

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 931

AN ACT

To repeal sections 130.029 and 143.081, RSMo, and to enact in lieu thereof three new sections relating to corporations.

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

Section A. Sections 130.029 and 143.081, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 130.029, 143.081, and 143.436, to read as follows:

130.029. 1. Nothing herein contained shall be construed to prohibit any corporation organized under any general or special law of this state, or any other state or by an act of the Congress of the United States or any labor organization, cooperative association or mutual association from making any contributions or expenditures, provided:

(1) That the board of directors of any corporation by resolution has authorized contributions or expenditures, or by resolution has authorized a designated officer to make such contributions or expenditures; or

(2) That the members of any labor organization, cooperative association or mutual association have authorized contributions or expenditures by a majority vote of the members present at a duly called meeting of any such labor organization, cooperative association or mutual association or by such vote has authorized a designated officer to make such contributions or expenditures.

2. No provision of this section shall be construed to authorize contributions or expenditures otherwise prohibited by, or to change any necessary percentage of vote otherwise

required by, the articles of incorporation or association or bylaws of such labor organization, corporation, cooperative or mutual association.

3. Authority to make contributions or expenditures as authorized by this section shall be adopted by general or specific resolution. This resolution shall state the total amount of contributions or expenditures authorized, the purposes of such contributions or expenditures and the time period within which such authority shall exist.

4. (1) Any limited liability company that is duly registered pursuant to chapter 347 and that has not elected to be classified as a corporation under the federal tax code and any S corporation may make contributions to any committee, provided such limited liability company or S corporation has been in existence for at least one year prior to such contribution.

(2) For purposes of this subsection and section 23 of article VIII of the Missouri Constitution, the term "corporation" shall include any C corporation, provided that the term shall not include any limited liability company that is duly registered pursuant to chapter 347 and that has not elected to be classified as a corporation under the federal tax code and any S corporation.

143.081. 1. A resident individual, resident estate, and resident trust shall be allowed a credit against the tax otherwise due pursuant to sections 143.005 to 143.998 for the amount of any income tax imposed for the taxable year by another state of the United States (or a political subdivision thereof) or the District of Columbia on income derived from sources therein and which is also subject to tax pursuant to sections 143.005 to 143.998. For purposes of this subsection, the phrase "income tax imposed" shall be that amount of tax before any income tax credit allowed by

such other state or the District of Columbia if the other state or the District of Columbia authorizes a reciprocal benefit for residents of this state.

2. The credit provided pursuant to this section shall not exceed an amount which bears the same ratio to the tax otherwise due pursuant to sections 143.005 to 143.998 as the amount of the taxpayer's Missouri adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's Missouri adjusted gross income derived from all sources. In applying the limitation of the previous sentence to an estate or trust, Missouri taxable income shall be substituted for Missouri adjusted gross income. If the tax of more than one other taxing jurisdiction is imposed on the same item of income, the credit shall not exceed the limitation that would result if the taxes of all the other jurisdictions applicable to the item were deemed to be of a single jurisdiction.

3. (1) For the purposes of this section, in the case of an S corporation, each resident S shareholder shall be considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S corporation to a state which does not measure the income of shareholders on an S corporation by reference to the income of the S corporation or where a composite return and composite payments are made in such state on behalf of the S shareholders by the S corporation.

(2) A resident S shareholder shall be eligible for a credit issued pursuant to this section in an amount equal to the shareholder's pro rata share of any income tax imposed pursuant to chapter 143 on income derived from sources in another state of the United States, or a political subdivision thereof, or the District of Columbia, and which

is subject to tax pursuant to chapter 143 but is not subject to tax in such other jurisdiction.

4. For purposes of subsection 3 of this section, in the case of an S corporation that is a bank chartered by a state, the Office of Thrift Supervision, or the comptroller of currency, each Missouri resident S shareholder of such out-of-state bank shall qualify for the shareholder's pro rata share of any net tax paid, including a bank franchise tax based on the income of the bank, by such S corporation where bank payment of taxes are made in such state on behalf of the S shareholders by the S bank to the extent of the tax paid.

143.436. 1. This section shall be known and may be cited as the "SALT Parity Act".

2. For the purposes of this section, the following terms shall mean:

(1) "Affected business entity", any partnership or S corporation that elects to be subject to tax pursuant to subsection 10 of this section;

(2) "Direct member", a member that holds an interest directly in an affected business entity;

(3) "Indirect member", a member that itself holds an interest, through a direct or indirect member that is a partnership or an S corporation, in an affected business entity;

(4) "Member":

(a) A shareholder of an S corporation;

(b) A partner in a general partnership, a limited partnership, or a limited liability partnership; or

(c) A member of a limited liability company that is treated as a partnership or S corporation for federal income tax purposes;

(5) "Partnership", the same meaning as provided in 26 U.S.C. Section 7701(a)(2). The term "partnership" shall include a limited liability company that is treated as a partnership for federal income tax purposes;

(6) "S corporation", a corporation or limited liability company that is treated as an S corporation for federal income tax purposes;

(7) "Tax year", the tax year of a partnership or S corporation for federal income tax purposes;

3. (1) Notwithstanding any provision of law to the contrary, a tax is hereby imposed on each affected business entity that is a partnership and that is doing business in this state. Such affected business entity shall, no later than ninety days following the close of each tax year, pay a tax in an amount equal to the sum of the separately and nonseparately computed items, as described in 26 U.S.C. Section 702(a), of the affected business entity, to the extent derived from or connected with sources within this state, as determined pursuant to section 143.455, decreased by the deduction allowed under 26 U.S.C. Section 199A computed as if such deduction was allowed to be taken by the affected business entity for federal tax purposes, and increased or decreased by any modification made pursuant to section 143.471 that relates to an item of the affected business entity's income, gain, loss, or deduction, to the extent derived from or connected with sources within this state, as determined pursuant to section 143.455, with such sum multiplied by the highest rate of tax used to determine a Missouri income tax liability for an individual pursuant to section 143.011. An affected entity paying the tax pursuant to this subsection shall include with the payment of such taxes each report provided to a member pursuant to subsection 7 of this section.

(2) If the amount calculated pursuant to subdivision (1) of this section results in a net loss, such net loss may be carried forward to succeeding tax years for which the affected business entity elects to be subject to tax pursuant to subsection 11 of this section until fully used.

4. (1) Notwithstanding any provision of law to the contrary, a tax is hereby imposed on each affected business entity that is an S corporation and that is doing business in this state. Such affected business entity shall, no later than ninety days following the close of each tax year, pay a tax in an amount equal to the sum of the separately and nonseparately computed items, as described in 26 U.S.C. Section 1366, of the affected business entity, to the extent derived from or connected with sources within this state, as determined pursuant to section 143.455, decreased by the deduction allowed under 26 U.S.C. Section 199A computed as if such deduction was allowed to be taken by the affected business entity for federal tax purposes, and increased or decreased by any modification made pursuant to section 143.471 that relates to an item of the affected business entity's income, gain, loss, or deduction, to the extent derived from or connected with sources within this state, as determined pursuant to section 143.455, with such sum multiplied by the highest rate of tax used to determine a Missouri income tax liability for an individual pursuant to section 143.011. An affected entity paying the tax pursuant to this subsection shall include with the payment of such taxes each report provided to a member pursuant to subsection 7 of this section.

(2) If the amount calculated pursuant to subdivision (1) of this section results in a net loss, such net loss may be carried forward to succeeding tax years for which the

affected business entity elects to be subject to tax pursuant to subsection 11 of this section until fully used.

5. If an affected business entity is a direct or indirect member of another affected business entity, the member affected business entity shall, when calculating its net income or loss pursuant to subsections 3 or 4 of this section, subtract its distributive share of income or add its distributive share of loss from the affected business entity in which it is a direct or indirect member to the extent that the income or loss was derived from or connected with sources within this state, as determined pursuant to section 143.455.

6. A nonresident individual who is a member shall not be required to file an income tax return pursuant to this chapter for a tax year if, for such tax year, the only source of income derived from or connected with sources within the state for such member, or the member and the member's spouse if a joint federal income tax return is or shall be filed, is from one or more affected business entities and such affected business entity or entities file and pay the tax due under this section.

7. Each partnership and S corporation shall report to each of its members, for each tax year, such member's direct pro rata share of the tax imposed pursuant to this section on such partnership or S corporation if it is an affected business entity and its indirect pro rata share of the tax imposed on any affected business entity in which such affected business entity is a direct or indirect member.

8. (1) Each member that is subject to the tax imposed pursuant to section 143.011 shall be entitled to a credit against the tax imposed pursuant to section 143.011. Such credit shall be in an amount equal to such member's direct and indirect pro rata share of the tax paid pursuant to this

section by any affected business entity of which such member is directly or indirectly a member.

(2) If the amount of the credit authorized by this subsection exceeds such member's tax liability for the tax imposed pursuant to section 143.011, the excess amount shall not be refunded but may be carried forward to each succeeding tax year until such credit is fully taken.

9. (1) Each member that is subject to the tax imposed pursuant to section 143.011 as a resident or part-year resident of this state shall be entitled to a credit against the tax imposed pursuant to section 143.011 for such member's direct and indirect pro rata share of taxes paid to another state of the United States or to the District of Columbia, on income of any partnership or S corporation of which such person is a member that is derived therefrom, provided the taxes paid to another state of the United States or to the District of Columbia results from a tax that the director of revenue determines is substantially similar to the tax imposed pursuant to this section. Any such credit shall be calculated in a manner to be prescribed by the director of revenue, provided such calculation is consistent with the provisions of this section, and further provided that the limitations provided in subsection 2 of section 143.081 shall apply to the credit authorized by this subsection.

(2) If the amount of the credit authorized by this subsection exceeds such member's tax liability for the tax imposed pursuant to section 143.011, the excess amount shall not be refunded and shall not be carried forward.

10. (1) Each corporation that is subject to the tax imposed pursuant to section 143.071 and that is a member shall be entitled to a credit against the tax imposed pursuant to section 143.071. Such credit shall be in an



amount equal to such corporation's direct and indirect pro rata share of the tax paid pursuant to this section by any affected business entity of which such corporation is directly or indirectly a member. Such credit shall be applied after all other credits.

(2) If the amount of the credit authorized by this subsection exceeds such corporation's tax liability for the tax imposed pursuant to section 143.071, the excess amount shall not be refunded but may be carried forward to each succeeding tax year until such credit is fully taken.

11. A partnership or an S corporation may elect to become an affected business entity that is required to pay the tax pursuant to this section in any tax year. A separate election shall be made for each taxable year. Such election shall be made on such form and in such manner as the director of revenue may prescribe by rule. An election made pursuant to this subsection shall be signed by:

(1) Each member of the electing entity who is a member at the time the election is filed; or

(2) Any officer, manager, or member of the electing entity who is authorized to make the election and who attests to having such authorization under penalty of perjury.

12. The provisions of sections 143.425 and 143.601 shall apply to any modifications made to an affected business entity's federal return, and such affected business entity shall pay any resulting underpayment of tax to the extent not already paid pursuant to section 143.425.

13. (1) With respect to an action required or permitted to be taken by an affected business entity pursuant to this section, a proceeding under section 143.631 for reconsideration by the director of revenue, an appeal to the administrative hearing commission, or a review by the

judiciary with respect to such action, the affected business entity shall designate an affected business entity representative for the tax year, and such affected business entity representative shall have the sole authority to act on behalf of the affected business entity, and the affected business entity's members shall be bound by those actions.

(2) The department of revenue may establish reasonable qualifications and procedures for designating a person to be the affected business entity representative.

(3) The affected business entity representative shall be considered an authorized representative of the affected business entity and its members under section 32.057 for the purposes of compliance with this section, or participating in a proceeding described in subdivision (1) of this subsection.

14. The provisions of this section shall only apply to tax years beginning on or after January 1, 2023.

15. The department of revenue may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.