

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 389
97TH GENERAL ASSEMBLY

0807H.03C

D. ADAM CRUMBLISS, Chief Clerk

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.

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Section A. Section 620.1039, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.1039, to read as follows: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, RSMo, or a corporation as described in section 143.441 or 143.471, RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same meaning as prescribed in 26 U.S.C. 41, **except that such qualified research expenses shall be limited to those incurred in the research and development of agricultural biotechnology, plant genomics products, diagnostic and therapeutic medical devices, or prescription pharmaceuticals consumed by animals or those incurred in the research, development, or manufacture of power system technology for aerospace, space, defense, or implantable or wearable medical devices.**

2. For tax years beginning on or after January 1, 2001, the director of the department of economic development [may] **shall** authorize a taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, 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

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.

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

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

37 4. Certificates of tax credit issued pursuant to this section may be transferred, sold or
38 assigned by filing a notarized endorsement thereof with the department which names the
39 transferee and the amount of tax credit transferred. The director of economic development may
40 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of
41 tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year
42 commencing on or after January 1, [1996] **2014**, and ending not later than December 31, [1999]
43 **2020**. Such taxpayer shall file, by December 31, [2001] **2022**, an application with the
44 department which names the transferee, the amount of tax credit desired to be transferred, and
45 a certification that the funds received by the applicant as a result of the transfer, sale or
46 assignment of the tax credit shall be expended within three years at the state university for the
47 sole purpose of conducting research activities agreed upon by the department, the taxpayer and
48 the state university. Failure to expend such funds in the manner prescribed pursuant to this
49 section shall cause the applicant to be subject to the provisions of section 620.017.

50 5. No rule or portion of a rule promulgated under the authority of this section shall
51 become effective unless it has been promulgated pursuant to the provisions of chapter 536,
52 RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and
53 repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of
54 any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of

55 chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable
56 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
57 including the ability to review, to delay the effective date, or to disapprove and annul a rule or
58 portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking
59 authority and any rule so proposed and contained in the order of rulemaking shall be invalid and
60 void.

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

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

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