

**Representative John L. Valentine** proposes to substitute the following bill:

**RESEARCH TAX CREDIT**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Howard C. Nielson**

5	Lyle W. Hillyard	Lorin V. Jones	Millie M. Peterson
6	Lane Beattie	L. Alma Mansell	L. Steven Poulton
7	Leonard M. Blackham	George Mantes	David H. Steele
8	David L. Buhler	Eddie P. Mayne	Robert C. Steiner
9	Mike Dmitrich	LeRay McAllister	Howard A. Stephenson
10	R. Mont Evans	Robert F. Montgomery	Pete Suazo
11	John P. Holmgren	Robert M. Muhlestein	Nathan C. Tanner
12	Scott N. Howell	Alarik Myrin	Craig L. Taylor
13	Joseph L. Hull	Craig A. Peterson	Blaze D. Wharton

14 AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING INDIVIDUAL INCOME  
15 TAX AND CORPORATE FRANCHISE AND INCOME TAX CREDITS FOR RESEARCH  
16 ACTIVITIES CONDUCTED IN THE STATE; AND PROVIDING FOR REVENUE AND  
17 TAXATION INTERIM COMMITTEE AND TAX REVIEW COMMISSION STUDIES.

18 This act affects sections of Utah Code Annotated 1953 as follows:

19 ENACTS:

20 **59-7-612**, Utah Code Annotated 1953

21 **59-10-131**, Utah Code Annotated 1953

22 This act enacts uncodified material.

23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section **59-7-612** is enacted to read:

25 **59-7-612. Credits for research activities conducted in the state -- Carry forward --**  
26 **Commission to report modification or repeal of federal credits -- Tax Review Commission**  
27 **study.**

1           (1) (a) For taxable years beginning on or after January 1, 1999, but beginning before  
2 December 31, 2010, a taxpayer meeting the requirements of this section shall qualify for the  
3 following nonrefundable credits for increasing research activities in this state:

4           (i) a research credit of 6% of the taxpayer's qualified research expenses for the current  
5 taxable year that exceed the base amount provided for under Subsection (4); and

6           (ii) a credit for payments to qualified organizations for basic research as provided in  
7 Section 41(e), Internal Revenue Code of 6% for the current taxable year that exceed the base  
8 amount provided for under Subsection (4).

9           (b) If a taxpayer qualifying for a credit under Subsection (1)(a) seeks to claim the credit,  
10 the taxpayer shall:

11           (i) claim the credit or a portion of the credit for the taxable year immediately following  
12 the taxable year for which the taxpayer qualifies for the credit;

13           (ii) carry the credit or a portion of the credit forward as provided in Subsection (4)(f); or

14           (iii) claim a portion of the credit and carry forward a portion of the credit as provided in  
15 Subsections (1)(b)(i) and (ii).

16           (c) The credits provided for in this section do not include the alternative incremental credit  
17 provided for in Section 41(c)(4), Internal Revenue Code.

18           (2) For purposes of claiming a credit under this section, a unitary group as defined in  
19 Section 59-7-101 is considered to be one taxpayer.

20           (3) Except as specifically provided for in this section:

21           (a) the credits authorized under Subsection (1) shall be calculated as provided in Section  
22 41, Internal Revenue Code; and

23           (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the  
24 credits authorized under Subsection (1).

25           (4) For purposes of this section:

26           (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal  
27 Revenue Code, except that:

28           (i) the base amount does not include the calculation of the alternative incremental credit  
29 provided for in Section 41(c)(4), Internal Revenue Code; and

30           (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources  
31 within this state as provided in Part 3, Allocation and Apportionment of Income -- Utah UDITPA

1 Provisions:

2 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that  
3 the term includes only basic research conducted in this state;

4 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that  
5 the term includes only qualified research conducted in this state;

6 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal  
7 Revenue Code, except that the term includes only those expenses incurred in conducting qualified  
8 research in this state;

9 (e) notwithstanding the provisions of Section 41(h), Internal Revenue Code, the credits  
10 provided for in this section shall not terminate if the credits terminate under Section 41, Internal  
11 Revenue Code; and

12 (f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,  
13 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit  
14 claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for  
15 a taxable year, the amount of the credit exceeding the liability:

16 (i) may be carried forward for a period that does not exceed the next 14 taxable years; and

17 (ii) may not be carried back to a taxable year preceding the current taxable year.

18 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
19 commission may make rules for purposes of this section prescribing a certification process for  
20 qualified organizations to ensure that amounts paid to the qualified organizations are for basic  
21 research conducted in this state.

22 (6) If a federal tax credit under Section 41, Internal Revenue Code, is modified or repealed,  
23 the commission shall report the modification or repeal to the Tax Review Commission within 60  
24 days after the day on which the modification or repeal becomes effective.

25 (7) (a) Except as provided in Subsection (7)(b), the Tax Review Commission shall review  
26 the credits provided for in this section on or before the earlier of:

27 (i) October 1 of the year after the year in which the commission reports under Subsection  
28 (6) a modification or repeal of a federal tax credit under Section 41, Internal Revenue Code; or

29 (ii) October 1, 2004.

30 (b) Notwithstanding Subsection (7)(a), the Tax Review Commission is not required to  
31 review the credits provided for in this section if the only modification to a federal tax credit under

1 Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section  
2 41(h), Internal Revenue Code.

3 (c) The Tax Review Commission shall address in a review under this section the:

4 (i) cost of the credit;

5 (ii) purpose and effectiveness of the credit;

6 (iii) whether the credit benefits the state; and

7 (iv) whether the credit should be:

8 (A) continued;

9 (B) modified; or

10 (C) repealed.

11 (d) If the Tax Review Commission reviews the credits provided for in this section, the Tax  
12 Review Commission shall report its findings to the Revenue and Taxation Interim Committee on  
13 or before the November interim meeting of the year in which the Tax Review Commission reviews  
14 the credits.

15 Section 2. Section **59-10-131** is enacted to read:

16 **59-10-131. Credits for research activities conducted in the state -- Carry forward --**  
17 **Commission to report modification or repeal of federal credits -- Tax Review Commission**  
18 **study.**

19 (1) (a) For taxable years beginning on or after January 1, 1999, but beginning before  
20 December 31, 2010, a taxpayer meeting the requirements of this section shall qualify for the  
21 following nonrefundable credits for increasing research activities in this state:

22 (i) a research credit of 6% of the taxpayer's qualified research expenses for the current  
23 taxable year that exceed the base amount provided for under Subsection (4); and

24 (ii) a credit for payments to qualified organizations for basic research as provided in  
25 Section 41(e), Internal Revenue Code of 6% for the current taxable year that exceed the base  
26 amount provided for under Subsection (4).

27 (b) If a taxpayer qualifying for a credit under Subsection (1)(a) seeks to claim the credit  
28 the taxpayer shall:

29 (i) claim the credit or a portion of the credit for the taxable year immediately following  
30 the taxable year for which the taxpayer qualifies for the credit;

31 (ii) carry the credit or a portion of the credit forward as provided in Subsection (4)(f); or

1 (iii) claim a portion of the credit and carry forward a portion of the credit as provided in  
2 Subsections (1)(b)(i) and (ii).

3 (c) The credits provided for in this section do not include the alternative incremental credit  
4 provided for in Section 41(c)(4), Internal Revenue Code.

5 (2) For purposes of claiming a credit under this section, a unitary group as defined in  
6 Section 59-7-101 is considered to be one taxpayer.

7 (3) Except as specifically provided for in this section:

8 (a) the credits authorized under Subsection (1) shall be calculated as provided in Section  
9 41, Internal Revenue Code; and

10 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the  
11 credits authorized under Subsection (1).

12 (4) For purposes of this section:

13 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal  
14 Revenue Code, except that:

15 (i) the base amount does not include the calculation of the alternative incremental credit  
16 provided for in Section 41(c)(4), Internal Revenue Code; and

17 (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources  
18 within this state as provided in Chapter 7, Part 3, Allocation and Apportionment of Income -- Utah  
19 UDITPA Provisions;

20 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that  
21 the term includes only basic research conducted in this state;

22 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that  
23 the term includes only qualified research conducted in this state;

24 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal  
25 Revenue Code, except that the term includes only those expenses incurred in conducting qualified  
26 research in this state;

27 (e) notwithstanding the provisions of Section 41(h), Internal Revenue Code, the credits  
28 provided for in this section shall not terminate if the credits terminate under Section 41, Internal  
29 Revenue Code; and

30 (f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,  
31 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit

1 claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for  
2 a taxable year, the amount of the credit exceeding the liability:

3 (i) may be carried forward for a period that does not exceed the next 14 taxable years; and

4 (ii) may not be carried back to a taxable year preceding the current taxable year.

5 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
6 commission may make rules for purposes of this section prescribing a certification process for  
7 qualified organizations to ensure that amounts paid to the qualified organizations are for basic  
8 research conducted in this state.

9 (6) If a federal tax credit under Section 41, Internal Revenue Code, is modified or repealed,  
10 the commission shall report the modification or repeal to the Tax Review Commission within 60  
11 days after the day on which the modification or repeal becomes effective.

12 (7) (a) Except as provided in Subsection (7)(b), the Tax Review Commission shall review  
13 the credits provided for in this section on or before the earlier of:

14 (i) October 1 of the year after the year in which the commission reports under Subsection  
15 (6) a modification or repeal of a federal tax credit under Section 41, Internal Revenue Code; or

16 (ii) October 1, 2004.

17 (b) Notwithstanding Subsection (7)(a), the Tax Review Commission is not required to  
18 review the credits provided for in this section if the only modification to a federal tax credit under  
19 Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section  
20 41(h), Internal Revenue Code.

21 (c) The Tax Review Commission shall address in a review under this section the:

22 (i) cost of the credit;

23 (ii) purpose and effectiveness of the credit;

24 (iii) whether the credit benefits the state; and

25 (iv) whether the credit should be:

26 (A) continued;

27 (B) modified; or

28 (C) repealed.

29 (d) If the Tax Review Commission reviews the credits provided for in this section, the Tax  
30 Review Commission shall report its findings to the Revenue and Taxation Interim Committee on  
31 or before the November interim meeting of the year in which the Tax Review Commission reviews

1 the credits.

2 Section 3. **Revenue and Taxation Interim Committee study.**

3 (1) The Revenue and Taxation Interim Committee shall, beginning on the May 1998  
4 interim meeting and ending on or before the November 1998 interim meeting, study the credits  
5 provided for in Sections 59-7-612 and 59-10-131.

6 (2) The Revenue and Taxation Interim Committee shall include in its study an analysis of:

7 (a) the cost of the credits;

8 (b) the purpose and effectiveness of the credits;

9 (c) whether the credits will benefit the state;

10 (d) whether to impose a limitation on the amount of credit a taxpayer may claim; and

11 (e) whether the credits should be:

12 (i) modified; or

13 (ii) repealed.

14 (3) The Revenue and Taxation Interim Committee may request assistance from the Tax  
15 Review Commission in conducting the study under this section.