SENATE AMENDMENT NO. ___

Offered by ____________________________ **Of** ____

Amend SS/SCS/Senate **Bill No.** 931**, Page** 55**, Section** 407.475**, Line** 18**,**

by inserting after all of said line the following:

"620.1039. 1. As used in this section, the [term] following terms shall mean:

(1) "Additional qualified research expenses", the difference between qualified research expenses, as certified by the director of economic development, incurred in a tax year subtracted by the average of the taxpayer's qualified research expenses incurred in the three immediately preceding tax years;

(2) "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 that 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;

(3) "Missouri qualified research and development equipment", tangible personal property that has not

previously been used in this state for any purpose and is acquired by the purchaser for the purpose of research and development activities devoted to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products;

(4) "Qualified research expenses", for expenses within this state, the same meaning as prescribed in 26 U.S.C. 41;

(5) "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;

(6) "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**]**;

(7) "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 that 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, 2023, the director 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 equal to the greater of:

(a) Fifteen percent of the taxpayer's additional qualified research expenses; or

(b) If such qualified research expenses relate to research conducted in conjunction with a public or private college or university located in this state, twenty percent of the taxpayer's additional qualified research expenses.

However, in no case shall a tax credit be allowed for any portion of qualified research expenses that exceed two hundred percent of the taxpayer's average qualified research expenses incurred during the three immediately preceding 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, 2023, 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. (1) 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. 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.

(2) Up to one hundred percent of tax credits provided under this program may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. For a taxpayer with flow-through tax treatment to its members, partners, or shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period.

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.] Purchases of Missouri qualified research and development equipment are hereby specifically exempted from all state and local sales and use tax including, but not limited to, sales and use tax authorized or imposed under section 32.085 and chapter 144.

6. The department may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

7. (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) (a) For all tax years beginning on or after January 1, 2023, the aggregate of all tax credits authorized under this section shall not exceed ten million dollars in any year.

(b) Five million dollars of such ten million dollars shall be reserved for minority business enterprises, women's business enterprises, and small businesses. Any reserved amount not issued or awarded to a minority business enterprise, women's business enterprise, or small business by November first of the tax year may be issued to any taxpayer otherwise eligible for a tax credit under this section.

(c) No single taxpayer shall be issued or awarded more than three hundred thousand dollars in tax credits under this section in any year.

(d) In the event that total eligible claims for credits received in a calendar year exceed the annual cap, each eligible claimant shall be issued credits based upon a pro-rata basis, given that all new businesses, defined as a business less than five years old, are issued full tax credits first.

[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.]

8. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the program authorized under this section shall automatically sunset December thirty-first, six years after the effective date of this section;

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

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset."; and

Further amend the title and enacting clause accordingly.