

**RESEARCH ACTIVITIES TAX CREDITS
AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

This bill amends the Corporate Franchise and Income Taxes chapter and the Individual Income Tax Act to address tax credits for research activities.

Highlighted Provisions:

This bill:

- ▶ addresses the taxable year for which certain tax credits for research activities may be claimed;
- ▶ addresses Utah Tax Review Commission study requirements for the tax credits; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation for taxable years beginning on or after January 1, 2008.

Utah Code Sections Affected:

AMENDS:

59-7-612, as last amended by Laws of Utah 2007, Chapter 288



28 **59-7-613**, as last amended by Laws of Utah 1999, Chapter 59
 29 **59-10-1012**, as last amended by Laws of Utah 2007, Chapter 288
 30 **59-10-1013**, as renumbered and amended by Laws of Utah 2006, Chapter 223



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

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

34 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
 35 **forward -- Commission to report modification or repeal of certain federal provisions --**
 36 **Utah Tax Review Commission study.**

37 (1) (a) A taxpayer meeting the requirements of this section may claim the following
38 nonrefundable tax credits:

39 (i) a research tax credit of 7% of the taxpayer's qualified research expenses for the
40 current taxable year that exceed the base amount provided for under Subsection (4);

41 (ii) a tax credit for ~~[payments]~~ a payment to a qualified [organizations] organization for
42 basic research as provided in Section 41(e), Internal Revenue Code, of 7% for the current
43 taxable year that exceed the base amount provided for under Subsection (4); and

44 (iii) a tax credit equal to 5% of the taxpayer's qualified research expenses for the
45 current taxable year.

46 ~~[(b) (i) Except as provided in Subsection (1)(b)(ii), a taxpayer may:]~~

47 ~~[(A) claim the tax credit or a portion of the tax credit for the taxable year immediately~~
48 ~~following the taxable year for which the taxpayer qualifies for the tax credit;]~~

49 ~~[(B) carry forward the tax credit or a portion of the tax credit as provided in Subsection~~
50 ~~(5); or]~~

51 ~~[(C) claim a portion of the tax credit and carry forward a portion of the tax credit as~~
52 ~~provided in Subsections (1)(b)(i)(A) and (B).]~~

53 ~~[(ii) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).]~~

54 (b) Subject to Subsection (5), a taxpayer may claim a tax credit under:

55 (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs
56 the qualified research expenses; or

57 (ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment
58 to the qualified organization.

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

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

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

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

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

68 (4) For purposes of this section:

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

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

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

76 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
77 the base amount, a taxpayer:

78 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
79 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
80 and

81 (B) may not revoke an election to be treated as a start-up company under Subsection
82 (4)(a)(iii)(A);

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

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

87 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
88 Revenue Code, except that the term includes only:

89 (i) in-house research expenses incurred in this state; and

90 (ii) contract research expenses incurred in this state; and
91 (e) a tax credit provided for in this section is not terminated if a credit terminates under
92 Section 41, Internal Revenue Code.

93 (5) (a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or
94 (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the
95 tax credit exceeding the tax liability:

96 ~~[(a)]~~ (i) may be carried forward for a period that does not exceed the next 14 taxable
97 years; and

98 ~~[(b)]~~ (ii) may not be carried back to a taxable year preceding the current taxable year.

99 (b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

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

104 (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
105 commission shall report the modification or repeal to the Utah Tax Review Commission within
106 60 days after the day on which the modification or repeal becomes effective.

107 (8) (a) The Utah Tax Review Commission shall review the tax credits provided for in
108 this section on or before October 1 of the year after the year in which the commission reports
109 under Subsection (7) a modification or repeal of a provision of Section 41, Internal Revenue
110 Code.

111 (b) Notwithstanding Subsection (8)(a), the Utah Tax Review Commission is not
112 required to review the tax credits provided for in this section if the only modification to a
113 provision of Section 41, Internal Revenue Code, is the extension of the termination date
114 provided for in Section 41(h), Internal Revenue Code.

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

116 (i) the cost of the tax credits provided for in this section;

117 (ii) the purpose and effectiveness of the tax credits provided for in this section;

118 (iii) whether the tax credits provided for in this section benefit the state; and

119 (iv) whether the tax credits provided for in this section should be:

120 (A) continued;

121 (B) modified; or

122 (C) repealed.

123 (d) If the Utah Tax Review Commission reviews the tax credits provided for in this
124 section, the Utah Tax Review Commission shall report its findings to the Revenue and
125 Taxation Interim Committee on or before the November interim meeting of the year in which
126 the Utah Tax Review Commission reviews the tax credits.

127 Section 2. Section **59-7-613** is amended to read:

128 **59-7-613. Tax credits for machinery, equipment, or both primarily used for**
129 **conducting qualified research or basic research -- Carry forward -- Commission to report**
130 **modification or repeal of certain federal provisions -- Utah Tax Review Commission**
131 **study.**

132 (1) As used in this section:

133 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
134 that the term includes only basic research conducted in this state.

135 (b) "Equipment" includes:

- 136 (i) ~~computers~~ a computer;
- 137 (ii) computer equipment; and
- 138 (iii) computer software.

139 (c) "Purchase price":

140 (i) includes the cost of installing an item of machinery or equipment; and

141 (ii) does not include ~~sales or use taxes~~ a tax imposed under Chapter 12, Sales and Use
142 Tax Act, on an item of machinery or equipment.

143 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

144 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
145 that the term includes only qualified research conducted in this state.

146 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
147 January 1, 1999, but beginning before December 31, 2010, a taxpayer ~~shall qualify for~~
148 meeting the requirements of this section may claim the following nonrefundable tax credits ~~[for~~
149 ~~the taxable year in which the machinery, equipment, or both, meets the requirements of either~~
150 Subsection (2)(a)(i) or (2)(a)(ii)]:

151 (i) a tax credit of 6% of the purchase price of ~~either~~ machinery, equipment, or both:

- 152 (A) purchased by the taxpayer during the taxable year;
- 153 (B) that is [~~not exempt from sales or use taxes~~] subject to a tax under Chapter 12, Sales
154 and Use Tax Act; and
- 155 (C) that is primarily used to conduct qualified research in this state; and
- 156 (ii) a tax credit of 6% of the purchase price of [~~either~~] machinery, equipment, or both:
- 157 (A) purchased by the taxpayer during the taxable year;
- 158 (B) that is [~~not exempt from sales or use taxes~~] subject to a tax under Chapter 12, Sales
159 and Use Tax Act;
- 160 (C) that is donated to a qualified organization; and
- 161 (D) that is primarily used to conduct basic research in this state.
- 162 [~~(b) If a taxpayer qualifying for a credit under Subsection (2)(a) seeks to claim the~~
163 ~~credit, the taxpayer shall:~~]
- 164 [~~(i) claim the credit or a portion of the credit for the taxable year immediately~~
165 ~~following the taxable year for which the taxpayer qualifies for the credit;~~]
- 166 [~~(ii) carry the credit or a portion of the credit forward as provided in Subsection (5); or]~~
- 167 [~~(iii) claim a portion of the credit and carry forward a portion of the credit as provided~~
168 ~~in Subsections (2)(b)(i) and (ii).]~~
- 169 [~~(c) Notwithstanding Subsection (2)(a), if]~~
- 170 (b) Subject to Subsection (5), a taxpayer may claim a tax credit under this section for
171 the taxable year for which the taxpayer purchases the machinery, equipment, or both.
- 172 (c) If a taxpayer qualifies for a tax credit under Subsection (2)(a) for a purchase of
173 machinery, equipment, or both, the taxpayer may not claim the tax credit or carry the tax credit
174 forward if the machinery, equipment, or both, is primarily used to conduct qualified research in
175 the state for a time period that is less than 12 consecutive months.
- 176 (3) For purposes of claiming a tax credit under this section, a unitary group as defined
177 in Section 59-7-101 is considered to be one taxpayer.
- 178 (4) Notwithstanding [~~the provisions of~~] Section 41(h), Internal Revenue Code, [~~the~~
179 ~~credits~~] a tax credit provided for in this section [~~shall not terminate if the credits terminate~~] is
180 not terminated if a credit terminates under Section 41, Internal Revenue Code.
- 181 (5) [~~Notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,~~
182 ~~governing the carry forward and carry back of federal tax credits, if] If the amount of a tax~~

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

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

187 (b) may not be carried back to a taxable year preceding the current taxable year.

188 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 189 commission may make rules for purposes of this section prescribing a certification process for
 190 qualified organizations to ensure that ~~either~~ machinery, equipment, or both provided to the
 191 qualified organization is to be primarily used to conduct basic research in this state.

192 (7) If a ~~[federal tax credit under]~~ provision of Section 41, Internal Revenue Code, is
 193 modified or repealed, the commission shall report the modification or repeal to the Utah Tax
 194 Review Commission within 60 days after the day on which the modification or repeal becomes
 195 effective.

196 (8) (a) ~~[Except as provided in Subsection (8)(b), the]~~ The Utah Tax Review
 197 Commission shall review the tax credits provided for in this section on or before ~~[the earlier of:~~
 198 ~~(i)]~~ October 1 of the year after the year in which the commission reports under Subsection (7) a
 199 modification or repeal of a ~~[federal tax credit under]~~ provision of Section 41, Internal Revenue
 200 Code~~[-or]~~.

201 ~~[(ii) October 1, 2004.]~~

202 (b) Notwithstanding Subsection (8)(a), the Utah Tax Review Commission is not
 203 required to review the tax credits provided for in this section if the only modification to a
 204 ~~[federal tax credit under]~~ provision of Section 41, Internal Revenue Code, is the extension of
 205 the termination date provided for in Section 41(h), Internal Revenue Code.

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

207 (i) cost of the ~~[credit]~~ tax credits provided for in this section;

208 (ii) purpose and effectiveness of the ~~[credit]~~ tax credits provided for in this section;

209 (iii) whether the ~~[credit benefits]~~ tax credits provided for in this section benefit the
 210 state; and

211 (iv) whether the ~~[credit]~~ tax credits provided for in this section should be:

212 (A) continued;

213 (B) modified; or

214 (C) repealed.

215 (d) If the Utah Tax Review Commission reviews the tax credits provided for in this
216 section, the Utah Tax Review Commission shall report its findings to the Revenue and
217 Taxation Interim Committee on or before the November interim meeting of the year in which
218 the Utah Tax Review Commission reviews the tax credits.

219 Section 3. Section **59-10-1012** is amended to read:

220 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**
221 **forward -- Commission to report modification or repeal of certain federal provisions --**
222 **Utah Tax Review Commission study.**

223 (1) (a) A claimant, estate, or trust meeting the requirements of this section may claim
224 the following nonrefundable tax credits:

225 (i) a research tax credit of 7% of the claimant's, estate's, or trust's qualified research
226 expenses for the current taxable year that exceed the base amount provided for under
227 Subsection (3);

228 (ii) a tax credit for [~~payments~~] a payment to a qualified [organizations] organization for
229 basic research as provided in Section 41(e), Internal Revenue Code of 7% for the current
230 taxable year that exceed the base amount provided for under Subsection (3); and

231 (iii) a tax credit equal to 5% of the claimant's, estate's, or trust's qualified research
232 expenses for the current taxable year.

233 [~~(b) (i) Except as provided in Subsection (1)(b)(ii), a claimant, estate, or trust may:]~~

234 [~~(A) claim the tax credit or a portion of the tax credit for the taxable year immediately~~
235 ~~following the taxable year for which the claimant, estate, or trust qualifies for the tax credit;~~]

236 [~~(B) carry forward the tax credit or a portion of the tax credit as provided in Subsection~~
237 ~~(4); or]~~

238 [~~(C) claim a portion of the tax credit and carry forward a portion of the tax credit as~~
239 ~~provided in Subsections (1)(b)(i)(A) and (B).]~~

240 [~~(ii) A claimant, estate, or trust may not carry forward the tax credit allowed by~~
241 ~~Subsection (1)(a)(iii).]~~

242 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:

243 (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate,
244 or trust incurs the qualified research expenses; or

245 (ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust
246 makes the payment to the qualified organization.

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

249 (2) Except as specifically provided for in this section:

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

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

254 (3) For purposes of this section:

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

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

259 (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts
260 attributable to sources within this state as provided in Section 59-10-118; and

261 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
262 the base amount, a claimant, estate, or trust:

263 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
264 regardless of whether the claimant, estate, or trust meets the requirements of Section
265 41(c)(3)(B)(i)(I) or (II); and

266 (B) may not revoke an election to be treated as a start-up company under Subsection
267 (3)(a)(iii)(A);

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

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

272 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
273 Revenue Code, except that the term includes only:

274 (i) in-house research expenses incurred in this state; and

275 (ii) contract research expenses incurred in this state; and

276 (e) a tax credit provided for in this section is not terminated if a credit terminates under
277 Section 41, Internal Revenue Code.

278 (4) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under
279 Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this
280 chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

281 ~~[(a)]~~ (i) may be carried forward for a period that does not exceed the next 14 taxable
282 years; and

283 ~~[(b)]~~ (ii) may not be carried back to a taxable year preceding the current taxable year.

284 (b) A claimant, estate, or trust may not carry forward the tax credit allowed by
285 Subsection (1)(a)(iii).

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

290 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
291 commission shall report the modification or repeal to the Utah Tax Review Commission within
292 60 days after the day on which the modification or repeal becomes effective.

293 (7) (a) The Utah Tax Review Commission shall review the tax credits provided for in
294 this section on or before October 1 of the year after the year in which the commission reports
295 under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue
296 Code.

297 (b) Notwithstanding Subsection (7)(a), the Utah Tax Review Commission is not
298 required to review the tax credits provided for in this section if the only modification to a
299 provision of Section 41, Internal Revenue Code, is the extension of the termination date
300 provided for in Section 41(h), Internal Revenue Code.

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

302 (i) the cost of the tax credits provided for in this section;

303 (ii) the purpose and effectiveness of the tax credits provided for in this section;

304 (iii) whether the tax credits provided for in this section benefit the state; and

305 (iv) whether the tax credits provided for in this section should be:

306 (A) continued;

307 (B) modified; or

308 (C) repealed.

309 (d) If the Utah Tax Review Commission reviews the tax credits provided for in this
310 section, the Utah Tax Review Commission shall report its findings to the Revenue and
311 Taxation Interim Committee on or before the November interim meeting of the year in which
312 the Utah Tax Review Commission reviews the tax credits.

313 Section 4. Section **59-10-1013** is amended to read:

314 **59-10-1013. Tax credits for machinery, equipment, or both primarily used for**
315 **conducting qualified research or basic research -- Carry forward -- Commission to report**
316 **modification or repeal of certain federal provisions -- Utah Tax Review Commission**
317 **study.**

318 (1) As used in this section:

319 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
320 that the term includes only basic research conducted in this state.

321 (b) "Equipment" includes:

- 322 (i) ~~[computers]~~ a computer;
- 323 (ii) computer equipment; and
- 324 (iii) computer software.

325 (c) "Purchase price":

326 (i) includes the cost of installing an item of machinery or equipment; and

327 (ii) does not include ~~[sales or use taxes]~~ a tax imposed under Chapter 12, Sales and Use
328 Tax Act, on an item of machinery or equipment.

329 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

330 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
331 that the term includes only qualified research conducted in this state.

332 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
333 January 1, 1999, but beginning before December 31, 2010, a claimant, estate, or trust ~~[shall~~
334 ~~qualify for]~~ meeting the requirements of this section may claim the following nonrefundable
335 tax credits ~~[for the taxable year in which the machinery, equipment, or both, meets the~~
336 ~~requirements of either Subsection (2)(a)(i) or (2)(a)(ii)]~~:

337 (i) a tax credit of 6% of the purchase price of ~~[either]~~ machinery, equipment, or both:

- 338 (A) purchased by the claimant, estate, or trust during the taxable year;
- 339 (B) that is [~~not exempt from sales or use taxes~~] subject to a tax under Chapter 12, Sales
340 and Use Tax Act; and
- 341 (C) that is primarily used to conduct qualified research in this state; and
- 342 (ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for
343 [~~either~~] machinery, equipment, or both:
- 344 (A) purchased by the claimant, estate, or trust during the taxable year;
- 345 (B) that is [~~not exempt from sales or use taxes~~] subject to a tax under Chapter 12, Sales
346 and Use Tax Act;
- 347 (C) that is donated to a qualified organization; and
- 348 (D) that is primarily used to conduct basic research in this state.
- 349 [~~(b) If a claimant, estate, or trust qualifying for a tax credit under Subsection (2)(a)~~
350 ~~seeks to claim the tax credit, the claimant, estate, or trust shall:~~
- 351 [~~(i) claim the tax credit or a portion of the tax credit for the taxable year immediately~~
352 ~~following the taxable year for which the claimant, estate, or trust qualifies for the tax credit;~~]
- 353 [~~(ii) carry the tax credit or a portion of the tax credit forward as provided in Subsection~~
354 ~~(5); or]~~
- 355 [~~(iii) claim a portion of the tax credit and carry forward a portion of the tax credit as~~
356 ~~provided in Subsections (2)(b)(i) and (ii).]~~
- 357 [~~(c) Notwithstanding Subsection (2)(a), if]~~
- 358 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under
359 this section for the taxable year for which the claimant, estate, or trust purchases the machinery,
360 equipment, or both.
- 361 (c) If a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a
362 purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax
363 credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to
364 conduct qualified research in the state for a time period that is less than 12 consecutive months.
- 365 [~~(3) For purposes of claiming a tax credit under this section, a unitary group as defined~~
366 ~~in Section 59-7-101 is considered to be one claimant.]~~
- 367 [~~(4)~~] (3) Notwithstanding [~~the provisions of~~] Section 41(h), Internal Revenue Code,
368 [~~the tax credits~~] a tax credit provided for in this section [~~shall not terminate if the credits~~

369 ~~terminate]~~ is not terminated if a credit terminates under Section 41, Internal Revenue Code.

370 ~~[(5)] (4) [Notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue~~
371 ~~Code, governing the carry forward and carry back of federal tax credits, if] If~~ the amount of a
372 tax credit claimed by a claimant, estate, or trust under this section exceeds a claimant's, estate's,
373 or trust's tax liability under this chapter for a taxable year, the amount of the tax credit
374 exceeding the tax liability:

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

377 (b) may not be carried back to a taxable year preceding the current taxable year.

378 ~~[(6)] (5)~~ In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
379 Act, the commission may make rules for purposes of this section prescribing a certification
380 process for qualified organizations to ensure that ~~[either]~~ machinery, equipment, or both
381 provided to the qualified organization is to be primarily used to conduct basic research in this
382 state.

383 ~~[(7)] (6)~~ If a ~~[federal credit under]~~ provision of Section 41, Internal Revenue Code, is
384 modified or repealed, the commission shall report the modification or repeal to the Utah Tax
385 Review Commission within 60 days after the day on which the modification or repeal becomes
386 effective.

387 (7) (a) The Utah Tax Review Commission shall review the tax credits provided for in
388 this section on or before October 1 of the year after the year in which the commission reports
389 under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue
390 Code.

391 (b) Notwithstanding Subsection (7)(a), the Utah Tax Review Commission is not
392 required to review the tax credits provided for in this section if the only modification to a
393 provision of Section 41, Internal Revenue Code, is the extension of the termination date
394 provided for in Section 41(h), Internal Revenue Code.

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

396 (i) cost of the tax credits provided for in this section;

397 (ii) purpose and effectiveness of the tax credits provided for in this section;

398 (iii) whether the tax credits provided for in this section benefit the state; and

399 (iv) whether the tax credits provided for in this section should be:

400 (A) continued;
401 (B) modified; or
402 (C) repealed.
403 (d) If the Utah Tax Review Commission reviews the tax credits provided for in this
404 section, the Utah Tax Review Commission shall report its findings to the Revenue and
405 Taxation Interim Committee on or before the November interim meeting of the year in which
406 the Utah Tax Review Commission reviews the tax credits.
407 Section 5. **Retrospective operation.**
408 This bill has retrospective operation for taxable years beginning on or after January 1,
409 2008.

Legislative Review Note
as of 11-15-07 4:18 PM

Office of Legislative Research and General Counsel

H.B. 52 - Research Activities Tax Credits Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill could reduce the Education Fund on a one-time basis by \$14,500,000 in FY 2008.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Education Fund	\$0	\$0	\$0	(\$14,500,000)	\$0	\$0
Total	\$0	\$0	\$0	(\$14,500,000)	\$0	\$0

Individual, Business and/or Local Impact

Companies eligible for the new research credit would see a benefit a year earlier than originally anticipated.