

H.R. 2020. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1996, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 919. A bill to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes (Rept. No. 104-117).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 103. A resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

James L. Dennis, of Louisiana, to be U.S. circuit judge for the Fifth Circuit.

(The above nomination was reported with the recommendation that he be confirmed.)

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation:

Roberta L. Gross, of the District of Columbia, to be Inspector General, National Aeronautics and Space Administration.

Vera Alexander, of Alaska, to be a member of the Marine Mammal Commission for a term expiring May 13, 1997.

Robert Clarke Brown, of New York, to be a member of the Board of Directors of the Metropolitan Washington Airports Authority for a term of 6 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself and Mr. BAUCUS):

S. 1052. A bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions and to provide for carryovers and carrybacks of unused credits; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. D'AMATO):

S. 1053. A bill to amend the Internal Revenue Code of 1986 to promote capital formation for the development of new businesses; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRESSLER (for himself, Mr. STEVENS, Mr. BAUCUS, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BUMPERS, Mr. COCHRAN, Mrs. FEINSTEIN, Mr. GORTON, Mr. HOLLINGS, Mr. KERRY, Mr. LAUTENBERG, Mr. LOTT, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PELL, Mr. PRYOR, Mr. ROTH, and Mr. SIMON):

S. Res. 155. A resolution expressing the sense of the Senate that the action taken by the Government of Japan against United States air cargo and passenger carriers represents a clear violation of the United States/Japan bilateral aviation agreement that is having severe repercussions on United States air carriers and, in general, customers of these United States carriers; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself and Mr. BAUCUS): S. 1052. A bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions and to provide for carryovers and carrybacks of unused credits; to the Committee on Finance.

THE ORPHAN DRUG ACT OF 1995

Mr. HATCH. Mr. President, today I am introducing the Orphan Drug Act of 1995, legislation to modify and extend permanently the orphan drug tax credit. Identical legislation has been introduced in the House by Representatives by NANCY JOHNSON and ROBERT MATSUI. This credit encourages private firms to develop treatments for rare diseases. As many of my colleagues know, this medical research tax credit expired at the end of 1994. I am pleased that my good friend and colleague from Montana, Senator BAUCUS, is joining me.

Since the 1983 enactment of the orphan drug tax credit, we have seen very encouraging progress in developing new drugs to alleviate suffering from a number of so-called orphan diseases. The name "orphan" was coined to reflect a perceived lack of concern about diseases that affect relatively small numbers of people.

Mr. President, the incentive provided by this credit gives hope to individuals who suffer from such rare but devastating conditions as Tourette's syndrome, Huntington's disease, and neurofibromatosis. Many drugs designated as orphan drugs have a much smaller potential market than even the 200,000 patients referred to in the definition in this bill—sometimes they are for conditions that affect as few as 1,000 persons in the United States. This means that without some incentive there is simply no possibility for a firm to profit from its decision to develop drugs that treat these diseases.

Fortunately, the "orphan" perception has been changing over the 12 years that this research credit has been in effect. In fact, Mr. President, pharmaceutical companies have made great strides in discovering treatments for these orphan diseases. While only seven orphan drugs were approved by the FDA in the decade before the credit's initial passage, over 100 have been approved since and approximately 600 are now in development.

For example, the FDA recently approved the first-ever treatment for Gaucher disease, a debilitating and sometimes fatal genetic disorder. This disease afflicts fewer than 5,000 people worldwide, yet Genzyme Corp. expended its time and money to search for a treatment precisely because of the orphan drug credit's incentives.

Mr. President, this credit's effectiveness has been tested for the past 12 years, and it has passed with flying colors. Few provisions of the tax code can claim to have clearly reduced human suffering and to have expanded our store of medical knowledge. This credit has done both.

By helping small, entrepreneurial firms to take advantage of the orphan drug credit, we can make it even more effective. Currently, Mr. President, the tax credit only serves as an incentive for companies that earn a current-year profit. Under the previous law, if the credit could not be used immediately, it was lost forever. For large, profitable drug companies, this was rarely a problem.

However, for many small, start-up pharmaceutical companies, this current-year restriction makes the credit of little or no use. These firms typically lose money in the early years since they put all available funding into research. They only expect to see profits many years into the future. While many of the Nation's drug breakthroughs have come from these small firms, Mr. President, the credit's current structure has left them out in the cold.

In order to improve the credit's usefulness, this bill will allow firms to carry the credit back 3 years and carry it forward 15 years. This will give small, growing companies an incentive to find ways to treat these rare diseases that cause so many to suffer.

In my home State of Utah, a healthy biomedical industry is emerging. In the course of research, scientists often stumble upon treatments that could, if developed, improve the lives of victims of rare diseases. However, because of the high cost of drug experiments and the enormous expense involved in gaining FDA approval, many researchers reluctantly set these promising drug innovations aside. Mr. President, this should not happen, not when so many are suffering from these rare diseases, and we have an effective credit available that has proven its benefits.

I urge my Senate colleagues to join me in sponsoring this legislation. Mr. President, I ask unanimous consent

that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR CERTAIN CLINICAL TESTING EXPENSES MADE PERMANENT; CARRYOVER AND CARRYBACK OF UNUSED CREDITS.

(a) CREDIT MADE PERMANENT.—Section 28 of the Internal Revenue Code of 1986 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking subsection (e).

(b) CARRYOVER AND CARRYBACK OF UNUSED CREDITS.—Paragraph (2) of section 28(d) of such Code is amended by adding at the end the following flush sentences:

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

(c) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

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

“(27) CREDIT UNDER SECTION 28.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 28, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 28 in respect to the distributor or transferor corporation.”

(B) Paragraph (2) of section 383(a) of such Code (relating to special limitations on certain excess credits, etc.) is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

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

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) of such Code (defining credit carryback) is amended by inserting “any clinical testing credit carryback under section 28 and” after “means”.

(B) Subsection (a) of section 6411 of such Code (relating to tentative carryback and refund adjustments) is amended—

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

(ii) by striking “net capital loss” the first place it appears in the second sentence and all that follows before “in the manner and form” and inserting “net capital loss, unused clinical testing credit, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of a clinical testing credit carryback or business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year or, with respect to any portion of a business credit carryback attributable to a clinical testing credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year.”

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

(d) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to amounts paid or incurred after December 31, 1994.

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

ADDITIONAL COSPONSORS

S. 187

At the request of Mr. MCCAIN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 187, a bill to provide for the safety of journeymen boxers, and for other purposes.

S. 254

At the request of Mr. LOTT, the names of the Senator from Utah [Mr. BENNETT], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 308

At the request of Mr. HATFIELD, the name of the Senator from Mississippi [Mr. COCHRAN] was withdrawn as a cosponsor of S. 308, a bill to increase access to, control the costs associated with, and improve the quality of health care in States through health insurance reform, State innovation, public health, medical research, and reduction of fraud and abuse, and for other purposes.

S. 356

At the request of Mr. SHELBY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 356, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 559

At the request of Mr. SIMPSON, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Tennessee [Mr. THOMPSON], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 559, a bill to amend the Lanham Act to require certain disclosures relating to materially altered films.

S. 863

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of S. 863, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 864

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of S. 864, a bill to amend title XVIII of the Social Security Act to provide for in-

creased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 955

At the request of Mr. HATCH, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Arizona [Mr. KYL] were added as cosponsors of S. 955, a bill to clarify the scope of coverage and amount of payment under the Medicare program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use.

S. 968

At the request of Mr. MCCONNELL, the names of the Senator from Idaho [Mr. KEMPTHORNE] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 974

At the request of Mr. GRASSLEY, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 974, a bill to prohibit certain acts involving the use of computers in the furtherance of crimes, and for other purposes.

S. 1009

At the request of Mr. D'AMATO, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1009, a bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes.

SENATE JOINT RESOLUTION 26

At the request of Mr. SIMPSON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 26, a joint resolution designating April 9, 1995, and April 9, 1996, as “National Former Prisoner of War Recognition Day.”

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from Louisiana [Mr. BREAU] was added as a cosponsor of Senate Resolution 146, a resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as “National Family Week,” and for other purposes.