 3 taxable years pre-
2 ceding the taxable year for which the credit is being
3 determined, the taxpayer has no qualified research
4 expenses.

5 “(2) CREDIT RATE.—The credit determined
6 under this subsection shall be equal to 10 percent of
7 the qualified research expenses for the taxable
8 year.”.

9 (2) CONSISTENT TREATMENT OF EXPENSES.—
10 Subsection (b) of section 41 is amended by adding
11 at the end the following new paragraph:

12 “(5) CONSISTENT TREATMENT OF EXPENSES
13 REQUIRED.—

14 “(A) IN GENERAL.—Notwithstanding
15 whether the period for filing a claim for credit
16 or refund has expired for any taxable year in
17 the 3-taxable-year period taken into account
18 under subsection (a), the qualified research ex-
19 penses taken into account for such year shall be
20 determined on a basis consistent with the deter-
21 mination of qualified research expenses for the
22 credit year.

23 “(B) PREVENTION OF DISTORTIONS.—The
24 Secretary may prescribe regulations to prevent
25 distortions in calculating a taxpayer’s qualified

1 research expenses caused by a change in ac-
 2 counting methods used by such taxpayer be-
 3 tween the credit year and a year in such 3-tax-
 4 able-year period.”.

5 (c) INCLUSION OF QUALIFIED RESEARCH EXPENSES
 6 OF AN ACQUIRED PERSON.—

7 (1) PARTIAL INCLUSION OF PRE-ACQUISITION
 8 QUALIFIED RESEARCH EXPENSES.—Subparagraph
 9 (A) of section 41(f)(3) is amended to read as fol-
 10 lows:

11 “(A) ACQUISITIONS.—

12 “(i) IN GENERAL.—If a person ac-
 13 quires the major portion of a trade or busi-
 14 ness of another person (hereinafter in this
 15 paragraph referred to as the ‘predecessor’)
 16 or the major portion of a separate unit of
 17 a trade or business of a predecessor, then
 18 the amount of qualified research expenses
 19 paid or incurred by the acquiring person
 20 during the 3 taxable years preceding the
 21 taxable year in which the credit under this
 22 section is determined shall be increased
 23 by—

24 “(I) for purposes of applying this
 25 section for the taxable year in which

1 such acquisition is made, the amount
2 determined under clause (ii), and

3 “(II) for purposes of applying
4 this section for any taxable year after
5 the taxable year in which such acqui-
6 sition is made, so much of the quali-
7 fied research expenses paid or in-
8 curred by the predecessor with respect
9 to the acquired trade or business dur-
10 ing the portion of the measurement
11 period that is part of the 3-taxable-
12 year period preceding the taxable year
13 for which the credit is determined as
14 is attributable to the portion of such
15 trade or business or separate unit ac-
16 quired by such person.

17 “(ii) AMOUNT DETERMINED.—The
18 amount determined under this clause is the
19 amount equal to the product of—

20 “(I) so much of the qualified re-
21 search expenses paid or incurred by
22 the predecessor with respect to the ac-
23 quired trade or business during the 3
24 taxable years before the taxable year
25 in which the acquisition is made as is

1 attributable to the portion of such
2 trade or business or separate unit ac-
3 quired by the acquiring person, and

4 “(II) the number of months in
5 the period beginning on the date of
6 the acquisition and ending on the last
7 day of the taxable year in which the
8 acquisition is made,

9 divided by 12.

10 “(iii) SPECIAL RULES FOR COORDI-
11 NATING TAXABLE YEARS.—In the case of
12 an acquiring person and a predecessor
13 whose taxable years do not begin on the
14 same date—

15 “(I) each reference to a taxable
16 year in clauses (i) and (ii) shall refer
17 to the appropriate taxable year of the
18 acquiring person,

19 “(II) the qualified research ex-
20 penses paid or incurred by the prede-
21 cessor during each taxable year of the
22 predecessor any portion of which is
23 part of the measurement period shall
24 be allocated equally among the
25 months of such taxable year, and

1 “(III) the amount of such quali-
2 fied research expenses taken into ac-
3 count under clauses (i) and (ii) with
4 respect to a taxable year of the ac-
5 quiring person shall be equal to the
6 total of the expenses attributable
7 under subclause (II) to the months oc-
8 curring during such taxable year.

9 “(iv) MEASUREMENT PERIOD.—For
10 purposes of this subparagraph, the term
11 ‘measurement period’ means the taxable
12 year of the acquiring person in which the
13 acquisition is made and the 3 taxable years
14 of the acquiring person preceding such tax-
15 able year.”.

16 (2) EXPENSES OF A DISPOSING PERSON.—Sub-
17 paragraph (B) of section 41(f)(3) is amended to
18 read as follows:

19 “(B) DISPOSITIONS.—If a person disposes
20 of the major portion of any trade or business or
21 the major portion of a separate unit of a trade
22 or business in a transaction to which subpara-
23 graph (A) applies, and the disposing person fur-
24 nished to the acquiring person such information
25 as is necessary for the application of subpara-

1 graph (A), then, for purposes of applying this
2 section for any taxable year ending after such
3 disposition, the amount of qualified research ex-
4 penses paid or incurred by the disposing person
5 during the 3 taxable years preceding such tax-
6 able year shall be decreased by the amount of
7 the increase determined under subparagraph
8 (A) with respect to the acquiring person for
9 such taxable year.”.

10 (d) AGGREGATION OF EXPENDITURES.—Paragraph
11 (1) of section 41(f) is amended—

12 (1) by striking “shall be its proportionate
13 shares of the qualified research expenses, basic re-
14 search payments, and amounts paid or incurred to
15 energy research consortiums, giving rise to the cred-
16 it” in subparagraph (A)(ii) and inserting “shall be
17 determined on a proportionate basis to its share of
18 the aggregate qualified research expenses taken into
19 account by such controlled group for purposes of
20 this section”, and

21 (2) by striking “shall be its proportionate
22 shares of the qualified research expenses, basic re-
23 search payments, and amounts paid or incurred to
24 energy research consortiums, giving rise to the cred-
25 it” in subparagraph (B)(ii) and inserting “shall be

1 determined on a proportionate basis to its share of
2 the aggregate qualified research expenses taken into
3 account by all such persons under common control
4 for purposes of this section”.

5 (e) PERMANENT EXTENSION.—

6 (1) Section 41 is amended by striking sub-
7 section (h).

8 (2) Paragraph (1) of section 45C(b) is amended
9 by striking subparagraph (D).

10 (f) CONFORMING AMENDMENTS.—

11 (1) TERMINATION OF BASIC RESEARCH PAY-
12 MENT CALCULATION.—Section 41 is amended—

13 (A) by striking subsection (e),

14 (B) by redesignating subsection (g) as sub-
15 section (e), and

16 (C) by relocating subsection (e), as so re-
17 designated, immediately after subsection (d).

18 (2) SPECIAL RULES.—

19 (A) Paragraph (4) of section 41(f) is
20 amended by striking “and gross receipts”.

21 (B) Subsection (f) of section 41 is amend-
22 ed by striking paragraph (6).

23 (3) CROSS-REFERENCES.—

24 (A) Paragraph (2) of section 45C(c) is
25 amended by striking “base period research ex-

1 penses” and inserting “average qualified re-
2 search expenses”.

3 (B) Subparagraph (A) of section 54(l)(3)
4 is amended by striking “section 41(g)” and in-
5 serting “section 41(e)”.

6 (C) Clause (i) of section 170(e)(4)(B) is
7 amended to read as follows:

8 “(i) the contribution is to a qualified
9 organization,”.

10 (D) Paragraph (4) of section 170(e) is
11 amended by adding at the end the following
12 new subparagraph:

13 “(E) QUALIFIED ORGANIZATION.—For
14 purposes of this paragraph, the term ‘qualified
15 organization’ means—

16 “(i) any educational organization
17 which—

18 “(I) is an institution of higher
19 education (within the meaning of sec-
20 tion 3304(f)), and

21 “(II) is described in subsection
22 (b)(1)(A)(ii), or

23 “(ii) any organization not described in
24 clause (i) which—

1 “(I) is described in section
2 501(c)(3) and is exempt from tax
3 under section 501(a),

4 “(II) is organized and operated
5 primarily to conduct scientific re-
6 search, and

7 “(III) is not a private founda-
8 tion.”.

9 (E) Section 280C is amended—

10 (i) by striking “or basic research ex-
11 penses (as defined in section 41(e)(2))” in
12 subsection (c)(1),

13 (ii) by striking “section 41(a)(1)” in
14 subsection (c)(2)(A) and inserting “section
15 41(a)”, and

16 (iii) by striking “or basic research ex-
17 penses” in subsection (c)(2)(B).

18 (F) Clause (i) of section 1400N(l)(7)(B) is
19 amended by striking “section 41(g)” and insert-
20 ing “section 41(e)”.

21 (g) TECHNICAL CORRECTIONS.—Section 409 is
22 amended—

23 (1) by inserting “, as in effect before the enact-
24 ment of the Tax Reform Act of 1984)” after “sec-
25 tion 41(e)(1)(B)” in subsection (b)(1)(A),

1 (2) by inserting “, as in effect before the enact-
2 ment of the Tax Reform Act of 1984” after “relat-
3 ing to the employee stock ownership credit” in sub-
4 section (b)(4),

5 (3) by inserting “(as in effect before the enact-
6 ment of the Tax Reform Act of 1984)” after “sec-
7 tion 41(c)(1)(B)” in subsection (i)(1)(A),

8 (4) by inserting “(as in effect before the enact-
9 ment of the Tax Reform Act of 1984)” after “sec-
10 tion 41(c)(1)(B)” in subsection (m),

11 (5) by inserting “(as so in effect)” after “sec-
12 tion 48(n)(1)” in subsection (m),

13 (6) by inserting “(as in effect before the enact-
14 ment of the Tax Reform Act of 1984)” after “sec-
15 tion 48(n)” in subsection (q)(1), and

16 (7) by inserting “(as in effect before the enact-
17 ment of the Tax Reform Act of 1984)” after “sec-
18 tion 41” in subsection (q)(3).

19 (h) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graphs (2) and (3), the amendments made by this
22 section shall apply to taxable years beginning after
23 December 31, 2011.

1 (2) PERMANENT EXTENSION.—The amend-
2 ments made by subsection (e) shall apply to amounts
3 paid or incurred after December 31, 2011.

4 (3) TECHNICAL CORRECTIONS.—The amend-
5 ments made by subsection (g) shall take effect on
6 the date of the enactment of this Act.

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