

SECOND REGULAR SESSION

# HOUSE BILL NO. 1749

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HARRIS (23).

Read 1<sup>st</sup> time April 21, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5058L.011

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### AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to qualified research tax credits for corporations.

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

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be known as section 135.770, to read as follows:

**135.770. 1. For purposes of this section, the following terms mean:**

(1) "New corporation", any corporation in a targeted industry that was not in existence in this state before January 1, 2005, and that has not replaced or acquired after January 1, 2005, an existing corporation in a targeted industry located in this state;

(2) "Qualified research", research which is undertaken for the purpose of discovering information that is technological in nature and the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and substantially all of the activities of which constitute elements of a process of experimentation for a purpose described in this section. Qualified research shall not include any of the following:

(a) Research after commercial production (any research conducted after the beginning of commercial production of the business component);

(b) Adaptation of existing business components (any research related to the adaptation of an existing business component to a particular customer's requirement or need);

(c) Duplication of existing business component (any research related to the reproduction of an existing business component, in whole or in part, from a physical examination of the business component itself or from plans, blueprints, detailed

19 specifications, or publicly available information with respect to such business component);

20 (d) Surveys or studies (any efficiency survey, activity relating to management  
21 function or technique, market research, testing, or development including advertising or  
22 promotions, routine data collection, or routine or ordinary testing or inspection for quality  
23 control);

24 (e) Computer software (any research with respect to computer software which is  
25 developed by or for the benefit of the taxpayer primarily for internal use by the taxpayer,  
26 other than for use in an activity which constitutes qualified research or a production  
27 process);

28 (f) Funded research (any research to the extent funded by any grant, contract, or  
29 otherwise by another person or governmental entity);

30 (3) "Qualified research costs", costs incurred in conducting or engaging in  
31 qualified research;

32 (4) "Targeted industry", an industry or one of a cluster of industries that is  
33 identified by the department of economic development as critical to the state's economic  
34 security and growth and affirmed as such by the joint committee on economic development  
35 policy and planning established in section 620.602, RSMo.

36 2. For all tax years beginning on or after January 1, 2005, any corporation in a  
37 targeted industry incurring qualified research costs shall be allowed a credit against the  
38 taxes due pursuant to chapter 143, RSMo, excluding taxes withheld pursuant to sections  
39 143.191 to 143.265, RSMo, and chapters 147 and 153, RSMo, in an amount equal to the  
40 following schedule:

41 (1) Ten percent of the qualified research costs incurred by any corporation in a  
42 targeted industry;

43 (2) Twelve and one-half percent of the qualified research costs incurred by any new  
44 corporation in a targeted industry;

45 (3) Fifteen percent of the qualified research costs incurred if an existing  
46 corporation in a targeted industry incurs the costs in consortium or in partnership with  
47 any public university, public college, or public community college in this state; and

48 (4) Seventeen and one-half percent of the qualified research costs incurred if a new  
49 corporation in a targeted industry incurs the costs in consortium or in partnership with  
50 any public university, public college, or public community college in this state.

51 3. No corporation defined as a new corporation pursuant to this section shall be  
52 designated as a new corporation, nor shall be eligible for the new corporation percentage  
53 of the tax credit pursuant to subdivisions (2) and (4) of subsection 2 of this section, for  
54 longer than five years from the year in which the new company incorporated in or

55 relocated to this state.

56 **4. The recipient of a tax credit pursuant to this section shall:**

57 **(1) Specify that the costs incurred and for which the tax credits are claimed were**  
58 **incurred for the purposes authorized in this section;**

59 **(2) Describe the qualified research costs, including the amount and type of costs;**

60 **(3) State why the qualified research is needed;**

61 **(4) State the public purpose or purposes for the qualified research;**

62 **(5) State the goal or goals for the qualified research and the time periods by which**  
63 **these goals will be met;**

64 **(6) State the name and address of its parent corporation, if any;**

65 **(7) State all other financial assistance that was received for the same project; and**

66 **(8) Ensure that any qualified research costs incurred for any purpose other than**  
67 **projects authorized in this section are not claimed pursuant to this section. In the event**  
68 **that such unauthorized costs are claimed, the recipient shall calculate and remit to the**  
69 **department a payment equal to the percentage of the costs incurred for purposes other**  
70 **than those authorized by this section. All proceeds returned to the department pursuant**  
71 **to this subsection shall be used for worker training and retraining programs administered**  
72 **by the division of workforce development.**

73 **5. The department of economic development shall prepare an annual report**  
74 **regarding all tax credits issued pursuant to this section in the previous calendar year and**  
75 **submit such report to the president pro tem of the senate and the speaker of the house of**  
76 **representatives by July first of each year. The annual report shall be made available to the**  
77 **public and shall include, but not be limited to, the following elements:**

78 **(1) The total amount of tax credits awarded by region of the state;**

79 **(2) The total amount of tax credits awarded by industry;**

80 **(3) The distribution of tax credits by type and public purpose;**

81 **(4) The distribution of tax credits by the size of all business recipients; and**

82 **(5) A reporting of any legal action taken by the department or the state with any**  
83 **parties which have failed to comply with this section.**

84 **6. For purposes of this section, the term qualified research shall be applied**  
85 **separately with respect to each business component of the taxpayer. As used in this section,**  
86 **"business component" means any product, process, computer software, technique,**  
87 **formula, or invention which is to be held for sale, lease, or license, or is to be used by the**  
88 **taxpayer in a trade or business of the taxpayer. Any plant process, machinery, or**  
89 **technique for commercial production of a business component shall be treated as a**  
90 **separate business component and not as part of the business component being produced.**

91           **7. Research shall be treated as conducted for a purpose described in this section if**  
92 **it relates to a new or improved function, performance, or reliability or quality. Research**  
93 **shall not be treated as conducted for a purpose described in this section if it relates to style,**  
94 **taste, cosmetic, or seasonal design factors.**

95           **8. The director of revenue may promulgate rules and regulations to administer this**  
96 **section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
97 **that is created under the authority delegated in this section shall become effective only if**  
98 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
99 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
100 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
101 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
102 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
103 **adopted after August 28, 2004, shall be invalid and void.**

104           **9. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

105           **(1) The provisions of the new program authorized under this section shall**  
106 **automatically sunset six years after the effective date of this section unless reauthorized by**  
107 **an act of the general assembly; and**

108           **(2) If such program is reauthorized, the program authorized under this section**  
109 **shall automatically sunset twelve years after the effective date of the reauthorization of this**  
110 **section; and**

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