

SECOND REGULAR SESSION

HOUSE BILL NO. 2651

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MAYHEW.

5692H.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Section A. Section 620.1039, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1039, to read as follows: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. For tax years beginning on or after January 1, 2001, 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~~ **ten** 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 percent of the taxpayer's average qualified research expenses incurred during the immediately preceding three taxable years.

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 3. The director of economic development shall prescribe the manner in which the tax
19 credit may be applied for. The tax credit authorized by this section may be claimed by the
20 taxpayer to offset the tax liability imposed by chapter 143 or chapter 148 that becomes due in
21 the tax year during which such qualified research expenses were incurred. Where the amount
22 of the credit exceeds the tax liability, the difference between the credit and the tax liability may
23 only be carried forward for the next ~~[five]~~ **twelve** succeeding taxable years or until the full credit
24 has been claimed, whichever first occurs. The application for tax credits authorized by the
25 director pursuant to subsection 2 of this section shall be made no later than the end of the
26 taxpayer's tax period immediately following the tax period for which the credits are being
27 claimed.

28 4. Certificates of tax credit issued pursuant to this section may be transferred, sold or
29 assigned by filing a notarized endorsement thereof with the department which names the
30 transferee and the amount of tax credit transferred. The director of economic development may
31 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of
32 tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year
33 commencing on or after January 1, ~~[1996, and ending not later than December 31, 1999]~~ **2021**.
34 Such taxpayer shall file ~~[, by December 31, 2001,]~~ an application with the department which
35 names the transferee, the amount of tax credit desired to be transferred, and a certification that
36 the funds received by the applicant as a result of the transfer, sale or assignment of the tax credit
37 shall be expended within three years at the state university for the sole purpose of conducting
38 research activities agreed upon by the department, the taxpayer and the state university. Failure
39 to expend such funds in the manner prescribed pursuant to this section shall cause the applicant
40 to be subject to the provisions of section 620.017.

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

51 6. The aggregate of all tax credits authorized pursuant to this section shall not exceed
52 ~~[nine]~~ **twenty-five** million ~~[seven hundred thousand]~~ dollars in any year. **The aggregate of all**
53 **tax credits authorized under this section shall not exceed fifteen million dollars for**

54 **taxpayers with more than five million dollars of qualified research expenses in the previous**
55 **year.**

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

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