

# SENATE BILL NO. 545

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILLIAMS.

2661S.01H

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Section A. Section 620.1039, RSMo, is repealed and one  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) "Minority business enterprise", a business that is:

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

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

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

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

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

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

22           (a) Is independently owned and operated; and

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

24           (4) "Taxpayer" [means], an individual, a partnership,  
25 or any charitable organization which is exempt from federal  
26 income tax and whose Missouri unrelated business taxable  
27 income, if any, would be subject to the state income tax  
28 imposed under chapter 143, or a corporation as described in  
29 section 143.441 or 143.471, or section 148.370[, and the  
30 term "qualified research expenses" has the same meaning as  
31 prescribed in 26 U.S.C. 41]; and

32           (5) "Women's business enterprise", a business that is:

33           (a) A sole proprietorship owned and controlled by a  
34 woman;

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

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

45           2. (1) For tax years beginning on or after January 1,  
46 2001, and ending before January 1, 2005, the director of the  
47 department of economic development may authorize a taxpayer  
48 to receive a tax credit against the tax otherwise due  
49 pursuant to chapter 143, or chapter 148, other than the  
50 taxes withheld pursuant to sections 143.191 to 143.265, in

51 an amount up to six and one-half percent of the excess of  
52 the taxpayer's qualified research expenses, as certified by  
53 the director of the department of economic development,  
54 within this state during the taxable year over the average  
55 of the taxpayer's qualified research expenses within this  
56 state over the immediately preceding three taxable years;  
57 except that, no tax credit shall be allowed on that portion  
58 of the taxpayer's qualified research expenses incurred  
59 within this state during the taxable year in which the  
60 credit is being claimed, to the extent such expenses exceed  
61 two hundred percent of the taxpayer's average qualified  
62 research expenses incurred during the immediately preceding  
63 three taxable years.

64 **(2) For all tax years beginning on or after January 1,**  
65 **2022, the director of the department of economic development**  
66 **may authorize a taxpayer to receive a tax credit against the**  
67 **tax otherwise due under chapters 143 and 148, other than the**  
68 **taxes withheld under sections 143.191 to 143.265, in an**  
69 **amount up to ten percent of the excess of the taxpayer's**  
70 **qualified research expenses, or seventeen percent of the**  
71 **excess of the taxpayer's qualified research expenses if such**  
72 **qualified research expenses relate to research that is**  
73 **conducted in conjunction with a public or private college or**  
74 **university located in this state, as certified by the**  
75 **director of the department of economic development, within**  
76 **this state during the tax year over the average of the**  
77 **taxpayer's qualified research expenses within this state**  
78 **over the immediately preceding three tax years; except that,**  
79 **no tax credit shall be allowed on that portion of the**  
80 **taxpayer's qualified research expenses incurred within this**  
81 **state during the tax year in which the credit is being**  
82 **claimed, to the extent such expenses exceed two hundred**

83 **percent of the taxpayer's average qualified research**  
84 **expenses incurred during the immediately preceding three tax**  
85 **years.**

86         3. The director of economic development shall  
87 prescribe the manner in which the tax credit may be applied  
88 for. The tax credit authorized by this section may be  
89 claimed by the taxpayer to offset the tax liability imposed  
90 by chapter 143 or chapter 148 that becomes due in the tax  
91 year during which such qualified research expenses were  
92 incurred. **For tax years ending before January 1, 2005,**  
93 where the amount of the credit exceeds the tax liability,  
94 the difference between the credit and the tax liability may  
95 only be carried forward for the next five succeeding taxable  
96 years or until the full credit has been claimed, whichever  
97 first occurs. **For all tax years beginning on or after**  
98 **January 1, 2022, where the amount of the credit exceeds the**  
99 **tax liability, the difference between the credit and the tax**  
100 **liability may only be carried forward for the next twelve**  
101 **succeeding tax years or until the full credit has been**  
102 **claimed, whichever occurs first.** The application for tax  
103 credits authorized by the director pursuant to subsection 2  
104 of this section shall be made no later than the end of the  
105 taxpayer's tax period immediately following the tax period  
106 for which the credits are being claimed.

107         4. Certificates of tax credit issued pursuant to this  
108 section may be transferred, sold or assigned by filing a  
109 notarized endorsement thereof with the department which  
110 names the transferee and the amount of tax credit  
111 transferred. The director of economic development may allow  
112 a taxpayer to transfer, sell or assign up to forty percent  
113 of the amount of the certificates of tax credit issued to  
114 and not claimed by such taxpayer pursuant to this section

115 during any tax year commencing on or after January 1, 1996,  
116 and ending not later than December 31, 1999, **and during any**  
117 **tax year commencing on or after January 1, 2022.** Such  
118 taxpayer shall file[, by December 31, 2001,] an application  
119 with the department which names the transferee, the amount  
120 of tax credit desired to be transferred, and a certification  
121 that the funds received by the applicant as a result of the  
122 transfer, sale or assignment of the tax credit shall be  
123 expended within three years at the state university for the  
124 sole purpose of conducting research activities agreed upon  
125 by the department, the taxpayer and the state university.  
126 Failure to expend such funds in the manner prescribed  
127 pursuant to this section shall cause the applicant to be  
128 subject to the provisions of section 620.017.

129         5. No rule or portion of a rule promulgated under the  
130 authority of this section shall become effective unless it  
131 has been promulgated pursuant to the provisions of chapter  
132 536. All rulemaking authority delegated prior to June 27,  
133 1997, is of no force and effect and repealed; however,  
134 nothing in this section shall be interpreted to repeal or  
135 affect the validity of any rule filed or adopted prior to  
136 June 27, 1997, if such rule complied with the provisions of  
137 chapter 536. The provisions of this section and chapter 536  
138 are nonseverable and if any of the powers vested with the  
139 general assembly pursuant to chapter 536, including the  
140 ability to review, to delay the effective date, or to  
141 disapprove and annul a rule or portion of a rule, are  
142 subsequently held unconstitutional, then the purported grant  
143 of rulemaking authority and any rule so proposed and  
144 contained in the order of rulemaking shall be invalid and  
145 void.

146           6.   (1)   **For tax years ending before January 1, 2005,**  
147   the aggregate of all tax credits authorized pursuant to this  
148   section shall not exceed nine million seven hundred thousand  
149   dollars in any year.

150           (2)   **For all tax years beginning on or after January 1,**  
151   **2022, the aggregate of all tax credits authorized under this**  
152   **section shall not exceed ten million dollars in any year,**  
153   **provided that five million dollars of such tax credits shall**  
154   **be reserved for minority business enterprises, women's**  
155   **business enterprises, and small businesses.**

156           [7.   For all tax years beginning on or after January 1,  
157   2005, no tax credits shall be approved, awarded, or issued  
158   to any person or entity claiming any tax credit under this  
159   section.]

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