

113TH CONGRESS
2D SESSION

S. 2715

To amend the Internal Revenue Code of 1986 to increase and make permanent the alternative simplified research credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2014

Mr. CARPER 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 increase and make permanent the alternative simplified research credit, 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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Competitiveness and Opportunity by Modernizing and
6 Permanently Extending the Tax Credit for Experimen-
7 tation Act of 2014” or the “COMPETE Act of 2014”.

8 (b) AMENDMENT OF 1986 CODE.—Except as other-
9 wise expressly provided, whenever in this Act an amend-
10 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
2 shall be considered to be made to a section or other provi-
3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. PERMANENT EXTENSION AND MODIFICATION OF**
5 **RESEARCH CREDIT.**

6 (a) SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH
7 EXPENSES.—Subsection (a) of section 41 is amended to
8 read as follows:

9 “(a) GENERAL RULE.—For purposes of section 38,
10 the research credit determined under this section for the
11 taxable year shall be an amount equal to 25 percent of
12 so much of the qualified research expenses for the taxable
13 year as exceeds 50 percent of the average qualified re-
14 search expenses for the 3 taxable years preceding the tax-
15 able year for which the credit is being determined.”.

16 (b) SPECIAL RULES AND TERMINATION OF BASE
17 AMOUNT CALCULATION.—

18 (1) IN GENERAL.—Subsection (c) of section 41
19 is amended to read as follows:

20 “(c) SPECIAL RULE IN CASE OF NO QUALIFIED RE-
21 SEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE
22 YEARS.—

23 “(1) TAXPAYERS TO WHICH SUBSECTION AP-
24 PLIES.—The credit under this section shall be deter-
25 mined under this subsection, and not under sub-

1 section (a), if, in any one of the 3 taxable years pre-
2 ceding the taxable year for which the credit is being
3 determined, the taxpayer has no qualified research
4 expenses.

5 “(2) CREDIT RATE.—The credit determined
6 under this subsection shall be equal to 10 percent of
7 the qualified research expenses for the taxable
8 year.”.

9 (2) CONSISTENT TREATMENT OF EXPENSES.—
10 Subsection (b) of section 41 is amended by adding
11 at the end the following new paragraph:

12 “(5) CONSISTENT TREATMENT OF EXPENSES
13 REQUIRED.—

14 “(A) IN GENERAL.—Notwithstanding
15 whether the period for filing a claim for credit
16 or refund has expired for any taxable year in
17 the 3-taxable-year period taken into account
18 under subsection (a), the qualified research ex-
19 penses taken into account for such year shall be
20 determined on a basis consistent with the deter-
21 mination of qualified research expenses for the
22 credit year.

23 “(B) PREVENTION OF DISTORTIONS.—The
24 Secretary may prescribe regulations to prevent
25 distortions in calculating a taxpayer’s qualified

1 research expenses caused by a change in ac-
 2 counting methods used by such taxpayer be-
 3 tween the credit year and a year in such 3-tax-
 4 able-year period.”.

5 (c) INCLUSION OF QUALIFIED RESEARCH EXPENSES
 6 OF AN ACQUIRED PERSON.—

7 (1) PARTIAL INCLUSION OF PRE-ACQUISITION
 8 QUALIFIED RESEARCH EXPENSES.—Subparagraph
 9 (A) of section 41(f)(3) is amended to read as fol-
 10 lows:

11 “(A) ACQUISITIONS.—

12 “(i) IN GENERAL.—If a person ac-
 13 quires the major portion of a trade or busi-
 14 ness of another person (hereinafter in this
 15 paragraph referred to as the ‘predecessor’)
 16 or the major portion of a separate unit of
 17 a trade or business of a predecessor, then
 18 the amount of qualified research expenses
 19 paid or incurred by the acquiring person
 20 during the 3 taxable years preceding the
 21 taxable year in which the credit under this
 22 section is determined shall be increased
 23 by—

24 “(I) for purposes of applying this
 25 section for the taxable year in which

1 such acquisition is made, the amount
2 determined under clause (ii), and

3 “(II) for purposes of applying
4 this section for any taxable year after
5 the taxable year in which such acqui-
6 sition is made, so much of the quali-
7 fied research expenses paid or in-
8 curred by the predecessor with respect
9 to the acquired trade or business dur-
10 ing the portion of the measurement
11 period that is part of the 3-taxable-
12 year period preceding the taxable year
13 for which the credit is determined as
14 is attributable to the portion of such
15 trade or business or separate unit ac-
16 quired by such person.

17 “(ii) AMOUNT DETERMINED.—The
18 amount determined under this clause is the
19 amount equal to the product of—

20 “(I) so much of the qualified re-
21 search expenses paid or incurred by
22 the predecessor with respect to the ac-
23 quired trade or business during the 3
24 taxable years before the taxable year
25 in which the acquisition is made as is

1 attributable to the portion of such
2 trade or business or separate unit ac-
3 quired by the acquiring person, and

4 “(II) the number of months in
5 the period beginning on the date of
6 the acquisition and ending on the last
7 day of the taxable year in which the
8 acquisition is made,

9 divided by 12.

10 “(iii) SPECIAL RULES FOR COORDI-
11 NATING TAXABLE YEARS.—In the case of
12 an acquiring person and a predecessor
13 whose taxable years do not begin on the
14 same date—

15 “(I) each reference to a taxable
16 year in clauses (i) and (ii) shall refer
17 to the appropriate taxable year of the
18 acquiring person,

19 “(II) the qualified research ex-
20 penses paid or incurred by the prede-
21 cessor during each taxable year of the
22 predecessor any portion of which is
23 part of the measurement period shall
24 be allocated equally among the
25 months of such taxable year, and

1 “(III) the amount of such quali-
2 fied research expenses taken into ac-
3 count under clauses (i) and (ii) with
4 respect to a taxable year of the ac-
5 quiring person shall be equal to the
6 total of the expenses attributable
7 under subclause (II) to the months oc-
8 curring during such taxable year.

9 “(iv) MEASUREMENT PERIOD.—For
10 purposes of this subparagraph, the term
11 ‘measurement period’ means the taxable
12 year of the acquiring person in which the
13 acquisition is made and the 3 taxable years
14 of the acquiring person preceding such tax-
15 able year.”.

16 (2) EXPENSES OF A PREDECESSOR.—Subpara-
17 graph (B) of section 41(f)(3) is amended to read as
18 follows:

19 “(B) DISPOSITIONS.—If the predecessor
20 furnished to the acquiring person such informa-
21 tion as is necessary for the application of sub-
22 paragraph (A), then, for purposes of applying
23 this section for any taxable year ending after
24 such disposition, the amount of qualified re-
25 search expenses paid or incurred by the prede-

1 cessor during the 3 taxable years preceding
2 such taxable year shall be reduced—

3 “(i) in the case of the taxable year in
4 which such disposition is made, by an
5 amount equal to the product of—

6 “(I) the amount of qualified re-
7 search expenses paid or incurred dur-
8 ing such 3 taxable years with respect
9 to the acquired business, and

10 “(II) the number of days in the
11 period beginning on the date of acqui-
12 sition (as determined for purposes of
13 subparagraph (A)(ii)(II)) and ending
14 on the last day of the taxable year of
15 the predecessor in which the disposi-
16 tion is made,

17 divided by the number of days in the tax-
18 able year of the predecessor, and

19 “(ii) in the case of any taxable year
20 ending after the taxable year in which such
21 disposition is made, the amount described
22 in clause (i)(I).”.

23 (d) AGGREGATION OF EXPENDITURES.—Paragraph
24 (1) of section 41(f), as amended by the American Tax-
25 payer Relief Act of 2012, is amended—

1 (1) by striking “of the qualified research ex-
2 penses, basic research payments, and amounts paid
3 or incurred to energy research consortiums,” in sub-
4 paragraph (A)(ii) and inserting “qualified research
5 expenses”, and

6 (2) by striking “of the qualified research ex-
7 penses, basic research payments, and amounts paid
8 or incurred to energy research consortiums,” in sub-
9 paragraph (B)(ii) and inserting “qualified research
10 expenses”.

11 (e) SPLIT 100 PERCENT CREDIT FOR CONTRACT RE-
12 SEARCH EXPENSES.—Subparagraph (A) of section
13 41(b)(3) is amended to read as follows:

14 “(A) IN GENERAL.—

15 “(i) TAXPAYERS PAYING FOR CON-
16 TRACTED RESEARCH.—The term ‘contract
17 research expenses’ means 65 percent of
18 any amount paid or incurred by the tax-
19 payer to any person (other than an em-
20 ployee of the taxpayer) for qualified re-
21 search.

22 “(ii) TAXPAYERS PERFORMING CON-
23 TRACTED RESEARCH.—In the case of a
24 taxpayer (other than an entity described in
25 subparagraph (C) or (D) or paragraph

1 (5)(C)) who receives amounts from any
2 person (other than an employer of the tax-
3 payer) for qualified research on behalf of
4 such person, the term ‘contract research
5 expenses’ means so much of the qualified
6 research expenses paid or incurred by the
7 taxpayer as does not exceed 35 percent of
8 the amounts so received from such person.

9 “(iii) SPECIAL RULES.—For purposes
10 of clause (ii)—

11 “(I) TRADE OR BUSINESS.—The
12 qualified research expenses of the tax-
13 payer shall be determined as if the
14 trade or business of the taxpayer were
15 the conduct of qualified research on
16 behalf of other persons.

17 “(II) RESEARCH NOT TREATED
18 AS FUNDED RESEARCH.—Subpara-
19 graph (H) of subsection (d)(4) shall
20 not apply.

21 “(III) QUALIFIED RESEARCH.—
22 The qualified research expenses of a
23 taxpayer shall be determined as if the
24 conditions of subparagraph (B) of
25 subsection (d)(1) are satisfied if the

1 business component described in sub-
 2 paragraph (B)(ii) thereof is a business
 3 component of either of the taxpayers
 4 described in clauses (i) and (ii).

5 “(IV) LIMITATION.—The quali-
 6 fied research expenses of a taxpayer
 7 shall not include any expenses that
 8 would not be eligible as in-house re-
 9 search expenses for purposes of para-
 10 graph (2).

11 “(iv) DENIAL OF DOUBLE BENEFIT.—
 12 The amount of any in-house research ex-
 13 penses taken into account under this sec-
 14 tion with respect to a taxpayer described in
 15 clause (ii) shall be reduced by the amount
 16 of the contract research expenses taken
 17 into account under such clause with re-
 18 spect to such taxpayer for the taxable
 19 year.”.

20 (f) INCLUSION OF BASIC RESEARCH PAYMENTS.—
 21 Subsection (b) of section 41 is amended by redesignating
 22 paragraph (5), as added by this section, as paragraph (6),
 23 and by inserting after paragraph (4) the following new
 24 paragraph:

25 “(5) BASIC RESEARCH PAYMENTS.—

1 “(A) IN GENERAL.—In the case of basic
2 research payments made by the taxpayer, para-
3 graph (3)(A) shall be applied by substituting
4 ‘100 percent’ for ‘65 percent’.

5 “(B) BASIC RESEARCH PAYMENTS.—For
6 purposes of this paragraph, the term ‘basic re-
7 search payment’ means, with respect to any
8 taxable year, any amount paid in cash during
9 such taxable year by a corporation to any quali-
10 fied organization for basic research, but only
11 if—

12 “(i) such payment is made pursuant
13 to a written agreement between such cor-
14 poration and such qualified organization,
15 and

16 “(ii) except in the case of a payment
17 to a qualified organization described in
18 clause (iii) or (iv) of subparagraph (C),
19 such basic research is to be performed by
20 such qualified organization.

21 “(C) QUALIFIED ORGANIZATION.—For
22 purposes of this paragraph, the term ‘qualified
23 organization’ means any of the following orga-
24 nizations:

1 “(i) EDUCATIONAL INSTITUTIONS.—

2 Any educational organization which—

3 “(I) is an institution of higher
4 education (within the meaning of sec-
5 tion 3304(f)), and

6 “(II) is described in section
7 170(b)(1)(A)(ii).

8 “(ii) CERTAIN SCIENTIFIC RESEARCH
9 ORGANIZATIONS.—Any organization not
10 described in clause (i) which—

11 “(I) is described in section
12 501(c)(3) and is exempt from tax
13 under section 501(a),

14 “(II) is organized and operated
15 primarily to conduct scientific re-
16 search, and

17 “(III) is not a private founda-
18 tion.

19 “(iii) SCIENTIFIC TAX-EXEMPT ORGA-
20 NIZATIONS.—Any organization which—

21 “(I) is described in section
22 501(c)(3) (other than a private foun-
23 dation) or section 501(c)(6),

24 “(II) is exempt from tax under
25 section 501(a),

1 “(III) is organized and operated
2 primarily to promote scientific re-
3 search by qualified organizations de-
4 scribed in clause (i) pursuant to writ-
5 ten research agreements, and

6 “(IV) currently expends substan-
7 tially all of its funds or substantially
8 all of the basic research payments re-
9 ceived by it for grants to, or contracts
10 for basic research with, an organiza-
11 tion described in clause (i).

12 “(iv) CERTAIN GRANT ORGANIZA-
13 TIONS.—Any organization not described in
14 clause (ii) or (iii) which—

15 “(I) is described in section
16 501(c)(3) and is exempt from tax
17 under section 501(a) (other than a
18 private foundation),

19 “(II) is established and main-
20 tained by an organization established
21 before July 10, 1981, which meets the
22 requirements of subclause (I),

23 “(III) is organized and operated
24 exclusively for the purpose of making
25 grants to organizations described in

1 clause (i) pursuant to written research
2 agreements for purposes of basic re-
3 search, and

4 “(IV) makes an election, rev-
5 ocable only with the consent of the
6 Secretary, to be treated as a private
7 foundation for purposes of this title
8 (other than section 4940, relating to
9 excise tax based on investment in-
10 come).

11 “(D) DEFINITIONS AND SPECIAL RULES.—

12 For purposes of this paragraph—

13 “(i) BASIC RESEARCH.—The term
14 ‘basic research’ means any original inves-
15 tigation for the advancement of scientific
16 knowledge not having a specific commercial
17 objective, except that such term shall not
18 include—

19 “(I) basic research conducted
20 outside of the United States, and

21 “(II) basic research in the social
22 sciences, arts, or humanities.

23 “(ii) TRADE OR BUSINESS QUALIFICA-
24 TION.—For purposes of applying para-
25 graph (1) to this paragraph, any basic re-

1 search payments shall be treated as an
2 amount paid in carrying on a trade or
3 business of the taxpayer in the taxable
4 year in which it is paid (without regard to
5 the provisions of paragraph (3)(B)).

6 “(iii) CERTAIN CORPORATIONS NOT
7 ELIGIBLE.—The term ‘corporation’ shall
8 not include—

9 “(I) an S corporation,

10 “(II) a personal holding company
11 (as defined in section 542), or

12 “(III) a service organization (as
13 defined in section 414(m)(3)).”.

14 (g) PERMANENT EXTENSION.—

15 (1) Section 41 is amended by striking sub-
16 section (h).

17 (2) Paragraph (1) of section 45C(b) is amended
18 by striking subparagraph (D).

19 (h) CONFORMING AMENDMENTS.—

20 (1) TERMINATION OF BASIC RESEARCH PAY-
21 MENT CALCULATION.—Section 41 is amended—

22 (A) by striking subsection (e),

23 (B) by redesignating subsection (g) as sub-
24 section (e), and

1 (C) by relocating subsection (e), as so re-
2 designated, immediately after subsection (d).

3 (2) SPECIAL RULES.—

4 (A) Paragraph (4) of section 41(f) is
5 amended by striking “and gross receipts”.

6 (B) Subsection (f) of section 41 is amend-
7 ed by striking paragraph (6).

8 (3) CROSS-REFERENCES.—

9 (A) Subparagraph (B) of section 45C(b)(1)
10 is amended—

11 (i) by striking “paragraph (3)(A)” in
12 clause (ii) and inserting “paragraph
13 (3)(A)(i)”,

14 (ii) by striking the period at the end
15 of clause (ii) and inserting “, and”,

16 (iii) by striking “and” at the end of
17 clause (i), and

18 (iv) by adding at the end the following
19 new clause:

20 “(iii) by disregarding clauses (ii), (iii),
21 and (iv) of paragraph (3)(A) of such sub-
22 section.”.

23 (B) Paragraph (2) of section 45C(c) is
24 amended by striking “base period research ex-

1 penses” and inserting “average qualified re-
2 search expenses”.

3 (C) Subparagraph (A) of section 54(l)(3)
4 is amended by striking “section 41(g)” and in-
5 serting “section 41(e)”.

6 (D) Clause (i) of section 170(e)(4)(B) is
7 amended by striking “subparagraph (A) or sub-
8 paragraph (B) of section 41(e)(6)” and insert-
9 ing “clause (i) or clause (ii) of section
10 41(b)(5)(C)”.

11 (E) Section 280C is amended—

12 (i) by striking “or basic research ex-
13 penses (as defined in section 41(e)(2))” in
14 subsection (c)(1),

15 (ii) by striking “section 41(a)(1)” in
16 subsection (c)(2)(A) and inserting “section
17 41(a)”, and

18 (iii) by striking “or basic research ex-
19 penses” in subsection (c)(2)(B).

20 (F) Clause (i) of section 1400N(l)(7)(B) is
21 amended by striking “section 41(g)” and insert-
22 ing “section 41(e)”.

23 (i) TECHNICAL CORRECTIONS.—Section 409 is
24 amended—

1 (1) by inserting “, as in effect before the enact-
2 ment of the Tax Reform Act of 1984)” after “sec-
3 tion 41(c)(1)(B)” in subsection (b)(1)(A),

4 (2) by inserting “, as in effect before the enact-
5 ment of the Tax Reform Act of 1984” after “relat-
6 ing to the employee stock ownership credit” in sub-
7 section (b)(4),

8 (3) by inserting “(as in effect before the enact-
9 ment of the Tax Reform Act of 1984)” after “sec-
10 tion 41(c)(1)(B)” in subsection (i)(1)(A),

11 (4) by inserting “(as in effect before the enact-
12 ment of the Tax Reform Act of 1984)” after “sec-
13 tion 41(c)(1)(B)” in subsection (m),

14 (5) by inserting “(as so in effect)” after “sec-
15 tion 48(n)(1)” in subsection (m),

16 (6) by inserting “(as in effect before the enact-
17 ment of the Tax Reform Act of 1984)” after “sec-
18 tion 48(n)” in subsection (q)(1), and

19 (7) by inserting “(as in effect before the enact-
20 ment of the Tax Reform Act of 1984)” after “sec-
21 tion 41” in subsection (q)(3).

22 (j) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as provided in para-
24 graphs (2) and (3), the amendments made by this

1 section shall apply to taxable years beginning after
2 December 31, 2014.

3 (2) PERMANENT EXTENSION.—The amend-
4 ments made by subsection (g) shall apply to
5 amounts paid or incurred after December 31, 2013.

6 (3) TECHNICAL CORRECTIONS.—The amend-
7 ments made by subsection (i) shall take effect on the
8 date of the enactment of this Act.

9 **SEC. 3. EXCEPTION FROM PASSIVE LOSS RULES FOR IN-**
10 **VESTMENTS IN HIGH TECHNOLOGY RE-**
11 **SEARCH SMALL BUSINESS PASS-THRU ENTI-**
12 **TIES.**

13 (a) IN GENERAL.—Subsection (c) of section 469 is
14 amended by redesignating paragraphs (4) through (7) as
15 paragraphs (5) through (8), respectively, and by inserting
16 after paragraph (3) the following new paragraph:

17 “(4) HIGH TECHNOLOGY RESEARCH ACTIVI-
18 TIES.—

19 “(A) IN GENERAL.—The term ‘passive ac-
20 tivity’ shall not include any qualified research
21 activity of the taxpayer carried on by a high
22 technology research small business pass-thru
23 entity.

24 “(B) TREATMENT OF LOSSES AND DEDUC-
25 TIONS.—

1 “(i) IN GENERAL.—Losses or deduc-
2 tions of a taxpayer relating to qualified re-
3 search activities carried on by a high tech-
4 nology research small business pass-thru
5 entity shall not be treated as losses or de-
6 ductions, respectively, from a passive activ-
7 ity except as provided in clause (ii) and
8 subparagraph (C).

9 “(ii) LIMITATION.—Clause (i) shall
10 apply to losses and deductions of a tax-
11 payer relating to a high technology small
12 business pass-thru entity for a taxable year
13 only to the extent that the aggregate losses
14 and deductions of the taxpayer relating to
15 qualified research activities of such entity
16 for such taxable year do not exceed the
17 portion of the taxpayer’s adjusted basis in
18 the taxpayer’s ownership interest in such
19 entity that is attributable to money or
20 other property contributed—

21 “(I) in exchange for such owner-
22 ship interest, and

23 “(II) specifically for use in con-
24 nection with qualified research activi-
25 ties.

1 For purposes of the preceding sentence,
2 the taxpayer’s basis shall not include any
3 portion of such basis which is attributable
4 to an increase in a partner’s share of the
5 liabilities of a partnership that is consid-
6 ered under section 752(a) as a contribution
7 of money.

8 “(C) TREATMENT OF CARRYOVERS.—Sub-
9 paragraph (B)(i) shall not apply to the portion
10 of any loss or deduction that is carried over
11 under subsection (b) into a taxable year other
12 than the taxable year in which such loss or de-
13 duction arose.

14 “(D) QUALIFIED RESEARCH ACTIVITY.—
15 For purposes of this paragraph, the term
16 ‘qualified research activity’ means any activity
17 constituting qualified research (within the
18 meaning of section 41(d)(1)(B) and taking into
19 account paragraphs (3) and (4) of section
20 41(d)) which involves a process of experimen-
21 tation.

22 “(E) HIGH TECHNOLOGY RESEARCH
23 SMALL BUSINESS PASS-THRU ENTITY.—For
24 purposes of this paragraph, the term ‘high tech-
25 nology research small business pass-thru entity’

1 means any domestic pass-thru entity for any
2 taxable year if—

3 “(i) either—

4 “(I) more than 75 percent of the
5 entity’s expenditures (including sala-
6 ries, rent and overhead) for such tax-
7 able year are paid or incurred in con-
8 nection with qualified research (within
9 the meaning of section 41(d)(1)(B),
10 taking into account paragraphs (3)
11 and (4) of section 41(d)) that involves
12 a process of experimentation con-
13 ducted by the entity, or

14 “(II) more than 50 percent of
15 the entity’s expenditures for such tax-
16 able year constitute qualified research
17 expenses (as defined in section 41(b),
18 but determined without regard to the
19 phrase ‘65 percent of’ in paragraph
20 (3)(A) thereof),

21 “(ii) such entity is a small business
22 (within the meaning of section
23 41(b)(3)(D)(iii), applied by substituting
24 ‘250’ for ‘500’ in subclause (I) thereof),
25 and

1 “(iii) at no time during the taxable
2 year does the entity have aggregate gross
3 assets in excess of \$150,000,000.

4 “(F) PROVISIONS RELATED TO AGGRE-
5 GATE GROSS ASSETS LIMITATION.—For pur-
6 poses of this paragraph—

7 “(i) IN GENERAL.—Except as other-
8 wise provided in this subparagraph, the
9 term ‘aggregate gross assets’ has the
10 meaning given such term in section
11 1202(d)(2).

12 “(ii) EXCEPTION FOR CERTAIN IN-
13 TANGIBLES.—Any section 197 intangible
14 (as defined in section 197(d) and deter-
15 mined without regard to section 197(e))
16 which is used directly in connection with
17 the research referred to in subparagraph
18 (E)(i) shall not be taken into account in
19 determining aggregate gross assets.

20 “(iii) EXCEPTION FOR CERTAIN FOL-
21 LOW-ON INVESTMENTS.—Cash from a sale
22 of equity interests shall not be taken into
23 account in determining aggregate gross as-
24 sets if—

1 “(I) the aggregate gross assets of
2 such entity (determined immediately
3 after such sale and without regard to
4 this clause) do not exceed the sum of
5 \$150,000,000, plus 25 percent of the
6 aggregate gross assets of such entity
7 (determined immediately before such
8 sale and without regard to this
9 clause), and

10 “(II) the aggregate gross assets
11 of such entity (determined imme-
12 diately before such sale and without
13 regard to this clause) do not exceed
14 \$150,000,000.

15 Sales of equity interests which are part of
16 the same plan or arrangement, or which
17 are carried out with the principal purpose
18 of increasing the amount of cash to which
19 this clause applies (determined without re-
20 gard to this sentence), shall be treated as
21 a single sale for purposes of this clause.

22 “(iv) INFLATION ADJUSTMENT.—In
23 the case of any taxable year beginning
24 after 2014, the \$150,000,000 amount in
25 subparagraph (E)(iii) and subclauses (I)

1 and (II) of clause (iii) shall each be in-
2 creased by an amount equal to—

3 “(I) such dollar amount, multi-
4 plied by

5 “(II) the cost of living adjust-
6 ment determined under section 1(f)(3)
7 for the calendar year in which the tax-
8 able year begins determined by sub-
9 stituting ‘calendar year 2013’ for ‘cal-
10 endar year 1992’ in subparagraph (B)
11 thereof.

12 Any increase determined under the pre-
13 ceding sentence shall be rounded to the
14 nearest \$100,000.

15 “(G) CAPITAL EXPENDITURES TAKEN INTO
16 ACCOUNT FOR EXPENDITURES TEST.—An ex-
17 penditure shall not fail to be taken into account
18 under subparagraph (E)(i) merely because such
19 expenditure is chargeable to capital account.

20 “(H) PASS-THRU ENTITY.—For purposes
21 of this paragraph, the term ‘pass-thru entity’
22 means any partnership, S corporation, or other
23 entity identified by the Secretary as a pass-thru
24 entity for purposes of this paragraph.

25 “(I) AGGREGATION RULES.—

1 “(i) IN GENERAL.—All persons treat-
2 ed as a single employer under subsection
3 (a) or (b) of section 52, or subsection (m)
4 or (o) of section 414, shall be treated as a
5 single entity for purposes of subparagraphs
6 (E) and (F)(iii).

7 “(ii) LIMITATION WHERE ENTITY
8 WOULD NOT QUALIFY.—No entity shall be
9 treated as a high technology research small
10 business pass-thru entity unless such enti-
11 ty qualifies as such both with and without
12 the application of clause (i).

13 “(J) ACTIVITIES NOT ENGAGED IN FOR
14 PROFIT AND ECONOMIC SUBSTANCE RULES.—
15 Section 183 and the economic substance rules
16 of section 7701(o) shall not apply to disallow
17 the losses, deductions, and credits of a high
18 technology research small business pass-thru
19 entity solely as a result of losses incurred by
20 such entity.”.

21 (b) MATERIAL PARTICIPATION NOT REQUIRED.—
22 Paragraph (5) of section 469(c) of such Code, as redesign-
23 nated by subsection (a), is amended by striking “and (3)”
24 in the heading and text and inserting “, (3), and (4)”.

1 (c) CERTAIN RESEARCH-RELATED DEDUCTIONS AND
2 CREDITS OF HIGH TECHNOLOGY RESEARCH SMALL
3 BUSINESS PASS-THRU ENTITIES ALLOWED FOR PUR-
4 POSES OF DETERMINING ALTERNATIVE MINIMUM TAX.—

5 (1) DEDUCTION FOR RESEARCH AND EXPERI-
6 MENTAL EXPENDITURES.—Paragraph (2) of section
7 56(b) of such Code is amended by adding at the end
8 the following new subparagraph:

9 “(E) EXCEPTION FOR HIGH TECHNOLOGY
10 RESEARCH SMALL BUSINESS PASS-THRU ENTI-
11 TIES.—In the case of a high technology re-
12 search small business pass-thru entity (as de-
13 fined in section 469(c)(4)), this paragraph shall
14 not apply to any amount allowable as a deduc-
15 tion under section 174(a).”.

16 (2) ALLOWANCE OF CERTAIN RESEARCH-RE-
17 LATED CREDITS.—Subparagraph (B) of section
18 38(c)(4) of such Code is amended by redesignating
19 clauses (ii) through (ix) as clauses (iii) through (x),
20 respectively, and by inserting after clause (i) the fol-
21 lowing new clause:

22 “(ii) the credits determined with re-
23 spect to an individual taxpayer under sec-
24 tions 41 and 48D to the extent attrib-
25 utable to a high technology research small

1 business pass-thru entity (as defined in
2 section 469(c)(4)).”.

3 (d) EXCEPTION TO LIMITATION ON PASS-THRU OF
4 RESEARCH CREDIT.—Subsection (g) of section 41 of such
5 Code is amended by adding at the end the following:
6 “Paragraphs (2) and (4) shall not apply with respect to
7 any high technology research small business pass-thru en-
8 tity (as defined in section 469(c)(4)).”

9 (e) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to losses and credits arising in tax-
11 able years beginning on or after December 31, 2014.

12 **SEC. 4. ENHANCED CREDIT FOR HIGHLY INNOVATIVE RE-**
13 **SEARCH.**

14 (a) IN GENERAL.—Section 41, as amended by this
15 Act, is amended by adding at the end the following new
16 subsection:

17 “(g) ENHANCED CREDIT FOR HIGHLY INNOVATIVE
18 RESEARCH.—

19 “(1) IN GENERAL.—In the case of any certified
20 highly innovative research expenses, subsection (a)
21 shall be applied by substituting ‘35 percent’ for ‘25
22 percent’.

23 “(2) CERTIFIED HIGHLY INNOVATIVE RE-
24 SEARCH EXPENSES.—For purposes of this sub-
25 section—

1 “(A) IN GENERAL.—The term ‘certified
2 highly innovative research expenses’ means any
3 qualified research expenses that—

4 “(i) are paid or incurred during the
5 taxable year for the creation of—

6 “(I) a qualified new product cat-
7 egory, or

8 “(II) product technology that
9 represents a significant improvement
10 over previously existing product tech-
11 nology, and

12 “(ii) are certified as provided in sub-
13 paragraph (D).

14 “(B) QUALIFIED NEW PRODUCT CAT-
15 EGORY.—The term ‘qualified new product cat-
16 egory’ means a category of product that—

17 “(i) has not previously been produced
18 by the taxpayer, and

19 “(ii) incorporates functions that are
20 substantially different from other products
21 previously produced by the taxpayer.

22 “(C) SIGNIFICANT IMPROVEMENT OVER
23 PREVIOUSLY EXISTING PRODUCT TECH-
24 NOLOGY.—Product technology satisfies the re-
25 quirements of subparagraph (A)(i)(II) if such

1 technology is an enhancement of a product
2 that—

3 “(i) requires the use of new tech-
4 niques or design methods to achieve such
5 enhancement, and

6 “(ii) represents a significant advance
7 in terms of the performance, energy con-
8 sumption, environmental benefit, public
9 health impact, cost, or size of the product.

10 “(D) CERTIFICATION BY NATIONAL
11 SCIENCE FOUNDATION OR NATIONAL INSTI-
12 TUTES OF HEALTH.—

13 “(i) IN GENERAL.—Qualified research
14 expenses shall not be treated as certified
15 highly innovative research expenses for any
16 taxable year unless such expenses, and the
17 project to which they relate, are certified
18 by—

19 “(I) the National Science Foun-
20 dation, or

21 “(II) the National Institutes of
22 Health,

23 whichever has appropriate jurisdiction over
24 the subject matter to which such expenses
25 relate, as meeting the requirements of sub-

1 paragraph (A)(i) (and any regulations or
2 guidance issued by the Secretary pursuant
3 to such subparagraph). Such certification
4 shall be provided by the National Science
5 Foundation under the program established
6 by section 4(b) of the COMPETE Act of
7 2014, or by the National Institutes of
8 Health under the program established by
9 section 4(c) of such Act, whichever is ap-
10 propriate, and shall be attached to the re-
11 turn of tax for such taxable year. In no
12 event shall any taxpayer apply for certifi-
13 cation to more than one of the entities de-
14 scribed in this subparagraph with respect
15 to the same expenses.

16 “(ii) ADVANCE CERTIFICATION.—

17 “(I) IN GENERAL.—The certifi-
18 cation of expenses under clause (i)
19 may be made and provided to the tax-
20 payer not more than 3 taxable years
21 before the first taxable year for which
22 the enhanced credit under this sub-
23 section will be claimed with respect to
24 such expenses.

1 “(II) REAPPLICATION.—The Na-
2 tional Science Foundation and the
3 National Institutes of Health shall
4 each establish and make publicly
5 available a cap on the number of
6 times a taxpayer who has been denied
7 certification under clause (i) with re-
8 spect to any qualified research ex-
9 penses may reapply for certification
10 for such expenses. The cap established
11 by each such entity shall permit not
12 fewer than 1 reapplication with re-
13 spect to any expenses.

14 “(iii) DURATION OF CERTIFI-
15 CATION.—

16 “(I) IN GENERAL.—The certifi-
17 cation under clause (i) shall apply to
18 expenses relating to the same project
19 (as identified in such certification) for
20 not more than 7 consecutive taxable
21 years, beginning with the first taxable
22 year for which the enhanced credit
23 under this subsection is claimed with
24 respect to such expenses.

1 “(II) SUPPORTING DOCUMENTA-
2 TION.—In the case of a certification
3 that applies for more than 1 taxable
4 year, the Secretary may require the
5 taxpayer to provide such documenta-
6 tion as the Secretary deems necessary
7 to demonstrate that the expenses to
8 which such certification relates con-
9 tinue to meet the requirements of sub-
10 paragraph (A)(i).

11 “(iv) LIMITATION ON CERTIFI-
12 CATIONS.—

13 “(I) IN GENERAL.—The total
14 dollar amount of expenses which are
15 certified by each entity under clause
16 (i) (including by means of advance
17 certification under clause (ii)) as high-
18 ly innovative research expenses for
19 purposes of credits determined in any
20 taxable year shall not exceed
21 \$500,000,000.

22 “(II) ADJUSTMENT FOR INFLA-
23 TION.—In the case of a taxable year
24 beginning after December 31, 2016,
25 the \$500,000,000 amount in sub-

1 clause (I) shall be increased by an
 2 amount equal to the product of such
 3 dollar amount and the cost-of-living
 4 adjustment determined under section
 5 1(f)(3) for the calendar year, deter-
 6 mined by substituting ‘calendar year
 7 2015’ for ‘calendar year 1992’ in sub-
 8 paragraph (B) thereof.

9 “(III) ROUNDING.—If any
 10 amount as adjusted under subclause
 11 (II) is not a multiple of \$1,000, such
 12 amount shall be rounded to the next
 13 highest multiple of \$1,000.”.

14 (b) CERTIFICATION BY NATIONAL SCIENCE FOUNDA-
 15 TION AS HIGHLY INNOVATIVE RESEARCH AND PRO-
 16 MOTION OF ENHANCED CREDIT.—The National Science
 17 Foundation Authorization Act of 2002 (Public Law 107–
 18 368) is amended by adding at the end the following:

19 **“SEC. 27. CERTIFICATION AS HIGHLY INNOVATIVE RE-**
 20 **SEARCH AND PROMOTION OF ENHANCED**
 21 **CREDIT.**

22 “(a) CERTIFICATION.—

23 “(1) IN GENERAL.—The Director shall establish
 24 a program that provides certification of research ex-
 25 penses as highly innovative research expenses for

1 purposes of the enhanced credit for highly innovative
2 research under section 41(g) of the Internal Revenue
3 Code of 1986.

4 “(2) APPLICATION.—A person that desires to
5 have research expenses certified as highly innovative
6 research expenses for purposes of the enhanced cred-
7 it for highly innovation research under section 41(g)
8 of the Internal Revenue Code of 1986, shall submit
9 to the Director an application containing such re-
10 quest at such time, in such manner, and accom-
11 panied by such information as the Director may re-
12 quire.

13 “(3) REVIEW OF SUBMISSIONS.—In carrying
14 out paragraph (1), the Director shall establish a re-
15 view process that involves—

16 “(A) a set group of reviewers from various
17 fields and backgrounds, and

18 “(B) published criteria, developed in con-
19 sultation with the Secretary of the Treasury
20 and the Secretary of Commerce, in accordance
21 with the requirements of section 41(g)(2)(A)(i)
22 of the Internal Revenue Code of 1986 and any
23 regulations or guidance issued by the Secretary
24 of the Treasury pursuant to such section.

1 “(4) TIME FOR REVIEW.—A certification under
2 this subsection shall be denied or approved within
3 120 days of the submission of the application under
4 paragraph (2) (270 days, in the case of an applica-
5 tion for advance certification under section
6 41(g)(2)(D)(ii) of the Internal Revenue Code of
7 1986).

8 “(b) PROMOTION OF ENHANCED CREDIT FOR HIGH-
9 LY INNOVATIVE RESEARCH.—The Director shall post on
10 the website of the National Science Foundation informa-
11 tion on the enhanced credit for highly innovative research
12 under section 41(g) of the Internal Revenue Code of 1986,
13 and the process for applying for certification of research
14 as highly innovative research.

15 “(c) CONFIDENTIALITY.—The Director and each re-
16 viewer described in subsection (a)(3)(A) shall keep con-
17 fidential any information provided by a person that desires
18 to have research expenses certified as highly innovative re-
19 search expenses pursuant to this section.”.

20 (c) CERTIFICATION BY NATIONAL INSTITUTES OF
21 HEALTH AS HIGHLY INNOVATIVE RESEARCH AND PRO-
22 MOTION OF ENHANCED CREDIT.—Part H of title IV of
23 the Public Health Service Act (42 U.S.C. 289 et seq.) is
24 amended by adding at the end the following:

1 **“SEC. 498E. CERTIFICATION AS HIGHLY INNOVATIVE RE-**
2 **SEARCH AND PROMOTION OF ENHANCED**
3 **CREDIT.**

4 “(a) CERTIFICATION.—

5 “(1) IN GENERAL.—The Director of NIH shall
6 establish a program that provides certification of re-
7 search expenses as highly innovative research ex-
8 penses for purposes of the enhanced credit for highly
9 innovative research under section 41(g) of the Inter-
10 nal Revenue Code of 1986.

11 “(2) APPLICATION.—A person that desires to
12 have research expenses certified as highly innovative
13 research expenses for purposes of the enhanced cred-
14 it for highly innovative research under section 41(g)
15 of the Internal Revenue Code of 1986, shall submit
16 to the Director of NIH an application containing
17 such request at such time, in such manner, and ac-
18 companied by such information as the Director may
19 require.

20 “(3) REVIEW OF SUBMISSIONS.—In carrying
21 out paragraph (1), the Director shall establish a re-
22 view process that involves—

23 “(A) a set group of reviewers from various
24 fields and backgrounds, and

25 “(B) published criteria, developed in con-
26 sultation with the Secretary of the Treasury

1 and the Secretary of Commerce, in accordance
2 with the requirements of section 41(g)(2)(A)(i)
3 of the Internal Revenue Code of 1986 and any
4 regulations or guidance issued by the Secretary
5 of the Treasury pursuant to such section.

6 “(4) TIME FOR REVIEW.—A certification under
7 this subsection shall be denied or approved within
8 120 days of the submission of the application under
9 paragraph (2) (270 days, in the case of an applica-
10 tion for advance certification under section
11 41(g)(2)(D)(ii) of the Internal Revenue Code of
12 1986).

13 “(b) PROMOTION OF ENHANCED CREDIT FOR HIGH-
14 LY INNOVATIVE RESEARCH.—The Director shall post on
15 the website of the National Institutes of Health informa-
16 tion on the enhanced credit for highly innovative research
17 under section 41(g) of the Internal Revenue Code of 1986,
18 and the process for applying for certification of research
19 as highly innovative research.

20 “(c) CONFIDENTIALITY.—The Director of NIH and
21 each reviewer described in subsection (a)(3)(A) shall keep
22 confidential any information provided by a person that de-
23 sires to have research expenses certified as highly innova-
24 tive research expenses pursuant to this section.”.

1 (d) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to expenses paid or incurred in
3 taxable years beginning after December 31, 2015.

4 **SEC. 5. CREDIT ALLOWED AGAINST ALTERNATIVE MIN-**
5 **IMUM TAX.**

6 (a) IN GENERAL.—Subparagraph (B) of section
7 38(c)(4) is amended—

8 (1) by redesignating clauses (ii), (iii), (iv), (v),
9 (vi), (vii), (viii), and (ix) as clauses (iii), (iv), (v),
10 (vi), (vii), (viii), (ix), and (x), respectively, and

11 (2) by inserting after clause (i) the following
12 new clause:

13 “(ii) for taxable years beginning after
14 December 31, 2013, the credit determined
15 under section 41,”.

16 (b) SPECIAL RULE FOR ENHANCED CREDIT FOR
17 HIGHLY INNOVATIVE RESEARCH.—Paragraph (4) of sec-
18 tion 38(c) is amended by adding at the end the following
19 new subparagraph:

20 “(C) SPECIAL RULE FOR ENHANCED
21 CREDIT FOR HIGHLY INNOVATIVE RESEARCH.—
22 In the case of any portion of the credit deter-
23 mined under section 41 which is attributable to
24 subsection (g) of such section—

1 “(i) subparagraph (A) shall be applied
2 separately with respect to such portion,
3 and

4 “(ii) paragraph (1) shall be applied to
5 such portion as if the amount determined
6 under subparagraph (B) of such paragraph
7 were zero.”.

8 (c) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2014.

11 **SEC. 6. TAX-EXEMPT FINANCING OF RESEARCH PARK FA-**
12 **CILITIES.**

13 (a) **IN GENERAL.**—Subsection (a) of section 142 is
14 amended—

15 (1) by striking “or” at the end of paragraph
16 (14),

17 (2) by striking the period at the end of para-
18 graph (15) and inserting “, or”, and

19 (3) by inserting at the end the following new
20 paragraph:

21 “(16) research park facilities.”.

22 (b) **DEFINITION.**—Section 142 is amended by insert-
23 ing at the end the following new subsection:

24 “(n) **RESEARCH PARK FACILITIES.**—For purposes of
25 subsection (a)(16), the term ‘research park facility’ means

1 a facility (including buildings, land, or other structures)
2 which is used in connection with research and experimen-
3 tation (as defined in section 168(i)(11)). For purposes of
4 the preceding sentence, such term includes facilities which
5 are directly related and ancillary to a research park facil-
6 ity (determined without regard to this sentence) if—

7 “(1) such facilities are located on the same site
8 as the research park facility, and

9 “(2) not more than 25 percent of the net pro-
10 ceeds of the issue are used to provide such facili-
11 ties.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply with respect to bonds issued on
14 or after the date of the enactment of this Act.

○