

FIRST REGULAR SESSION

HOUSE BILL NO. 690

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MAYHEW.

1400H.011

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 credits.

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Section A. Section 620.1039, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1039, to read as follows: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 "taxpayer" means an individual, a partnership, or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143, or a corporation as described in section 143.441 or 143.471, or section 148.370, and the term "qualified research expenses" has the same meaning as prescribed in 26 U.S.C. 41.

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

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.

17 percent of the taxpayer's average qualified research expenses incurred during the immediately
18 preceding three taxable years.

19 **(2) For all tax years beginning on or after January 1, 2022, the director of the**
20 **department of economic development may authorize a taxpayer to receive a tax credit**
21 **against the tax otherwise due under chapters 143 and 148, other than the taxes withheld**
22 **under sections 143.191 to 143.265, in an amount up to ten percent of the excess of the**
23 **taxpayer's qualified research expenses, or seventeen percent of the excess of the taxpayer's**
24 **qualified research expenses if such qualified research expenses relate to research that is**
25 **conducted in conjunction with a public or private college or university located in this state,**
26 **as certified by the director of the department of economic development, within this state**
27 **during the tax year over the average of the taxpayer's qualified research expenses within**
28 **this state over the immediately preceding three tax years; except that, no tax credit shall**
29 **be allowed on that portion of the taxpayer's qualified research expenses incurred within**
30 **this state during the tax year in which the credit is being claimed, to the extent such**
31 **expenses exceed two hundred percent of the taxpayer's average qualified research expenses**
32 **incurred during the immediately preceding three tax years.**

33 3. The director of economic development shall prescribe the manner in which the tax
34 credit may be applied for. The tax credit authorized by this section may be claimed by the
35 taxpayer to offset the tax liability imposed by chapter 143 or chapter 148 that becomes due in
36 the tax year during which such qualified research expenses were incurred. **For tax years ending**
37 **before January 1, 2005,** where the amount of the credit exceeds the tax liability, the difference
38 between the credit and the tax liability may only be carried forward for the next five succeeding
39 taxable years or until the full credit has been claimed, whichever first occurs. **For all tax years**
40 **beginning on or after January 1, 2022, where the amount of the credit exceeds the tax**
41 **liability, the difference between the credit and the tax liability may only be carried forward**
42 **for the next twelve succeeding tax years or until the full credit has been claimed, whichever**
43 **occurs first.** The application for tax credits authorized by the director pursuant to subsection
44 2 of this section shall be made no later than the end of the taxpayer's tax period immediately
45 following the tax period for which the credits are being claimed.

46 4. Certificates of tax credit issued pursuant to this section may be transferred, sold or
47 assigned by filing a notarized endorsement thereof with the department which names the
48 transferee and the amount of tax credit transferred. The director of economic development may
49 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of
50 tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year
51 commencing on or after January 1, 1996, and ending not later than December 31, 1999, **and**
52 **during any tax year commencing on or after January 1, 2022.** Such taxpayer shall file~~[-by~~

53 ~~December 31, 2001,~~] an application with the department which names the transferee, the amount
54 of tax credit desired to be transferred, and a certification that the funds received by the applicant
55 as a result of the transfer, sale or assignment of the tax credit shall be expended within three
56 years at the state university for the sole purpose of conducting research activities agreed upon
57 by the department, the taxpayer and the state university. Failure to expend such funds in the
58 manner prescribed pursuant to this section shall cause the applicant to be subject to the
59 provisions of section 620.017.

60 5. No rule or portion of a rule promulgated under the authority of this section shall
61 become effective unless it has been promulgated pursuant to the provisions of chapter 536. All
62 rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed;
63 however, nothing in this section shall be interpreted to repeal or affect the validity of any rule
64 filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536.
65 The provisions of this section and chapter 536 are nonseverable and if any of the powers vested
66 with the general assembly pursuant to chapter 536, including the ability to review, to delay the
67 effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held
68 unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and
69 contained in the order of rulemaking shall be invalid and void.

70 6. **(1) For tax years ending before January 1, 2005,** the aggregate of all tax credits
71 authorized pursuant to this section shall not exceed nine million seven hundred thousand dollars
72 in any year.

73 **(2) For all tax years beginning on or after January 1, 2022, the aggregate of all tax**
74 **credits authorized under this section shall not exceed ten million dollars in any year.**

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

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