

FIRST REGULAR SESSION

# HOUSE BILL NO. 1121

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HARRIS (23) (Sponsor), LeVOTA, WILDBERGER,  
DARROUGH AND HODGES (Co-sponsors).

Read 1st time March 14, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2214L.01I

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### AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for qualified research costs.

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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  
2 known as section 135.770, to read as follows:

**135.770. 1. As used in this section, the following terms mean:**

- 2       **(1) "Business component", any product, process, computer software, technique,**  
3 **formula, or invention which is to be held for sale, lease, or license, or is to be used by the**  
4 **taxpayer in a trade or business of the taxpayer. Any plant process, machinery, or**  
5 **technique for commercial production of a business component shall be treated as a**  
6 **separate business component and not as part of the business component being produced;**  
7       **(2) "Department", the department of economic development;**  
8       **(3) "New corporation", any corporation in a targeted industry that was not in**  
9 **existence in this state before January 1, 2008, and that has not replaced or acquired after**  
10 **January 1, 2008, an existing corporation in a targeted industry located in this state;**  
11       **(4) "Qualified research", research which is undertaken for the purpose of**  
12 **discovering information that is technological in nature and the application of which is**  
13 **intended to be useful in the development of a new or improved business component of the**  
14 **taxpayer, and substantially all of the activities of which constitute elements of a process of**

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.

15 experimentation for a purpose described in this section. Qualified research shall not  
16 include any of the following:

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

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

22 (c) Duplication of existing business component (any research related to the  
23 reproduction of an existing business component, in whole or in part, from a physical  
24 examination of the business component itself or from plans, blueprints, detailed  
25 specifications, or publicly available information with respect to such business component);

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

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

34 (f) Funded research (any research to the extent funded by any grant, contract, or  
35 otherwise by another person or governmental entity).

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37 For purposes of this section, the term "qualified research" shall be applied separately with  
38 respect to each business component of the taxpayer;

39 (5) "Qualified research costs", costs incurred in conducting or engaging in  
40 qualified research;

41 (6) "Targeted industry", an industry or one of a cluster of industries that is  
42 identified by the department as critical to the state's economic security and growth and  
43 affirmed as such by the joint committee on economic development policy and planning  
44 established in section 620.602, RSMo;

45 (7) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,  
46 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or otherwise due  
47 under chapter 147, 148, or 153, RSMo;

48 (8) "Taxpayer", any corporation that is:

49           (a) Subject to the tax imposed in chapter 143, RSMo, excluding withholding tax  
50 imposed by sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 147, 148, or  
51 153, RSMo;

52           (b) In a targeted industry; and

53           (c) Incurs qualified research costs.

54           2. For all taxable years beginning on or after January 1, 2007, a taxpayer shall be  
55 allowed a tax credit for qualified research costs incurred. The tax credit amount shall be  
56 equal to the following schedule:

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

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

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

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

67           3. The amount of the tax credit issued shall not exceed the amount of the taxpayer's  
68 state tax liability for the tax year for which the credit is claimed. No amount of credit that  
69 the taxpayer is prohibited by this section from claiming in a tax year shall be refundable,  
70 nor shall any tax credit granted under this section be transferred, sold, or assigned. The  
71 department shall certify the tax credits issued under this section to the department of  
72 revenue.

73           4. No corporation defined as a new corporation under this section shall be  
74 designated as a new corporation, nor shall be eligible for the new corporation percentage  
75 of the tax credit under subdivisions (2) and (4) of subsection 2 of this section, for longer  
76 than five years from the year in which the new company incorporated in or relocated to  
77 this state.

78           5. Each recipient of a tax credit under this section shall, when applying to the  
79 department for a tax credit under this section:

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

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

83           (3) State why the qualified research is needed;

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

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

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

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

89           (8) Ensure that any qualified research costs incurred for any purpose other than  
90 projects authorized in this section are not claimed under this section. In the event that  
91 such unauthorized costs are issued, the recipient shall calculate and remit to the  
92 department a payment equal to the percentage of the costs incurred for purposes other  
93 than those authorized by this section. All proceeds returned to the department under this  
94 subsection shall be used for worker training and retraining programs administered by the  
95 division of workforce development.

96           6. The department shall prepare an annual report regarding all tax credits certified  
97 under this section in the previous calendar year and submit such report to the president  
98 pro tem of the senate and the speaker of the house of representatives by July first of each  
99 year. The annual report shall be made available to the public and shall include, but not  
100 be limited to, the following elements:

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

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

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

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

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

107           7. Research shall be treated as conducted for a purpose described in this section if  
108 it relates to a new or improved function, performance, or reliability or quality. Research  
109 shall not be treated as conducted for a purpose described in this section if it relates to style,  
110 taste, cosmetic, or seasonal design factors.

111           8. The department, in conjunction with the department of revenue, may  
112 promulgate rules to implement the provisions of this section. Any rule or portion of a rule,  
113 as that term is defined in section 536.010, RSMo, that is created under the authority  
114 delegated in this section shall become effective only if it complies with and is subject to all  
115 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
116 section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the  
117 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or  
118 to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
119 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be  
120 invalid and void.

121           **9. Under section 23.253, RSMo, of the Missouri Sunset Act:**

122           **(1) The provisions of the new program authorized under this section shall**  
123 **automatically sunset on December thirty-first six years after the effective date of this**  
124 **section unless reauthorized by an act of the general assembly; and**

125           **(2) If such program is reauthorized, the program authorized under this section**  
126 **shall automatically sunset on December thirty-first twelve years after the effective date of**  
127 **the reauthorization of this section; and**

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

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