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**RESEARCH TAX CREDIT**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Howard C. Nielson**

|                     |                      |                      |
|---------------------|----------------------|----------------------|
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AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING INDIVIDUAL INCOME TAX AND CORPORATE FRANCHISE AND INCOME TAX CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN THE STATE; PROVIDING PROCEDURES FOR THE TAX REVIEW COMMISSION TO STUDY THE CREDITS; AND PROVIDING AN EFFECTIVE DATE.

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

ENACTS:

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

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

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

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

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

(1) For taxable years beginning on or after January 1, 1999, a taxpayer may claim as provided in this section the following nonrefundable credits for increasing research activities in

1 this state:

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

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

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

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

10 (a) the credits authorized under Subsection (1) shall be calculated as provided in Section  
11 41, Internal Revenue Code; and

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

14 (4) For purposes of this section:

15 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal  
16 Revenue Code, except that a taxpayer's gross receipts include only those gross receipts attributable  
17 to sources within this state as provided in Part 3, Allocation and Apportionment of Income -- Utah  
18 UDITPA Provisions;

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

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

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

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

29 (f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,  
30 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit  
31 under this section exceeds a taxpayer's tax liability under this chapter for a taxable year, the

1 amount of the credit exceeding the liability:

2 (i) may be carried forward for a period that does not exceed the next 15 taxable years; and

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

4 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

5 commission may make rules for purposes of this section prescribing a certification process for

6 qualified organizations to ensure that amounts paid to the qualified organizations are for basic

7 research conducted in this state.

8 (6) If a federal tax credit under Section 41, Internal Revenue Code, is modified or repealed,

9 the commission shall report the modification or repeal to the Tax Review Commission within 60

10 days after the day on which the modification or repeal becomes effective.

11 (7) (a) Except as provided in Subsection (7)(b), the Tax Review Commission shall review

12 the credits provided for in this section on or before the earlier of:

13 (i) October 1 of the year after the year in which the commission reports under Subsection

14 (6) a modification or repeal of a federal tax credit under Section 41, Internal Revenue Code; or

15 (ii) October 1, 2002.

16 (b) Notwithstanding Subsection (7)(a), the Tax Review Commission is not required to

17 review the credits provided for in this section if the only modification to a federal tax credit under

18 Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section

19 41(h), Internal Revenue Code.

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

21 (i) cost of the credit;

22 (ii) purpose and effectiveness of the credit;

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

24 (iv) whether the credit should be:

25 (A) continued;

26 (B) modified; or

27 (C) repealed.

28 (d) If the Tax Review Commission reviews the credits provided for in this section, the Tax

29 Review Commission shall report its findings to the Revenue and Taxation Interim Committee on

30 or before the November interim meeting of the year in which the Tax Review Commission reviews

31 the credits.

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

2 **59-10-131. Credits for research activities conducted in the state -- Carry forward --**  
3 **Commission to report modification or repeal of federal credits -- Tax Review Commission**  
4 **study.**

5 (1) For taxable years beginning on or after January 1, 1999, a taxpayer may claim as  
6 provided in this section the following nonrefundable credits for increasing research activities in  
7 this state:

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

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

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

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

16 (a) the credits authorized under Subsection (1) shall be calculated as provided in Section  
17 41, Internal Revenue Code; and

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

20 (4) For purposes of this section:

21 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal  
22 Revenue Code, except that a taxpayer's gross receipts include only those gross receipts attributable  
23 to sources within this state as provided in Chapter 7, Part 3, Allocation and Apportionment of  
24 Income -- Utah UDITPA Provisions;

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

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

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

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

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

8 (i) may be carried forward for a period that does not exceed the next 15 taxable years; and

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

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

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

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

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

21 (ii) October 1, 2002.

22 (b) Notwithstanding Subsection (7)(a), the Tax Review Commission is not required to  
23 review the credits provided for in this section if the only modification to a federal tax credit under  
24 Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section  
25 41(h), Internal Revenue Code.

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

27 (i) cost of the credit;

28 (ii) purpose and effectiveness of the credit;

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

30 (iv) whether the credit should be:

31 (A) continued;

1           (B) modified; or

2           (C) repealed.

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

7           Section 3. **Effective date.**

8           This act takes effect on January 1, 1999.

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**Legislative Review Note**  
**as of 1-26-98 5:28 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**