

SECOND REGULAR SESSION

HOUSE BILL NO. 1579

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MAYHEW.

3260H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 620.1039, RSMo, and to enact in lieu thereof one new section relating to tax incentives.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 620.1039, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1039, to read as follows:

620.1039. 1. As used in this section, the ~~[term]~~ **following terms mean:**

- (1) "Additional qualified research expenses", the difference between qualified research expenses, as certified by the director of economic development, incurred in a tax year subtracted by the average of the taxpayer's qualified research expenses incurred in the three immediately preceding tax years;**
- (2) "Minority business enterprise", a business that is:**
 - (a) A sole proprietorship owned and controlled by a minority;**
 - (b) A partnership or joint venture owned and controlled by minorities in which at least fifty-one percent of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or**
 - (c) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it and that is at least fifty-one percent owned by one or more minorities or, if stock is issued, at least fifty-one percent of the stock is owned by one or more minorities;**
- (3) "Missouri qualified research and development equipment", tangible personal property that has not previously been used in this state for any purpose and**

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 is acquired by the purchaser for the purpose of research and development activities
19 devoted to experimental or laboratory research and development for new products, new
20 uses of existing products, or improving or testing existing products;

21 (4) "Qualified research expenses", for expenses within this state, the same
22 definition as in 26 U.S.C. Section 41, as amended;

23 (5) "Small business", a corporation, partnership, sole proprietorship, or other
24 business entity, including its affiliates, that:

25 (a) Is independently owned and operated; and

26 (b) Employs fifty or fewer full-time employees;

27 (6) "Taxpayer" [~~means~~], an individual, a partnership, or any charitable organization
28 [~~which~~] that is exempt from federal income tax and whose Missouri unrelated business
29 taxable income, if any, would be subject to the state income tax imposed under chapter 143,
30 or a corporation as described in section 143.441 or 143.471, or section 148.370[, and the term
31 "~~qualified research expenses~~" has the same meaning as prescribed in 26 U.S.C. 41];

32 (7) "Women's business enterprise", a business that is:

33 (a) A sole proprietorship owned and controlled by a woman;

34 (b) A partnership or joint venture owned and controlled by women in which at
35 least fifty-one percent of the ownership interest is held by women and the management
36 and daily business operations of which are controlled by one or more of the women who
37 own it; or

38 (c) A corporation or other entity whose management and daily business
39 operations are controlled by one or more women who own it and that is at least fifty-one
40 percent owned by women or, if stock is issued, at least fifty-one percent of the stock is
41 owned by one or more women.

42 2. (1) For tax years beginning on or after January 1, 2001, **but ending before**
43 **January 1, 2005**, the director of the department of economic development may authorize a
44 taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, or
45 chapter 148, other than the taxes withheld pursuant to sections 143.191 to 143.265, in an
46 amount up to six and one-half percent of the excess of the taxpayer's qualified research
47 expenses, as certified by the director of the department of economic development, within this
48 state during the taxable year over the average of the taxpayer's qualified research expenses
49 within this state over the immediately preceding three taxable years; except that, no tax credit
50 shall be allowed on that portion of the taxpayer's qualified research expenses incurred within
51 this state during the taxable year in which the credit is being claimed, to the extent such
52 expenses exceed two hundred percent of the taxpayer's average qualified research expenses
53 incurred during the immediately preceding three taxable years.

54 **(2) (a) For all tax years beginning on or after January 1, 2023, the director of**
55 **economic development may authorize a taxpayer to receive a tax credit against the tax**
56 **otherwise due under chapters 143 and 148, other than the taxes withheld under sections**
57 **143.191 to 143.265, in an amount equal to the greater of:**

58 **a. Fifteen percent of the taxpayer's additional qualified research expenses; or**
59 **b. If such qualified research expenses relate to research conducted in**
60 **conjunction with a public or private college or university located in this state, twenty**
61 **percent of the taxpayer's additional qualified research expenses.**

62 **(b) In no case shall a tax credit be allowed under this section for any portion of**
63 **qualified research expenses that exceed two hundred percent of the taxpayer's average**
64 **qualified research expenses incurred during the three immediately preceding tax years.**

65 3. The director of economic development shall prescribe the manner in which the tax
66 credit may be applied for. The tax credit authorized by this section may be claimed by the
67 taxpayer to offset the tax liability imposed by chapter 143 or chapter 148 that becomes due in
68 the tax year during which such qualified research expenses were incurred. **For tax years**
69 **ending before January 1, 2005**, where the amount of the credit exceeds the tax liability, the
70 difference between the credit and the tax liability may only be carried forward for the next
71 five succeeding taxable years or until the full credit has been claimed, whichever first occurs.
72 **For all tax years beginning on or after January 1, 2023, if the amount of the credit**
73 **exceeds the tax liability, the difference between the credit and the tax liability may be**
74 **carried forward only for the next twelve succeeding tax years or until the full credit has**
75 **been claimed, whichever occurs first.** The application for tax credits authorized by the
76 director pursuant to subsection 2 of this section shall be made no later than the end of the
77 taxpayer's tax period immediately following the tax period for which the credits are being
78 claimed.

79 4. **(1)** Certificates of tax credit issued pursuant to this section may be transferred,
80 sold or assigned by filing a notarized endorsement thereof with the department which names
81 the transferee and the amount of tax credit transferred. The director of economic
82 development may allow a taxpayer to transfer, sell or assign up to [~~forty~~] **one hundred**
83 **percent** of the amount of the certificates of tax credit issued to and not claimed by such
84 taxpayer pursuant to this section during any tax year commencing on or after January 1, 1996,
85 and ending not later than December 31, 1999. Such taxpayer shall file, by December 31,
86 2001, an application with the department which names the transferee, the amount of tax credit
87 desired to be transferred, and a certification that the funds received by the applicant as a result
88 of the transfer, sale or assignment of the tax credit shall be expended within three years at the
89 state university for the sole purpose of conducting research activities agreed upon by the
90 department, the taxpayer and the state university. Failure to expend such funds in the manner

91 prescribed pursuant to this section shall cause the applicant to be subject to the provisions of
92 section 620.017.

93 **(2) Tax credits provided under this program may be transferred, sold, or**
94 **assigned by filing a notarized endorsement thereof with the department that names the**
95 **transferee, the amount of tax credit transferred, the value received for the credit, and**
96 **any other information reasonably requested by the department. For a taxpayer with**
97 **flow-through tax treatment to its members, partners, or shareholders, the tax credit**
98 **shall be allowed to members, partners, or shareholders in proportion to their share of**
99 **ownership on the last day of the taxpayer's tax period.**

100 5. ~~[No rule or portion of a rule promulgated under the authority of this section shall~~
101 ~~become effective unless it has been promulgated pursuant to the provisions of chapter 536.~~
102 ~~All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and~~
103 ~~repealed; however, nothing in this section shall be interpreted to repeal or affect the validity~~
104 ~~of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions~~
105 ~~of chapter 536. The provisions of this section and chapter 536 are nonseverable and if any of~~
106 ~~the powers vested with the general assembly pursuant to chapter 536, including the ability to~~
107 ~~review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are~~
108 ~~subsequently held unconstitutional, then the purported grant of rulemaking authority and any~~
109 ~~rule so proposed and contained in the order of rulemaking shall be invalid and void.]~~

110 **Purchases of Missouri qualified research and development equipment are hereby**
111 **specifically exempted from all state and local sales and use tax including, but not limited**
112 **to, sales and use tax authorized or imposed under section 32.085 and chapter 144.**

113 6. **The department may adopt such rules, statements of policy, procedures,**
114 **forms, and guidelines as may be necessary to carry out the provisions of this section.**
115 **Any rule or portion of a rule, as that term is defined in section 536.010, that is created**
116 **under the authority delegated in this section shall become effective only if it complies**
117 **with and is subject to all of the provisions of chapter 536 and, if applicable, section**
118 **536.028. This section and chapter 536 are nonseverable, and if any of the powers vested**
119 **with the general assembly pursuant to chapter 536 to review, to delay the effective date,**
120 **or to disapprove and annul a rule are subsequently held unconstitutional, then the grant**
121 **of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall**
122 **be invalid and void.**

123 ~~[6-]~~ 7. **(1) For tax years ending before January 1, 2005, the aggregate of all tax**
124 **credits authorized pursuant to this section shall not exceed nine million seven hundred**
125 **thousand dollars in any year.**

126 **(2) (a) For all tax years beginning on and after January 1, 2023, the aggregate of**
127 **all tax credits authorized under this section shall not exceed ten million dollars in any**
128 **year.**

129 **(b) Five million dollars of such ten million dollars shall be reserved for minority**
130 **business enterprises, women's business enterprises, and small businesses. Any reserved**
131 **amount not issued or awarded to a minority business enterprise, women's business**
132 **enterprise, or small business by November first of the tax year may be issued to any**
133 **taxpayer otherwise eligible for a tax credit under this section.**

134 **(c) No single taxpayer shall be issued or awarded more than three hundred**
135 **thousand dollars in tax credits under this section in any year.**

136 ~~[7. For all tax years beginning on or after January 1, 2005, no tax credits shall be~~
137 ~~approved, awarded, or issued to any person or entity claiming any tax credit under this~~
138 ~~section.]~~

139 **8. Under section 23.253 of the Missouri sunset act:**

140 **(1) The provisions of the new program authorized under this section shall**
141 **automatically sunset on December thirty-first six years after the effective date of this**
142 **section unless reauthorized by an act of the general assembly; and**

143 **(2) If such program is reauthorized, the program authorized under this section**
144 **shall automatically sunset on December thirty-first twelve years after the effective date**
145 **of the reauthorization of this section; and**

146 **(3) This section shall terminate on September first of the calendar year**
147 **immediately following the calendar year in which the program authorized under this**
148 **section is sunset.**

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