

112TH CONGRESS  
1ST SESSION

# S. 88

To amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain stem cell research expenditures.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain stem cell research expenditures.

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 “Ethical Stem Cell Re-  
5 search Tax Credit Act of 2011”.

6 **SEC. 2. CREDIT FOR ETHICAL STEM CELL RESEARCH.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-  
8 chapter A of chapter 1 of the Internal Revenue Code of  
9 1986 is amended by adding at the end the following new  
10 section:

1 **“SEC. 45S. ETHICAL STEM CELL RESEARCH.**

2       “(a) ALLOWANCE OF CREDIT.—For purposes of sec-  
3 tion 38, in the case of an eligible taxpayer, the ethical stem  
4 cell research credit determined under this section for the  
5 taxable year shall be an amount equal to 30 percent of  
6 the qualified stem cell research expenses paid or incurred  
7 by the taxpayer during the taxable year.

8       “(b) ELIGIBLE TAXPAYER.—For purposes of this  
9 section, the term ‘eligible taxpayer’ means any taxpayer  
10 that elects the application of this section for the taxable  
11 year.

12       “(c) QUALIFIED STEM CELL RESEARCH EX-  
13 PENSES.—For purposes of this section—

14               “(1) IN GENERAL.—The term ‘qualified stem  
15 cell research expenses’ means expenses which are  
16 paid or incurred by the eligible taxpayer during the  
17 taxable year in carrying on basic and applied re-  
18 search to develop techniques for the isolation, deriva-  
19 tion, production, testing, and human clinical use of  
20 stem cells that may result in improved under-  
21 standing of or treatments for diseases and other ad-  
22 verse health conditions, no part of which may in-  
23 volve—

24                       “(A) the creation of a human embryo for  
25 research purposes,

1           “(B) the destruction of or discarding of, or  
2           risk of injury to, a human embryo, or

3           “(C) the use of any stem cell, the deriva-  
4           tion or provision of which would be inconsistent  
5           with subparagraph (A) or (B).

6           “(2) HUMAN EMBRYO.—The term ‘human em-  
7           bryo’ means any organism not protected as a human  
8           subject under part 46 of title 45, Code of Federal  
9           Regulations (as in effect on the date of the enact-  
10          ment of this section) that is derived by fertilization,  
11          parthenogenesis, cloning, or any other means from  
12          one or more human gametes or human diploid cells.

13          “(3) RISK OF INJURY.—The term ‘risk of in-  
14          jury’ means subjecting a human embryo to risk of  
15          injury or death greater than that allowed for re-  
16          search on a fetus in utero under section 498(b) of  
17          the Public Health Service Act (42 U.S.C. 289g(b))  
18          (as in effect on the date of the enactment of this  
19          section) and section 46.204(b) of title 45, Code of  
20          Federal Regulations (as so in effect).

21          “(d) TREATMENT OF QUALIFIED STEM CELL RE-  
22          SEARCH EXPENSES.—

23                 “(1) IN GENERAL.—Except as provided in para-  
24                 graph (2), any qualified stem cell research expenses  
25                 for a taxable year to which an election under this

1 section applies shall not be taken into account for  
2 purposes of determining the credit allowable under  
3 section 41 for such taxable year.

4 “(2) TREATED AS BASE PERIOD RESEARCH EX-  
5 PENSES.—Any qualified stem cell research expenses  
6 for any taxable year which are qualified research ex-  
7 penses (within the meaning of section 41(b)) shall be  
8 taken into account in determining base period re-  
9 search expenses for purposes of applying section 41  
10 to subsequent taxable years.

11 “(e) SPECIAL RULES.—

12 “(1) LIMITATION.—No credit shall be allowed  
13 under this section with respect to any stem cell re-  
14 search conducted by a corporation to which an elec-  
15 tion under section 936 applies.

16 “(2) AGGREGATION OF EXPENDITURES AND AL-  
17 LOCATIONS OF CREDIT.—Rules similar to the rules  
18 of paragraphs (1) and (2) of section 41(f) and sec-  
19 tion 41(g) shall apply for purposes of this section.”.

20 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
21 NESS CREDIT.—Section 38(b) of the Internal Revenue  
22 Code of 1986 is amended by striking “plus” at the end  
23 of paragraph (35), by striking the period at the end of  
24 paragraph (36) and inserting “, plus”, and by adding at  
25 the end the following new paragraph:

1           “(37) the ethical stem cell research credit deter-  
2           mined under section 45S(a).”.

3           (c) DENIAL OF DOUBLE BENEFIT.—Section 280C of  
4 the Internal Revenue Code of 1986 is amended by adding  
5 at the end the following new subsection:

6           “(j) ETHICAL STEM CELL RESEARCH CREDIT.—

7           “(1) IN GENERAL.—No deduction shall be al-  
8           lowed for that portion of the qualified stem cell re-  
9           search expenses (as defined in section 45S(c)(1))  
10          otherwise allowable as a deduction for the taxable  
11          year which is equal to the amount of the credit de-  
12          termined for such taxable year under section 45S(a).

13          “(2) SIMILAR RULE WHERE TAXPAYER CAP-  
14          ITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

15                  “(A) the amount of the credit determined  
16                  for the taxable year under section 45S(a), ex-  
17                  ceeds

18                  “(B) the amount allowable as a deduction  
19                  for such taxable year for qualified stem cell re-  
20                  search expenses (determined without regard to  
21                  paragraph (1)),

22          the amount chargeable to capital account for the  
23          taxable year for such expenses shall be reduced by  
24          the amount of such excess.

1           “(3) CONTROLLED GROUPS.—Paragraph (3) of  
2           subsection (b) shall apply for purposes of this sub-  
3           section.”.

4           (d) CLERICAL AMENDMENT.—The table of sections  
5           for subpart D of part IV of subchapter A of chapter 1  
6           of the Internal Revenue Code of 1986 is amended by add-  
7           ing at the end the following new item:

          “Sec. 45S. Ethical stem cell research.”.

8           (e) EFFECTIVE DATE.—The amendments made by  
9           this section shall apply to amounts paid or incurred after  
10          the date of the enactment of this Act.

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