

# SENATE BILL NO. 688

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILLIAMS.

3898S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal section 620.1039, RSMo, and to enact in lieu thereof one new section relating to a tax credit for certain research expenses.

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

Section A. Section 620.1039, RSMo, is repealed and one  
2 new section enacted in lieu thereof, to be known as section  
3 620.1039, to read as follows:

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

3 (1) "Additional qualified research expenses", the  
4 difference between qualified research expenses, as certified  
5 by the director of economic development, incurred in a tax  
6 year subtracted by the average of the taxpayer's qualified  
7 research expenses incurred in the three immediately  
8 preceding tax years;

9 (2) "Minority business enterprise", a business that is:

10 (a) A sole proprietorship owned and controlled by a  
11 minority;

12 (b) A partnership or joint venture owned and  
13 controlled by minorities in which at least fifty-one percent  
14 of the ownership interest is held by minorities and the  
15 management and daily business operations of which are  
16 controlled by one or more of the minorities who own it; or

17 (c) A corporation or other entity whose management and  
18 daily business operations are controlled by one or more

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 minorities who own it and that is at least fifty-one percent  
20 owned by one or more minorities or, if stock is issued, at  
21 least fifty-one percent of the stock is owned by one or more  
22 minorities;

23 (3) "Missouri qualified research and development  
24 equipment", tangible personal property that has not  
25 previously been used in this state for any purpose and is  
26 acquired by the purchaser for the purpose of research and  
27 development activities devoted to experimental or laboratory  
28 research and development for new products, new uses of  
29 existing products, or improving or testing existing products;

30 (4) "Qualified research expenses", for expenses within  
31 this state, the same meaning as prescribed in 26 U.S.C. 41;

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

35 (a) Is independently owned and operated; and

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

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

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

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

48 (b) A partnership or joint venture owned and  
49 controlled by women in which at least fifty-one percent of  
50 the ownership interest is held by women and the management

51 and daily business operations of which are controlled by one  
52 or more of the women who own it; or

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

58 2. (1) For tax years beginning on or after January 1,  
59 2001, and ending before January 1, 2005, the director of the  
60 department of economic development may authorize a taxpayer  
61 to receive a tax credit against the tax otherwise due  
62 pursuant to chapter 143, or chapter 148, other than the  
63 taxes withheld pursuant to sections 143.191 to 143.265, in  
64 an amount up to six and one-half percent of the excess of  
65 the taxpayer's qualified research expenses, as certified by  
66 the director of the department of economic development,  
67 within this state during the taxable year over the average  
68 of the taxpayer's qualified research expenses within this  
69 state over the immediately preceding three taxable years;  
70 except that, no tax credit shall be allowed on that portion  
71 of the taxpayer's qualified research expenses incurred  
72 within this state during the taxable year in which the  
73 credit is being claimed, to the extent such expenses exceed  
74 two hundred percent of the taxpayer's average qualified  
75 research expenses incurred during the immediately preceding  
76 three taxable years.

77 (2) For all tax years beginning on or after January 1,  
78 2023, the director of economic development may authorize a  
79 taxpayer to receive a tax credit against the tax otherwise  
80 due under chapters 143 and 148, other than the taxes  
81 withheld under sections 143.191 to 143.265 in an amount  
82 equal to the greater of:

83           (a) Fifteen percent of the taxpayer's additional  
84 qualified research expenses; or

85           (b) If such qualified research expenses relate to  
86 research conducted in conjunction with a public or private  
87 college or university located in this state, twenty percent  
88 of the taxpayer's additional qualified research expenses.

89 However, in no case shall a tax credit be allowed for any  
90 portion of qualified research expenses that exceed two  
91 hundred percent of the taxpayer's average qualified research  
92 expenses incurred during the three immediately preceding tax  
93 years.

94           3. The director of economic development shall  
95 prescribe the manner in which the tax credit may be applied  
96 for. The tax credit authorized by this section may be  
97 claimed by the taxpayer to offset the tax liability imposed  
98 by chapter 143 or chapter 148 that becomes due in the tax  
99 year during which such qualified research expenses were  
100 incurred. **For tax years ending before January 1, 2005,**  
101 where the amount of the credit exceeds the tax liability,  
102 the difference between the credit and the tax liability may  
103 only be carried forward for the next five succeeding taxable  
104 years or until the full credit has been claimed, whichever  
105 first occurs. **For all tax years beginning on or after**  
106 **January 1, 2023, where the amount of the credit exceeds the**  
107 **tax liability, the difference between the credit and the tax**  
108 **liability may only be carried forward for the next twelve**  
109 **succeeding tax years or until the full credit has been**  
110 **claimed, whichever occurs first.** The application for tax  
111 credits authorized by the director pursuant to subsection 2  
112 of this section shall be made no later than the end of the

113 taxpayer's tax period immediately following the tax period  
114 for which the credits are being claimed.

115       4. **(1)** Certificates of tax credit issued pursuant to  
116 this section may be transferred, sold or assigned by filing  
117 a notarized endorsement thereof with the department which  
118 names the transferee and the amount of tax credit  
119 transferred. The director of economic development may allow  
120 a taxpayer to transfer, sell or assign up to forty percent  
121 of the amount of the certificates of tax credit issued to  
122 and not claimed by such taxpayer pursuant to this section  
123 during any tax year commencing on or after January 1, 1996,  
124 and ending not later than December 31, 1999. Such taxpayer  
125 shall file, by December 31, 2001, an application with the  
126 department which names the transferee, the amount of tax  
127 credit desired to be transferred, and a certification that  
128 the funds received by the applicant as a result of the  
129 transfer, sale or assignment of the tax credit shall be  
130 expended within three years at the state university for the  
131 sole purpose of conducting research activities agreed upon  
132 by the department, the taxpayer and the state university.  
133 Failure to expend such funds in the manner prescribed  
134 pursuant to this section shall cause the applicant to be  
135 subject to the provisions of section 620.017.

136       **(2) Up to one hundred percent of tax credits provided**  
137 **under this program may be transferred, sold, or assigned by**  
138 **filing a notarized endorsement thereof with the department**  
139 **that names the transferee, the amount of tax credit**  
140 **transferred, and the value received for the credit, as well**  
141 **as any other information reasonably requested by the**  
142 **department. For a taxpayer with flow-through tax treatment**  
143 **to its members, partners, or shareholders, the tax credit**  
144 **shall be allowed to members, partners, or shareholders in**

145 proportion to their share of ownership on the last day of  
146 the taxpayer's tax period.

147 5. [No rule or portion of a rule promulgated under the  
148 authority of this section shall become effective unless it  
149 has been promulgated pursuant to the provisions of chapter  
150 536. All rulemaking authority delegated prior to June 27,  
151 1997, is of no force and effect and repealed; however,  
152 nothing in this section shall be interpreted to repeal or  
153 affect the validity of any rule filed or adopted prior to  
154 June 27, 1997, if such rule complied with the provisions of  
155 chapter 536. The provisions of this section and chapter 536  
156 are nonseverable and if any of the powers vested with the  
157 general assembly pursuant to chapter 536, including the  
158 ability to review, to delay the effective date, or to  
159 disapprove and annul a rule or portion of a rule, are  
160 subsequently held unconstitutional, then the purported grant  
161 of rulemaking authority and any rule so proposed and  
162 contained in the order of rulemaking shall be invalid and  
163 void.] **Purchases of Missouri qualified research and  
164 development equipment are hereby specifically exempted from  
165 all state and local sales and use tax including, but not  
166 limited to, sales and use tax authorized or imposed under  
167 section 32.085 and chapter 144.**

168 6. **The department may adopt such rules, statements of  
169 policy, procedures, forms, and guidelines as may be  
170 necessary to carry out the provisions of this section. Any  
171 rule or portion of a rule, as that term is defined in  
172 section 536.010, that is created under the authority  
173 delegated in this section shall become effective only if it  
174 complies with and is subject to all of the provisions of  
175 chapter 536 and, if applicable, section 536.028. This  
176 section and chapter 536 are nonseverable and if any of the**

177 powers vested with the general assembly pursuant to chapter  
178 536 to review, to delay the effective date, or to disapprove  
179 and annul a rule are subsequently held unconstitutional,  
180 then the grant of rulemaking authority and any rule proposed  
181 or adopted after August 28, 2022, shall be invalid and void.

182 7. (1) For tax years ending before January 1, 2005,  
183 the aggregate of all tax credits authorized pursuant to this  
184 section shall not exceed nine million seven hundred thousand  
185 dollars in any year.

186 (2) (a) For all tax years beginning on or after  
187 January 1, 2023, the aggregate of all tax credits authorized  
188 under this section shall not exceed ten million dollars in  
189 any year.

190 (b) Five million dollars of such ten million dollars  
191 shall be reserved for minority business enterprises, women's  
192 business enterprises, and small businesses. Any reserved  
193 amount not issued or awarded to a minority business  
194 enterprise, women's business enterprise, or small business  
195 by November first of the tax year may be issued to any  
196 taxpayer otherwise eligible for a tax credit under this  
197 section.

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

201 (d) In the event that total eligible claims for  
202 credits received in a calendar year exceed the annual cap,  
203 each eligible claimant shall be issued credits based upon a  
204 pro-rata basis, given that all new businesses, defined as a  
205 business less than five years old, are issued full tax  
206 credits first.

207 [7. For all tax years beginning on or after January 1,  
208 2005, no tax credits shall be approved, awarded, or issued

209 to any person or entity claiming any tax credit under this  
210 section.]

211 8. Under section 23.253 of the Missouri sunset act:

212 (1) The provisions of the program authorized under  
213 this section shall automatically sunset December thirty-  
214 first, six years after the effective date of this section;

215 (2) If such program is reauthorized, the program  
216 authorized under this section shall automatically sunset  
217 December thirty-first, twelve years after the effective date  
218 of the reauthorization of this section; and

219 (3) This section shall terminate on December thirty-  
220 first of the calendar year immediately following the  
221 calendar year in which the program authorized under this  
222 section is sunset.

✓