

104TH CONGRESS
1ST SESSION

S. 1052

To amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions and to provide for carryovers and carrybacks of unused credits.

IN THE SENATE OF THE UNITED STATES

JULY 20 (legislative day, JULY 10), 1995

Mr. HATCH (for himself and Mr. BAUCUS) 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 make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions and to provide for carryovers and carrybacks of unused credits.

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. CREDIT FOR CERTAIN CLINICAL TESTING EX-**
4 **PENSES MADE PERMANENT; CARRYOVER**
5 **AND CARRYBACK OF UNUSED CREDITS.**

6 (a) CREDIT MADE PERMANENT.—Section 28 of the
7 Internal Revenue Code of 1986 (relating to clinical testing

1 expenses for certain drugs for rare diseases or conditions)
2 is amended by striking subsection (e).

3 (b) CARRYOVER AND CARRYBACK OF UNUSED CRED-
4 ITS.—Paragraph (2) of section 28(d) of such Code is
5 amended by adding at the end the following flush sen-
6 tences:

7 “Rules similar to the rules of subsections (a), (b),
8 and (c) of section 39 shall apply to the credit under
9 this section. No credit under this section may be
10 carried under such rules to a taxable year beginning
11 before January 1, 1995.”

12 (c) TECHNICAL AMENDMENTS RELATED TO CARRY-
13 OVER AND CARRYBACK OF CREDITS.—

14 (1) CARRYOVER OF CREDIT.—

15 (A) Subsection (c) of section 381 of such
16 Code (relating to items of the distributor or
17 transferor corporation) is amended by adding at
18 the end thereof the following new paragraph:

19 “(27) CREDIT UNDER SECTION 28.—The ac-
20 quiring corporation shall take into account (to the
21 extent proper to carry out the purposes of this sec-
22 tion and section 28, and under such regulations as
23 may be prescribed by the Secretary) the items re-
24 quired to be taken into account for purposes of sec-

1 tion 28 in respect to the distributor or transferor
2 corporation.”

3 (B) Paragraph (2) of section 383(a) of
4 such Code (relating to special limitations on
5 certain excess credits, etc.) is amended by re-
6 designating subparagraphs (A) and (B) as sub-
7 subparagraphs (B) and (C), respectively, and by
8 inserting before subparagraph (B) (as so redesi-
9 gnated) the following new subparagraph:

10 “(A) any unused clinical testing credit
11 under section 28,”.

12 (2) CARRYBACK OF CREDIT.—

13 (A) Subparagraph (C) of section
14 6511(d)(4) of such Code (defining credit
15 carryback) is amended by inserting “any clini-
16 cal testing credit carryback under section 28
17 and” after “means”.

18 (B) Subsection (a) of section 6411 of such
19 Code (relating to tentative carryback and re-
20 fund adjustments) is amended—

21 (i) by inserting “by a clinical testing
22 credit carryback under section 28,” after
23 “172(b),” in the first sentence, and

24 (ii) by striking “net capital loss” the
25 first place it appears in the second sen-

1 tence and all that follows before “in the
2 manner and form” and inserting “net cap-
3 ital loss, unused clinical testing credit, or
4 unused business credit from which the
5 carryback results and within a period of 12
6 months after such taxable year or, with re-
7 spect to any portion of a clinical testing
8 credit carryback or business credit
9 carryback attributable to a net operating
10 loss carryback or a net capital loss
11 carryback from a subsequent taxable year,
12 within a period of 12 months from the end
13 of such subsequent taxable year or, with
14 respect to any portion of a business credit
15 carryback attributable to a clinical testing
16 credit carryback from a subsequent taxable
17 year within a period of 12 months from
18 the end of such subsequent taxable year,”.

19 (C) Paragraph (1) of section 6411(a) of
20 such Code is amended by inserting “unused
21 clinical testing credit,” after “net capital loss,”.

22 (d) EFFECTIVE DATE.—

23 (1) SUBSECTION (a).—The amendment made
24 by subsection (a) shall apply to amounts paid or in-
25 curred after December 31, 1994.

1 (2) CARRYOVERS AND CARRYBACKS.—The
2 amendments made by subsections (b) and (c) shall
3 apply to taxable years beginning after December 31,
4 1994.

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