

SECOND REGULAR SESSION

# HOUSE BILL NO. 2377

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES FLOOK (Sponsor), STORCH, ERVIN, GRISAMORE,  
CUNNINGHAM (86), HUGHES, KRAUS AND BRUNS (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 620.014, RSMo, and to enact in lieu thereof three new sections relating to business finance programs.

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

Section A. Section 620.014, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 348.267, 348.268, and 620.014, to read as follows:

**348.267. 1. This section shall be known and may be cited as the "Seed Capital Technology Business Finance Program Act".**

**2. There is hereby created within the Missouri technology investment fund established under section 348.264 an account to be known as the "Seed Capital Technology Business Finance Program Account". The account shall consist of all moneys which may be appropriated to it by the general assembly, and also any gifts, contributions, grants or bequests received from federal, private, or other sources. The account shall also consist of payments on loans made from the account dividends paid on shares of stock purchased with moneys from the account, royalty proceeds, or any other form of return on authorized investments made by the Missouri technology corporation under the seed capital technology business finance program with moneys from the account. Moneys for the seed capital technology business finance program established under this section shall be available from appropriations made by the general assembly from the seed capital technology business finance program account of the Missouri technology investment fund.**

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 Any moneys remaining in the seed capital technology business finance program account  
16 at the end of any fiscal year shall not lapse to the general revenue fund, as provided in  
17 section 33.080, RSMo, but shall remain in the seed capital technology business finance  
18 program account.

19 3. (1) The Missouri technology corporation may use moneys in the seed capital  
20 technology business finance program account, as appropriated, to make investments in an  
21 advanced technology company that is at the early development stage of commercializing  
22 advanced technology.

23 (2) Investments shall be loans convertible to equity, equity, or loans with stock  
24 subscription or similar warrants that are beneficially owned by the Missouri technology  
25 corporation.

26 (3) Eligible advanced technology industries shall include animal health,  
27 biotechnology, information technology, communications technology, aerospace, electronics,  
28 robotics, medical devices and instruments, telecommunications, plant sciences, and energy.  
29 Ineligible industries include banking and lending, development, management, and  
30 investment companies, finance, insurance, mining, oil and gas exploration, real estate,  
31 wholesale, and retail.

32 (4) An eligible company shall have fifty percent or more of its employees and assets  
33 in Missouri.

34 (5) An eligible company shall be at the seed or start-up stage.

35 (6) An eligible company shall have innovative products and services.

36 4. The Missouri technology corporation shall contract with professional equity fund  
37 managers for professional review of applications, performance of due diligence, and other  
38 related advisory services prior to any investments being made under this section. Such  
39 contracts shall be paid for out of appropriations from the seed capital technology business  
40 finance program account.

41 5. The Missouri technology corporation may make authorized investments in  
42 eligible advanced technology companies engaged in new product or process innovations  
43 only after:

44 (1) Receipt of an application from the company that contains:

45 (a) A business plan including a description of the company and its management,  
46 product, and market;

47 (b) A statement of the amount, timing, and projected use of the capital required;

48 (c) A statement of the potential economic impact of the enterprise, including the  
49 number, location, and types of jobs expected to be created; and

50 (d) Such other information as the Missouri technology corporation shall request;

51           (2) Approval of the investment by the Missouri technology corporation, which may  
52 only be made based upon a recommendation for investment by the professional equity fund  
53 managers contracted with by the Missouri technology corporation and a finding by the  
54 board of directors that:

55           (a) The proceeds of the investment will be used only to cover the seed capital needs  
56 of the company;

57           (b) The company has a reasonable chance of success;

58           (c) The Missouri technology corporation's participation is instrumental to the  
59 success of the company and will assist in its retention within the state;

60           (d) The Missouri technology corporation's investment is leveraged by at least one  
61 additional equity investment in the company in an amount equal to or greater than the  
62 Missouri technology corporation's investment;

63           (e) The company has the reasonable potential to enhance employment opportunities  
64 within the state;

65           (f) The entrepreneur and other founders of the company have already made or are  
66 contractually committed to make an appropriate financial and time commitment to the  
67 enterprise;

68           (g) Any securities to be purchased are registered if required by law;

69           (h) There is a reasonable possibility that the Missouri technology corporation will  
70 recoup at least its initial investment or financial commitment; and

71           (i) Binding commitments have been made to the Missouri technology corporation  
72 by the company for adequate reporting of financial data to the Missouri technology  
73 corporation, which shall include a requirement for an annual report, or if required by the  
74 board, an annual audit of the financial and operational records of the company, and for  
75 such control on the part of the Missouri technology corporation as the board of directors  
76 shall consider prudent over the management of the company, so as to protect the  
77 investment or financial commitment of the Missouri technology corporation, including in  
78 the discretion of the board and without limitation, right of access to financial and other  
79 records of the company, and membership or representation on the board of directors of  
80 the company.

81           6. The Missouri technology corporation shall not make investments in amounts  
82 greater than the lesser of seven hundred fifty thousand dollars or an amount that gives the  
83 Missouri technology corporation forty-nine percent ownership interest in any one  
84 advanced technology company at the time of investment.

85           7. Use of the investment in the eligible advanced technology company includes  
86 intellectual property development, business prototypes, market studies, and business  
87 operations.

88           8. The Missouri technology corporation may adopt such rules, statements of policy,  
89 procedures, forms, and guidelines as may be necessary to carry out the provisions of this  
90 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
91 that is created under the authority delegated in this section shall become effective only if  
92 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if  
93 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
94 and if any of the powers vested with the general assembly under chapter 536, RSMo, to  
95 review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
96 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
97 after August 28, 2008, shall be invalid and void.

          348.268. 1. This section shall be known and may be cited as the "Proof of Concept  
2 Technology Business Finance Program Act".

3           2. There is hereby created within the Missouri technology investment fund  
4 established under section 348.264 an account to be known as the "Proof of Concept  
5 Technology Business Finance Program Account". The account shall consist of all moneys  
6 which may be appropriated to it by the general assembly, and also any gifts, contributions,  
7 grants, or bequests received from federal, private or other sources. The account shall also  
8 consist of payments on loans made from the account by the Missouri technology  
9 corporation under the proof of concept technology business finance program. Moneys for  
10 the proof of concept technology business finance program established under this section  
11 shall be available from appropriations made by the general assembly from the proof of  
12 concept technology business finance program account of the Missouri technology  
13 investment fund. Any moneys remaining in the proof of concept technology business  
14 finance program account at the end of any fiscal year shall not lapse to the general revenue  
15 fund, as provided in section 33.080, RSMo, but shall remain in the proof of concept  
16 technology business finance program account.

17           3. (1) The Missouri technology corporation may use moneys in the proof of concept  
18 technology business finance program account, as appropriated, to make one-time loans to  
19 a company that is at the early development stage of commercializing advanced technology.

20           (2) The loan amount to any single advanced technology company shall not exceed  
21 seventy-five thousand dollars.

22           (3) Loans shall be repaid to the Missouri technology corporation in an amount  
23 equal to two times the amount loaned. Repayment shall take place no later than five years

24 from the date of the loan. Early repayment will result in prorating of the repayment  
25 amount.

26 (4) The Missouri technology corporation's loan shall be leveraged dollar-for-dollar  
27 by at least one additional equity investment in the company.

28 (5) Eligible advanced technology industries shall include animal health,  
29 biotechnology, information technology, communications technology, aerospace, electronics,  
30 robotics, medical devices and instruments, telecommunications, plant sciences, and energy.  
31 Ineligible company industries include banking and lending, development, management and  
32 investment companies, finance, insurance, mining, oil and gas exploration, real estate,  
33 wholesale, and retail.

34 (6) Eligible companies shall be technology-based, sufficiently innovative to provide  
35 a competitive advantage in the marketplace, and have the potential for significant, high  
36 performance growth.

37 (7) An eligible company shall have fifty percent or more of its employees and assets  
38 in Missouri.

39 (8) An eligible company shall have average wage levels at least thirty-five percent  
40 higher than the average county wage level as determined by the department of economic  
41 development for the most recently completed full calendar year.

42 (9) An eligible company shall be at the early development stage of commercializing  
43 an advanced technology.

44 (10) An eligible company, at the time a proof of concept loan is made to that  
45 company, shall be a small business concern that meets the requirements of the United  
46 States Small Business Administration's qualification size standards for its business loan  
47 program, as defined in 13 CFR 121.301(a) of the Small Business Investment Act of 1958,  
48 as amended.

49 4. Eligible use of the proceeds of a proof of concept program loan include  
50 intellectual property development, building prototypes, market studies, identifying and  
51 securing a management team, and business operations.

52 5. The Missouri technology corporation may make proof of concept loans to eligible  
53 advanced technology companies only after:

54 (1) Receipt of an application from the company that contains:

55 (a) A business plan including a description of the company and its management,  
56 product, and market;

57 (b) A statement of the amount, timing, and projected use of the capital required;

58 (c) A statement of the potential economic impact of the advanced technology  
59 company, including the number, location, and types of jobs expected to be created; and

60 (d) Such other information as the Missouri technology corporation board of  
61 directors shall request;

62 (2) Approval of the loan by the Missouri technology corporation, which may be  
63 made after the board of directors finds, based upon the application submitted by the  
64 company and such additional investigation as the staff of the Missouri technology  
65 corporation shall make that:

66 (a) The proceeds of the loan will be used only to cover the proof of concept capital  
67 needs of the company;

68 (b) The company has a reasonable chance of success;

69 (c) The Missouri technology corporation's participation is instrumental to the  
70 success of the company and will assist in its retention within the state;

71 (d) The Missouri technology corporation's loan is leveraged by at least one  
72 additional equity investment in the company;

73 (e) The company has the reasonable potential to enhance employment opportunities  
74 within the state;

75 (f) The entrepreneur and other founders of the company have already made or are  
76 contractually committed to make an appropriate financial and time commitment to the  
77 enterprise;

78 (g) There is a reasonable possibility that the Missouri technology corporation will  
79 be repaid the loan as provided for in this section; and

80 (h) Binding commitments have been made to the Missouri technology corporation  
81 by the company for adequate reporting of financial data to the Missouri technology  
82 corporation, which shall include a requirement for an annual report, or if required by the  
83 board, an annual audit of the financial and operational records of the company.

84 6. The Missouri technology corporation may adopt such rules, statements of policy,  
85 procedures, forms, and guidelines as may be necessary to carry out the provisions of this  
86 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
87 that is created under the authority delegated in this section shall become effective only if  
88 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if  
89 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
90 and if any of the powers vested with the general assembly under chapter 536, RSMo, to  
91 review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
92 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
93 after August 28, 2008, shall be invalid and void.

620.014. Records and documents submitted to the department of economic development,  
2 to the Missouri [economic development, export and infrastructure] **development finance** board,

3 **the Missouri technology corporation,** or to a regional planning commission formed pursuant  
4 to chapter 251, RSMo, relating to financial investments in a business, or sales projections or  
5 other business plan information which may endanger the competitiveness of a business may be  
6 deemed a "closed record" as such term is defined in section 610.010, RSMo.

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