

107TH CONGRESS  
1ST SESSION

# S. 515

To amend the Internal Revenue Code of 1986 to establish a permanent tax incentive for research and development, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 12, 2001

Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. FRIST, Mr. LIEBERMAN, Ms. SNOWE, Mr. ROCKEFELLER, Mr. KENNEDY, and Mr. BAYH) 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 establish a permanent tax incentive for research and development, 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 “Private Sector Re-  
5 search and Development Investment Act of 2001”.

6 **SEC. 2. PERMANENT EXTENSION OF RESEARCH CREDIT.**

7 (a) IN GENERAL.—Section 41 of the Internal Rev-  
8 enue Code of 1986 (relating to credit for increasing re-  
9 search activities) is amended by striking subsection (h).

1 (b) CONFORMING AMENDMENT.—Section 45C(b)(1)  
 2 of the Internal Revenue Code of 1986 is amended by strik-  
 3 ing subparagraph (D).

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply to amounts paid or incurred after  
 6 June 30, 2001.

7 **SEC. 3. IMPROVED ALTERNATIVE INCREMENTAL CREDIT.**

8 (a) IN GENERAL.—Section 41 of the Internal Rev-  
 9 enue Code of 1986 (relating to credit for increasing re-  
 10 search activities), as amended by section 2, is amended  
 11 by adding at the end the following new subsection:

12 “(h) ELECTION OF ALTERNATIVE INCREMENTAL  
 13 CREDIT.—

14 “(1) IN GENERAL.—At the election of the tax-  
 15 payer, the credit under subsection (a)(1) shall be de-  
 16 termined under this section by taking into account  
 17 the modifications provided by this subsection.

18 “(2) DETERMINATION OF BASE AMOUNT.—

19 “(A) IN GENERAL.—In computing the base  
 20 amount under subsection (c)—

21 “(i) notwithstanding subsection (c)(3),  
 22 the fixed-base percentage shall be equal to  
 23 80 percent of the percentage which the ag-  
 24 gregate qualified research expenses of the  
 25 taxpayer for the base period is of the ag-

1 aggregate gross receipts of the taxpayer for  
 2 the base period, and

3 “(ii) the minimum base amount under  
 4 subsection (c)(2) shall not apply.

5 “(B) START-UP AND SMALL TAXPAYERS.—

6 In computing the base amount under subsection  
 7 (c), the gross receipts of a taxpayer for any tax-  
 8 able year in the base period shall be treated as  
 9 at least equal to \$1,000,000.

10 “(C) BASE PERIOD.—For purposes of this  
 11 subsection, the base period is the 8-taxable year  
 12 period preceding the taxable year (or, if shorter,  
 13 the period the taxpayer (and any predecessor)  
 14 has been in existence).

15 “(3) ELECTION.—An election under this sub-  
 16 section shall apply to the taxable year for which  
 17 made and all succeeding taxable years unless re-  
 18 voked with the consent of the Secretary.”.

19 (b) CONFORMING AMENDMENT.—Section 41(c) of  
 20 the Internal Revenue Code of 1986 is amended by striking  
 21 paragraph (4) and by redesignating paragraphs (5) and  
 22 (6) as paragraphs (4) and (5), respectively.

23 (c) EFFECTIVE DATE.—The amendments made by  
 24 this section shall apply to taxable years beginning after  
 25 December 31, 2001.

1 **SEC. 4. MODIFICATIONS TO CREDIT FOR BASIC RESEARCH.**

2 (a) ELIMINATION OF INCREMENTAL REQUIRE-  
3 MENT.—

4 (1) IN GENERAL.—Paragraph (1) of section  
5 41(e) of the Internal Revenue Code of 1986 (relat-  
6 ing to credit allowable with respect to certain pay-  
7 ments to qualified organizations for basic research)  
8 is amended to read as follows:

9 “(1) IN GENERAL.—The amount of basic re-  
10 search payments taken into account under sub-  
11 section (a)(2) shall be determined in accordance with  
12 this subsection.”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 41(a)(2) of such Code is  
15 amended by striking “determined under sub-  
16 section (e)(1)(A)” and inserting “for the tax-  
17 able year”.

18 (B) Section 41(e) of such Code is amended  
19 by striking paragraphs (3), (4), and (5) and by  
20 redesignating paragraphs (6) and (7) as para-  
21 graphs (3) and (4), respectively.

22 (C) Section 41(e)(4) of such Code, as re-  
23 designated by subparagraph (B), is amended by  
24 striking subparagraph (B) and by redesignating  
25 subparagraphs (C), (D), and (E) as subpara-  
26 graphs (B), (C), and (D), respectively.

1 (D) Clause (i) of section 170(e)(4)(B) of  
 2 such Code is amended by striking “section  
 3 41(e)(6)” and inserting “section 41(e)(3)”.

4 (b) BASIC RESEARCH.—

5 (1) SPECIFIC COMMERCIAL OBJECTIVE.—Sec-  
 6 tion 41(e)(4) of the Internal Revenue Code of 1986  
 7 (relating to definitions and special rules), as redesign-  
 8 nated by subsection (a)(2)(B), is amended by adding  
 9 at the end the following new subparagraph:

10 “(E) SPECIFIC COMMERCIAL OBJECTIVE.—  
 11 For purposes of subparagraph (A), research  
 12 shall not be treated as having a specific com-  
 13 mercial objective if the results of such research  
 14 are to be published in a timely manner as to be  
 15 available to the general public prior to their use  
 16 for a commercial purpose.”.

17 (2) EXCLUSIONS FROM BASIC RESEARCH.—  
 18 Clause (ii) of section 41(e)(4)(A) of such Code (re-  
 19 lating to definitions and special rules), as redesign-  
 20 nated by subsection (a), is amended to read as fol-  
 21 lows:

22 “(ii) basic research in the arts and  
 23 humanities.”.

24 (c) EXPANSION OF CREDIT TO RESEARCH DONE AT  
 25 FEDERAL LABORATORIES.—Section 41(e)(3) of the Inter-

1 nal Revenue Code of 1986, as redesignated by subsection  
 2 (a), is amended by adding at the end the following new  
 3 subparagraph:

4 “(E) FEDERAL LABORATORIES.—Any or-  
 5 ganization which is a Federal laboratory (as de-  
 6 fined in section 4(6) of the Stevenson-Wydler  
 7 Technology Innovation Act of 1980 (15 U.S.C.  
 8 3703(6)).”.

9 (d) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply to taxable years beginning after  
 11 December 31, 2001.

12 **SEC. 5. CREDIT FOR EXPENSES ATTRIBUTABLE TO CER-**  
 13 **TAIN COLLABORATIVE RESEARCH CON-**  
 14 **SORTIA.**

15 (a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CER-  
 16 TAIN COLLABORATIVE RESEARCH CONSORTIA.—Sub-  
 17 section (a) of section 41 of the Internal Revenue Code of  
 18 1986 (relating to credit for increasing research activities)  
 19 is amended by striking “and” at the end of paragraph (1),  
 20 striking the period at the end of paragraph (2) and insert-  
 21 ing “, and ”, and by adding at the end the following new  
 22 paragraph:

23 “(3) 20 percent of the amounts paid or in-  
 24 curred by the taxpayer in carrying on any trade or  
 25 business of the taxpayer during the taxable year (in-

1 cluding as contributions) to a qualified research con-  
 2 sortium.”.

3 (b) QUALIFIED RESEARCH CONSORTIUM DE-  
 4 FINED.—Subsection (f) of section 41 of the Internal Rev-  
 5 enue Code of 1986 is amended by adding at the end the  
 6 following new paragraph:

7 “(6) QUALIFIED RESEARCH CONSORTIUM.—The  
 8 term ‘qualified research consortium’ means any  
 9 organization—

10 “(A) which is—

11 “(i) described in section 501(c)(3) and  
 12 is exempt from tax under section 501(a)  
 13 and is organized and operated primarily to  
 14 conduct scientific or engineering research,  
 15 or

16 “(ii) organized and operated primarily  
 17 to conduct scientific or engineering re-  
 18 search in the public interest (within the  
 19 meaning of section 501(c)(3)),

20 “(B) which is not a private foundation,

21 “(C) to which at least 5 unrelated persons  
 22 paid or incurred during the calendar year in  
 23 which the taxable year of the organization be-  
 24 gins amounts (including as contributions) to

“(D) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for scientific or engineering research.

9 All persons treated as a single employer under sub-  
10 section (a) or (b) of section 52 shall be treated as  
11 related persons for purposes of subparagraph (C)  
12 and as a single person for purposes of subparagraph  
13 (D).”.

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 41(b) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C).

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

20 SEC. 6. IMPROVEMENT TO CREDIT FOR SMALL BUSINESSES  
21 AND RESEARCH PARTNERSHIPS.

(a) ASSISTANCE TO SMALL AND START-UP BUSI-  
NESSES.—The Secretary of the Treasury or the Sec-  
retary's delegate shall take such actions as are appropriate  
to—



1           (1) provide assistance to small and start-up  
 2           businesses in complying with the requirements of  
 3           section 41 of the Internal Revenue Code of 1986,  
 4           and

5           (2) reduce the costs of such compliance.

6           (b) REPEAL OF LIMITATION ON CONTRACT RE-  
 7           SEARCH EXPENSES PAID TO SMALL BUSINESSES, UNI-  
 8           VERSITIES, AND FEDERAL LABORATORIES.—Section  
 9           41(b)(3) of the Internal Revenue Code of 1986, as amend-  
 10          ed by section 5(c), is amended by adding at the end the  
 11          following new subparagraph:

12                   “(C) AMOUNTS PAID TO ELIGIBLE SMALL  
 13                   BUSINESSES, UNIVERSITIES, AND FEDERAL  
 14                   LABORATORIES.—

15                   “(i) IN GENERAL.—In the case of  
 16                   amounts paid by the taxpayer to an eligible  
 17                   small business, an institution of higher  
 18                   education (as defined in section 3304(f)),  
 19                   or an organization which is a Federal lab-  
 20                   oratory (as defined in subsection  
 21                   (e)(3)(E)), subparagraph (A) shall be ap-  
 22                   plied by substituting ‘100 percent’ for ‘65  
 23                   percent’.

24                   “(ii) ELIGIBLE SMALL BUSINESS.—  
 25                   For purposes of this subparagraph, the

1 term ‘eligible small business’ means a  
2 small business with respect to which the  
3 taxpayer does not own (within the meaning  
4 of section 318) 50 percent or more of—

5 “(I) in the case of a corporation,  
6 the outstanding stock of the corpora-  
7 tion (either by vote or value), and

8 “(II) in the case of a small busi-  
9 ness which is not a corporation, the  
10 capital and profits interests of the  
11 small business.

12 “(iii) SMALL BUSINESS.—For pur-  
13 poses of this subparagraph—

14 “(I) IN GENERAL.—The term  
15 ‘small business’ means, with respect  
16 to any calendar year, any person if  
17 the annual average number of employ-  
18 ees employed by such person during  
19 either of the 2 preceding calendar  
20 years was 500 or fewer. For purposes  
21 of the preceding sentence, a preceding  
22 calendar year may be taken into ac-  
23 count only if the person was in exist-  
24 ence throughout the year.

1                   “(II) STARTUPS, CONTROLLED  
 2                   GROUPS, AND PREDECESSORS.—Rules  
 3                   similar to the rules of subparagraphs  
 4                   (B) and (D) of section 220(c)(4) shall  
 5                   apply for purposes of this clause.”.

6           (c) CREDIT FOR PATENT FILING FEES.—Section  
 7 41(a) of the Internal Revenue Code of 1986, as amended  
 8 by section 5(a), is amended by striking “and” at the end  
 9 of paragraph (2), by striking the period at the end of para-  
 10 graph (3) and inserting “, and”, and by adding at the  
 11 end the following new paragraph:

12                   “(4) 20 percent of the patent filing fees paid or  
 13                   incurred by a small business (as defined in sub-  
 14                   section (b)(3)(C)(iii)) to the United States or to any  
 15                   foreign government in carrying on any trade or busi-  
 16                   ness.”.

17           (d) EFFECTIVE DATE.—The amendments made by  
 18 this section shall apply to taxable years beginning after  
 19 December 31, 2001.

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