House ____ Amendment NO.____

Offered By

____________________________________ ____________________________________

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 83, Page 62, Section 144.810, Line 28, by deleting the word "five" and inserting in lieu thereof the word "two"; and

Further amend said bill, section, and page, Line 29, by deleting the word "five" and inserting in lieu thereof the word "two"; and

Further amend said bill and section, page 63, Line 60, by deleting the word "thirty-seven" and inserting in lieu thereof the word "five"; and

Further amend said bill, section, and page, Line 65, by deleting the word "thirty" and inserting in lieu thereof the word "five"; and

Further amend said bill, Pages 113-123, Sections 348.273 and 348.274, by deleting all of said sections from the bill and inserting in lieu thereof the following:

"348.273. 1. This section and section 348.274 shall be known and may be cited as the "Missouri Angel Investment Incentive Act".

2. As used in this section and section 348.274, the following terms mean:

(1) "Cash investment", money or money equivalent contribution;

(2) "Department", the department of economic development;

(3) "Investor":

(a) A natural person who is an accredited investor as defined in 17 CFR 230.501(a)(5) or 17 CFR 230.501(a)(6), as in effect on August 28, 2013;

(b) A permitted entity investor who is an accredited investor as defined in 17 CFR 230.501(a)(8), as in effect on August 28, 2013; or

(c) A natural person or permitted entity investor making an investment that is permitted under the Jumpstart Our Business Startups Act, Pub. L. No. 112-106, Sections 301-305, 126 Stat. 315-323, as in effect on August 28, 2013.

A person who serves as an executive, officer, or employee of the business in which an otherwise qualified cash investment is made is not an investor and such person shall not qualify for the issuance of tax credits for such investment;

(4) "MTC", the Missouri technology corporation, established under section 348.250;

(5) "Owner", any natural person who is, directly or indirectly, a partner, stockholder, or member in a permitted entity investor;

(6) "Permitted entity investor", any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the

Action Taken______________________________________ Date ________________________ state income tax imposed under chapter 143, general partnership, limited partnership, small corporation described in section 143.471, revocable living trust, or limited liability company that has elected to be taxed as a partnership under the United States internal revenue code, and that was established and is operated for the purpose of making investments in other entities;

(7) "Qualified knowledge-based company", a company based on the use of ideas and information to provide innovative technologies, products, and services;

(8) "Qualified Missouri business", the Missouri businesses that are approved and certified as qualified knowledge-based companies by the MTC that meet at least one of the following criteria:

(a) Any business owned by an individual;

(b) Any partnership, association, or corporation domiciled in Missouri; or

(c) Any corporation, even if a wholly owned subsidiary of a foreign corporation, that does business primarily in Missouri or does substantially all of such business's production in Missouri;

(9) "Qualified securities", a cash investment through any one or more forms of financial assistance as provided in this subdivision and that have been approved in form and substance by the department. Forms of such financial assistance include:

(a) Any form of equity, such as:

a. A general or limited partnership interest;

b. Common stock;

c. Preferred stock, with or without voting rights, without regard to seniority position, and whether or not convertible into common stock; or

d. Any form of subordinate or convertible debt, or both, with warrants or other means of equity conversion attached; or

(b) A debt instrument, such as a note or debenture that is secured or unsecured, subordinated to the general creditors of the debtor and requires no payments of principal, other than principal payments required to be made out of any future profits of the debtor, for at least a seven-year period after commencement of such debt instrument's term;

(10) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265.

3. The Missouri angel investment incentive act shall be administered by the MTC and the department, with the primary goal of encouraging individuals to provide seed-capital financing for emerging Missouri businesses engaged in the development, implementation, and commercialization of innovative technologies, products, and services. The MTC shall review applications from businesses requesting designation as a qualified Missouri business and allocate the amount of available tax credits among the qualified Missouri businesses. The department shall establish its own rules of procedure, including the form and substance of applications to be used by the MTC and the criteria to be considered by the MTC when evaluating a qualified Missouri business, such applications and criteria to be not less than the minimum requirements set forth in subsection 5 of this section. The department shall issue tax credits to qualified investors that make cash investments in qualified Missouri businesses that have been allocated available tax credits by the MTC.

4. (1) A tax credit shall be allowed for an investor's cash investment in the qualified securities of a qualified Missouri business. The credit shall be in a total amount equal to fifty percent of such investor's cash investment in any qualified Missouri business, subject to the limitations set forth in this subsection. This tax credit may be used in its entirety in the taxable year in which the cash investment is made except that no tax credit shall be allowed in a year prior to the year beginning January 1, 2014. If the amount by which that portion of the credit allowed by this section exceeds the investor's liability in any one taxable year, the remaining portion of the credit may be carried forward five years or until the total amount of the credit is used, whichever occurs first. If the investor is a permitted entity investor, the credit provided by this section shall be claimed by the

owners of the permitted entity investor in proportion to their equity investment in the permitted entity investor.

(2) A cash investment in a qualified security shall be deemed to have been made on the date of acquisition of the qualified security, as such date is determined in accordance with the provisions of the Internal Revenue Code of 1986, as amended.

(3) The department shall not allow tax credits of more than fifty thousand dollars for a single qualified Missouri business or a total of two hundred fifty thousand dollars in tax credits for a single year per investor who is a natural person or owner of a permitted entity investor. No tax credits authorized by this section and section 348.274 shall be allowed for any cash investments in qualified securities for any year beginning after December 31, 2019. The total amount of tax credits allocated under this section shall not exceed six million dollars per year.

(4) At the beginning of each calendar year, the department shall equally designate the tax credits available during that year for investments made in companies within each congressional district of the state. At the beginning of each calendar quarter, the department shall allocate to each congressional district one-fourth of the total tax credits designated to such district for the calendar year such that the MTC can allocate tax credits among the qualified Missouri businesses within such district. The department shall then issue tax credits to qualified investors for cash investments in such qualified Missouri businesses during that calendar quarter.

(5) At the end of each calendar quarter, the MTC shall report to the department any unallocated tax credits for the preceding quarter for each congressional district. Such report shall meet the requirements set forth in section 348.274. The department shall aggregate all such tax credits and reallocate them equally among the congressional districts as soon as possible during the next consecutive calendar quarter. Each congressional district shall receive such reallocation in addition to the new allocation of designated tax credits for such quarter.

(6) During the fourth calendar quarter, a congressional district in need of additional tax credits for transactions closing in the fourth calendar quarter may receive unallocated tax credits to the extent such credits are available. When the MTC transfers unallocated tax credits to another congressional district under this subdivision, the MTC shall provide to the department a written confirmation authorizing such transfer and the MTC shall include a copy of such written confirmation in its reports provided under section 348.274.

5. (1) Before an investor may be entitled to receive tax credits under this section and section 348.274, such investor shall have made a cash investment in a qualified security of a qualified Missouri business. The business shall have been approved by the MTC as a qualified Missouri business before the date on which the cash investment was made. To be designated as a qualified Missouri business, a business shall make application to the MTC in accordance with the provisions of this section.

(2) The application by a business to the MTC shall be in the form and substance as required by the department, but shall include at least the following:

(a) The name of the business and certified copies of the organizational documents of the business;

(b) A business plan, including a description of the business and the management, product, market, and financial plan of the business;

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

(d) A description of the qualified securities to be issued, the consideration to be paid for the qualified securities, and the amount of any tax credits requested;

(e) A statement of the amount, timing, and projected use of the proceeds to be raised from the proposed sale of qualified securities; and

(f) Such other information as the MTC or the department may reasonably request.

(3) The designation of a business as a qualified Missouri business shall be made by the MTC, and such designation shall be renewed annually. A business shall be so designated if the MTC determines, based upon the application submitted by the business and any additional investigation the MTC shall make, that such business meets the criteria established by the department. Such criteria shall include at least the following:

(a) The business shall not have had annual gross revenues of more than five million dollars in the most recent tax year of the business;

(b) Businesses that are not bioscience businesses shall have been in operation for less than five years, and bioscience businesses shall have been in operation for less than ten years;

(c) The ability of investors in the business to receive tax credits for cash investments in qualified securities of the business is beneficial, because funding otherwise available for the business is not available on commercially reasonable terms;

(d) The business shall not have ownership interests including, but not limited to, common or preferred shares of stock, that can be traded via a public stock exchange before the date that a qualifying investment is made;

(e) The business shall not be engaged primarily in any one or more of the following enterprises:

a. The business of banking, savings and loan or lending institutions, credit or finance, or financial brokerage or investments;

b. The provision of professional services, such as legal, accounting, or engineering services;

c. Governmental, charitable, religious, or trade organizations;

d. The ownership, development brokerage, sales, or leasing of real estate;

e. Insurance;

f. Construction or construction management or contracting;

g. Business consulting or brokerage;

h. Any business engaged primarily as a passive business, having irregular or noncontinuous operations, or deriving substantially all of the income of the business from passive investments that generate interest, dividends, royalties, or capital gains, or any business arrangements the effect of which is to immunize an investor from risk of loss;

i. Any activity that is in violation of the law;

j. Any business raising money primarily to purchase real estate, land, or fixtures; and

k. Any gambling related business;

(f) The business has a reasonable chance of success;

(g) The business has the reasonable potential to create measurable employment within the region, this state, or both;

(h) The business has an innovative and proprietary technology, product, or service;

(i) The existing owners of the business and other founders have made or are committed to make a substantial financial and time commitment to the business;

(j) The securities to be issued and purchased are qualified securities;

(k) The business has the reasonable potential to address the needs and opportunities specific to the region or this state, or both;

(l) The business has made binding commitments to the MTC for adequate reporting of financial data, including a requirement for an annual report, or, if required by the MTC, an annual audit of the financial and operational records of the business, the right of access to the financial records of the business, and the right of the MTC to record and publish normal and customary data and information related to the issuance of tax credits that are not otherwise determined to be trade or business secrets; and

(m) The business shall satisfy all other requirements of this section and section 348.274.

(4) Notwithstanding the requirements of subdivision (3) of this subsection, a business may be considered as a qualified Missouri business under the provisions of this section and section 348.274 if such business falls within a standard industrial classification code established by the department.

(5) A qualified Missouri business shall have the burden of proof to demonstrate to the MTC the qualifications of the business under this section.

(6) 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 and section 348.274 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, 2013, shall be invalid and void.

348.274. 1. (1) The MTC is authorized to allocate tax credits to qualified Missouri businesses. The department is authorized to issue tax credits to qualified investors in such qualified Missouri businesses. Such tax credits shall be allocated to those qualified Missouri businesses which, as determined by the MTC, are most likely to provide the greatest economic benefit to the region, the state, or both. The MTC may allocate, and the department may issue, whole or partial tax credits based on the MTC's assessment of the qualified Missouri businesses. The MTC may consider numerous factors in such assessment, including but not limited to, the quality and experience of the management team, the size of the estimated market opportunity, the risk from current or future competition, the ability to defend intellectual property, the quality and utility of the business model, and the quality and reasonableness of financial projections for the business.

(2) Each qualified Missouri business for which the MTC has allocated tax credits such that the department can issue tax credits to the qualified investors of such qualified Missouri business shall submit to the MTC a report before such tax credits are issued. The MTC shall provide copies of this report to the department. Such report shall include the following:

(a) The name, address, and taxpayer identification number of each investor who has made cash investment in the qualified securities of the qualified Missouri business;

(b) Proof of such investment, including copies of the securities purchase agreements and cancelled checks or wire transfer receipts; and

(c) Any additional information as the MTC may reasonably require under this section and section 348.273.

2. (1) The state of Missouri shall not be held liable for any damages to any investor that makes an investment in any qualified security of a qualified Missouri business, any business that applies to be designated as a qualified Missouri business and is turned down, or any investor that makes an investment in a business that applies to be designated as a qualified Missouri business and is turned down.

(2) Each qualified Missouri business shall have the obligation to notify the MTC and the department in a timely manner of any changes in the qualifications of the business or in the eligibility of investors to claim a tax credit for cash investment in a qualified security.

(3) The department shall provide the information specified in subdivision (3) of subsection 4 of this section to the department of revenue on an annual basis. The department shall conduct an annual review of the activities undertaken under this section and section 348.273 to ensure that tax credits issued under this section and section 348.273 are issued in compliance with the provisions of this section and section 348.273 or rules and regulations promulgated by the MTC or the department with respect to this section and section 348.273.

(4) If the department determines that a business is not in substantial compliance with the requirements of this section and section 348.273 to maintain its designation, the department, by written notice, shall inform the business that such business will lose its designation as a qualified Missouri business one hundred twenty days from the date of mailing of the notice unless such business corrects the deficiencies and is once again in compliance with the requirements for designation.

(5) At the end of the one hundred twenty-day period, if the qualified Missouri business is still not in substantial compliance, the department shall send a notice of loss of designation to the business, the MTC, the director of the department of revenue and to all known investors in the business.

(6) A business shall lose its designation as a qualified Missouri business under this section and section 348.273 by moving its operations outside Missouri within ten years after receiving financial assistance under this section and section 348.273.

(7) In the event that a business loses its designation as a qualified Missouri business, such business shall be precluded from being issued any additional tax credits with respect to the business, shall be precluded from being approved as a qualified Missouri business and shall repay any financial assistance to the MTC, in an amount to be determined by the MTC. Each qualified Missouri business that loses its designation as a qualified Missouri business shall enter into a repayment agreement with the MTC specifying the terms of such repayment obligation.

(8) Investors in a qualified Missouri business shall be entitled to keep all of the tax credits properly issued to such investors under this section and section 348.273.

(9) The portions of documents and other materials submitted the MTC or the department that contain trade secrets shall be kept confidential and shall be maintained in a secured environment by the MTC and the department, as applicable. For the purposes of this section and section 348.273, "trade secrets" means any customer lists, formula, compound, production data, or compilation of information that will allow individuals within a commercial concern using such information the means to fabricate, produce, or compound an article of trade or perform any service having commercial value, which gives the user an opportunity to obtain a business advantage over competitors who do not know or use such service.

(10) The MTC and the department may prepare and adopt procedures concerning the performance of the duties placed upon each respective entity by this section and section 348.273.

3. Any qualified investor who makes a cash investment in a qualified security of a qualified Missouri business may transfer the tax credits such qualified investor may receive under subsection 4 of section 348.273 to any natural person. Such transferee may claim the tax credit against the transferee's Missouri income tax liability as provided in subdivision (1) of subsection 4 of section 348.273, subject to all restrictions and limitations set forth in this section and section 348.273. Only the full credit for any one investment shall be transferred and this interest shall only be transferred one time. Documentation of any tax credit transfer under this section shall be provided by the qualified investor in the manner required by the department.

4. (1) Each qualified Missouri business for which tax credits have been issued under this section and section 348.273 shall report to the MTC on an annual basis, on or before February first. The MTC shall provide copies of the reports to the department. Such reports shall include the following:

(a) The name, address, and taxpayer identification number of each investor who has made cash investment in the qualified securities of the qualified Missouri business and has received tax credits for this investment during the preceding year;

(b) The amounts of these cash investments by each investor and a description of the qualified securities issued in consideration of such cash investments; and

(c) Any additional information as the MTC or the department may reasonably require under this section and section 348.273.

(2) The MTC shall report quarterly to the department on the allocation of the tax credits for each congressional district in the preceding calendar quarter. Such reports shall include:

(a) The amount of applications the MTC received for business in each congressional district;

(b) The number and ratio of successful applications to unsuccessful applications;

(c) The amount of tax credits allocated but not issued in each congressional district in the previous quarter, including what percentage was allocated to individuals and what percentage was allocated to investment firms;

(d) The amount of unallocated tax credits in each congressional district; and

(e) Such other information as reasonably agreed upon by the MTC and the department.

(3) The department shall also report annually to the governor, the president pro tempore of the senate, and the speaker of the house of representatives, on or before April first, on the allocation and issuance of the tax credits. Such reports shall include:

(a) The amount of tax credits issued in the previous fiscal year, including what percentage was issued to individuals and what percentage was issued to investment firms;

(b) The types of businesses that benefitted from the tax credits;

(c) The amount of allocated but unissued tax credits and the information about the unissued tax credits set forth in subdivision (2) of this subsection;

(d) Any aggregate job creation or capital investment in each congressional district that resulted from the use of the tax credits for a period of five years beginning from the date on which the tax credits were awarded;

(e) The manner in which the purpose of this section and section 348.273 has been carried out with regard to the region;

(f) The total cash investments made for the purchase of qualified securities of qualified Missouri businesses within each congressional district during the preceding year and cumulatively since the effective date of this section and section 348.273;

(g) An estimate of jobs created and jobs preserved by cash investments made in qualified Missouri businesses within each congressional district;

(h) An estimate of the multiplier effect on the economy of the region of the cash investments made under this section and section 348.273;

(i) Information regarding what businesses derived benefit from the tax credits remained in the applicable congressional district, what businesses ceased business, what businesses were purchased, and what businesses may have moved out of the congressional district or state and why.

(4) Any violation of the reporting requirements of this subsection by a qualified Missouri business may be grounds for the loss of designation of such qualified Missouri business, and such business that loses its designation as a qualified Missouri business shall be subject to the restrictions upon loss of designation set forth in subsection 2 of this section."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.