106TH CONGRESS
1ST SESSION

S. 1010

To amend the Internal Revenue Code of 1986 to provide for a medical innovation tax credit for clinical testing research expenses attributable to academic medical centers and other qualified hospital research organizations.

IN THE SENATE OF THE UNITED STATES

MAY 11, 1999

Mr. JEFFORDS (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mrs. FEINSTEIN, and Mrs. BOXER) 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 for a medical innovation tax credit for clinical testing research expenses attributable to academic medical centers and other qualified hospital research organizations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR CLINICAL TESTING RESEARCH EXPENSES ATTRIBUTABLE TO CERTAIN QUALIFIED ACADEMIC INSTITUTIONS INCLUDING TEACHING HOSPITALS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting after section 41 the following:

"SEC. 41A. CREDIT FOR MEDICAL INNOVATION EXPENSES.

"(a) GENERAL RULE.—For purposes of section 38, the medical innovation credit determined under this section for the taxable year shall be an amount equal to 20 percent of the excess (if any) of—

"(1) the qualified medical innovation expenses for the taxable year, over

"(2) the medical innovation base period amount.

"(b) QUALIFIED MEDICAL INNOVATION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified medical innovation expenses' means the amounts which are paid or incurred by the taxpayer during the taxable year directly or indirectly to any qualified academic institution for clinical testing research activities.

"(2) CLINICAL TESTING RESEARCH ACTIVITIES.—

''(A) IN GENERAL.—The term 'clinical testing research activities' means human clinical testing conducted at any qualified academic institution in the development of any product, which occurs before—

''(i) the date on which an application with respect to such product is approved under section 505(b), 506, or 507 of the Federal Food, Drug, and Cosmetic Act,

''(ii) the date on which a license for such product is issued under section 351 of the Public Health Service Act, or

''(iii) the date classification or approval of such product which is a device intended for human use is given under section 513, 514, or 515 of the Federal Food, Drug, and Cosmetic Act.

''(B) PRODUCT.—The term 'product' means any drug, biologic, or medical device.

''(3) QUALIFIED ACADEMIC INSTITUTION.—The term 'qualified academic institution' means any of the following institutions:

''(A) EDUCATIONAL INSTITUTION.—A qualified organization described in section 170(b)(1)(A)(iii) which is owned or affiliated

with an institution of higher education as described in section 3304(f).

''(B) TEACHING HOSPITAL.—A teaching hospital which—

''(i) is publicly supported or owned by an organization described in section 501(c)(3), and

''(ii) is affiliated with an organization meeting the requirements of subparagraph (A).

''(C) FOUNDATION.—A medical research organization described in section 501(c)(3) (other than a private foundation) which is affiliated with, or owned by—

''(i) an organization meeting the requirements of subparagraph (A), or

''(ii) a teaching hospital meeting the requirements of subparagraph (B).

''(D) CHARITABLE RESEARCH HOSPITAL.—A hospital that is designated as a cancer center by the National Cancer Institute.

''(4) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified medical innovation expenses' shall not include any amount to the extent such amount is funded by any grant, con-

tract, or otherwise by another person (or any governmental entity).

''(c) MEDICAL INNOVATION BASE PERIOD AMOUNT.—For purposes of this section, the term 'medical innovation base period amount' means the average annual qualified medical innovation expenses paid by the taxpayer during the 3-taxable year period ending with the taxable year immediately preceding the first taxable year of the taxpayer beginning after December 31, 1998.

''(d) SPECIAL RULES.—

''(1) LIMITATION ON FOREIGN TESTING.—No credit shall be allowed under this section with respect to any clinical testing research activities conducted outside the United States.

''(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (f) and (g) of section 41 shall apply for purposes of this section.

''(3) ELECTION.—This section shall apply to any taxpayer for any taxable year only if such taxpayer elects to have this section apply for such taxable year.

''(4) COORDINATION WITH CREDIT FOR INCREASING RESEARCH EXPENDITURES AND WITH CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES.—Any qualified

medical innovation expense for a taxable year to which an election under this section applies shall not be taken into account for purposes of determining the credit allowable under section 41 or 45C for such taxable year.

''(e) TERMINATION.—This section shall not apply to any expense paid or incurred after the date specified in section 41(h)(1)(B).''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) of such Code (relating to current year business credits) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following:

''(13) the medical innovation expenses credit determined under section 41A(a).''.

(2) TRANSITION RULE.—Section 39(d) of such Code is amended by adding at the end the following new paragraph:

''(9) NO CARRYBACK OF SECTION 41A CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the medical innovation credit determined

under section 41A may be carried back to a taxable year beginning before January 1, 1999.''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C of such Code is amended by adding at the end the following new subsection:

''(d) CREDIT FOR INCREASING MEDICAL INNOVATION EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified medical innovation expenses (as defined in section 41A(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 41A(a).

''(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2), (3), and (4) of subsection (c) shall apply for purposes of this subsection.''.

(d) DEDUCTION FOR UNUSED PORTION OF CREDIT.—Section 196(c) of such Code (defining qualified business credits) is amended by resdesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) the medical innovation expenses credit determined under section 41A(a) (other than such

credit determined under the rules of section 280C(d)(2)),''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding after the item relating to section 41 the following:

''Sec. 41A. Credit for medical innovation expenses.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

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