

FIRST REGULAR SESSION

SENATE BILL NO. 252

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time February 9, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0042S.011

AN ACT

To repeal section 620.1039, RSMo, and to enact in lieu thereof one new section relating to tax credits for qualified research expenses related solely to animal and plant sciences.

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Section A. Section 620.1039, RSMo, is repealed and one new section
2 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
2 individual, a partnership, or any charitable organization which is exempt from
3 federal income tax and whose Missouri unrelated business taxable income, if any,
4 would be subject to the state income tax imposed under chapter 143, or a
5 corporation as described in section 143.441 or 143.471, or section 148.370, and the
6 term "qualified research expenses" has the same meaning as prescribed in 26
7 U.S.C. 41, **except that such qualified research expenses shall be limited**
8 **to those incurred in the research and development of agricultural**
9 **biotechnology, plant genomics products, and prescription**
10 **pharmaceuticals consumed by animals.**

11 2. For tax years beginning on or after January 1, 2001, the director of the
12 department of economic development [may] **shall** authorize a taxpayer to receive
13 a tax credit against the tax otherwise due pursuant to chapter 143, or chapter
14 148, other than the taxes withheld pursuant to sections 143.191 to 143.265, in an
15 amount up to six and one-half percent of the excess of the taxpayer's qualified
16 research expenses, as certified by the director of the department of economic
17 development, within this state during the taxable year over the average of the
18 taxpayer's qualified research expenses within this state over the immediately

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

19 preceding three taxable years; except that, no tax credit shall be allowed on that
20 portion of the taxpayer's qualified research expenses incurred within this state
21 during the taxable year in which the credit is being claimed, to the extent such
22 expenses exceed two hundred percent of the taxpayer's average qualified research
23 expenses incurred during the immediately preceding three taxable years.

24 3. The director of economic development shall prescribe the manner in
25 which the tax credit may be applied for. The tax credit authorized by this section
26 may be claimed by the taxpayer to offset the tax liability imposed by chapter 143
27 or chapter 148 that becomes due in the tax year during which such qualified
28 research expenses were incurred. Where the amount of the credit exceeds the tax
29 liability, the difference between the credit and the tax liability may only be
30 carried forward for the next five succeeding taxable years or until the full credit
31 has been claimed, whichever first occurs. The application for tax credits
32 authorized by the director pursuant to subsection 2 of this section shall be made
33 **no earlier than January first and no later than [the end of] July first of**
34 **the calendar year immediately following the calendar year in which the**
35 **taxpayer's tax period [immediately following the tax period] for which the credits**
36 **are being claimed ended. The director shall act on any such application**
37 **for tax credits no sooner than August first but no later than August**
38 **fifteenth of each year for applications filed in that calendar year.**

39 4. Certificates of tax credit issued pursuant to this section may be
40 transferred, sold or assigned by filing a notarized endorsement thereof with the
41 department which names the transferee and the amount of tax credit
42 transferred. The director of economic development may allow a taxpayer to
43 transfer, sell or assign up to forty percent of the amount of the certificates of tax
44 credit issued to and not claimed by such taxpayer pursuant to this section during
45 any tax year commencing on or after January 1, [1996] **2011**, and ending not
46 later than December 31, [1999] **2017**. Such taxpayer shall file, by December 31,
47 **[2001] 2019**, an application with the department which names the transferee, the
48 amount of tax credit desired to be transferred, and a certification that the funds
49 received by the applicant as a result of the transfer, sale or assignment of the tax
50 credit shall be expended within three years at the state university for the sole
51 purpose of conducting research activities agreed upon by the department, the
52 taxpayer and the state university. Failure to expend such funds in the manner
53 prescribed pursuant to this section shall cause the applicant to be subject to the
54 provisions of section 620.017.

55 5. No rule or portion of a rule promulgated under the authority of this
56 section shall become effective unless it has been promulgated pursuant to the
57 provisions of chapter 536. All rulemaking authority delegated prior to June 27,
58 1997, is of no force and effect and repealed; however, nothing in this section shall
59 be interpreted to repeal or affect the validity of any rule filed or adopted prior to
60 June 27, 1997, if such rule complied with the provisions of chapter 536. The
61 provisions of this section and chapter 536 are nonseverable and if any of the
62 powers vested with the general assembly pursuant to chapter 536, including the
63 ability to review, to delay the effective date, or to disapprove and annul a rule or
64 portion of a rule, are subsequently held unconstitutional, then the purported
65 grant of rulemaking authority and any rule so proposed and contained in the
66 order of rulemaking shall be invalid and void.

67 6. The aggregate of all tax credits authorized pursuant to this section
68 shall not exceed [nine] **ten** million [seven hundred thousand] dollars in any
69 **calendar year. In the event that total eligible claims for credits**
70 **received in a calendar year exceed the annual cap, each eligible**
71 **claimant shall be issued credits based upon the following formula: the**
72 **eligible credits if the annual cap had not been exceeded multiplied by**
73 **the ratio of the annual cap divided by the total of all eligible claims for**
74 **credits filed in that calendar year.**

75 7. [For all tax years beginning on or after January 1, 2005, no tax credits
76 shall be approved, awarded, or issued to any person or entity claiming any tax
77 credit under this section] **No one tax payer shall be issued more than**
78 **thirty percent of the aggregate of all tax credits authorized under this**
79 **section in any calendar year.**

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