

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 545

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Section A. Section 620.1039, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1039, to read as follows: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] following terms shall mean:

(1) "Minority business enterprise", a business that is:

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

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

(c) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and which is at least fifty-one percent owned by one or more minorities, or if stock is issued, at least fifty-one percent of the stock is owned by one or more minorities;

(2) "Qualified research expenses", the same meaning as prescribed in 26 U.S.C. 41;

(3) "Small business", a corporation, partnership, sole proprietorship or other business entity, including its affiliates, that:

(a) Is independently owned and operated; and
(b) Employs fifty or fewer full-time employees;
(4) "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]; and

(5) "Women's business enterprise", a business that is:
(a) A sole proprietorship owned and controlled by a
woman;

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

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

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

(2) For all tax years beginning on or after January 1, 2022, the director of the department of economic development may authorize a taxpayer to receive a tax credit against the tax otherwise due under chapters 143 and 148, other than the taxes withheld under sections 143.191 to 143.265, in an amount up to ten percent of the excess of the taxpayer's qualified research expenses, or seventeen percent of the excess of the taxpayer's qualified research expenses if such qualified research expenses relate to research that is conducted in conjunction with a public or private college or university located in this state, as certified by the director of the department of economic development, within this state during the tax year over the average of the taxpayer's qualified research expenses within this state over the immediately preceding three tax 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 tax 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 tax years.

3. The director of economic development shall prescribe the manner in which the tax credit may be applied

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

4. Certificates of tax credit issued pursuant to this section may be transferred, sold or assigned by filing a notarized endorsement thereof with the department which names the transferee and the amount of tax credit transferred. The director of economic development may allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year commencing on or after January 1, 1996, and ending not later than December 31, 1999, and during any tax year commencing on or after January 1, 2022. Such taxpayer shall file[, by December 31, 2001,] an application with the department which names the transferee, the amount of tax credit desired to be transferred, and a certification

that the funds received by the applicant as a result of the transfer, sale or assignment of the tax credit shall be expended within three years at the state university for the sole purpose of conducting research activities agreed upon by the department, the taxpayer and the state university. Failure to expend such funds in the manner prescribed pursuant to this section shall cause the applicant to be subject to the provisions of section 620.017.

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

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

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

be reserved for minority business enterprises, women's business enterprises, and small businesses.

7. [For all tax years beginning on or after January 1, 2005, no tax credits shall be approved, awarded, or issued to any person or entity claiming any tax credit under this section.] Pursuant to section 23.253 of the Missouri sunset act:

(1) The provisions of this section shall sunset automatically on December 31, 2030, unless reauthorized by an act of the general assembly; and

(2) If such section is reauthorized, the tax credit authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.