HCS HB 1310 & HB 1236 -- ANGEL INVESTMENT INCENTIVE ACT

SPONSOR: Torpey

COMMITTEE ACTION: Voted "Do Pass" by the Special Standing Committee on Small Business by a vote of 14 to 2.

This bill establishes the Missouri Angel Investment Incentive Act that is to be administered by the Missouri Technology Corporation (MTC). The primary goal of the act is to encourage 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 tax credits to qualified investors who make cash investments in the qualified Missouri business. The Department must 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 and issue tax credits to qualified investors that have been allocated available tax credits by the MTC.

A tax credit must be allowed for an investor's cash investment in the qualified securities of a qualified Missouri business. The credit must be in a total amount equal to 50% of the investor's cash investment in any qualified Missouri business. 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 can be allowed in a year prior to 2014. If the amount by which that portion of the credit allowed exceeds the investor's liability in any one taxable year, beginning in 2014, 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 must be claimed by the owners of the permitted entity investor in proportion to their equity investment in the permitted entity investor. The maximum tax credit allowed is $50,000 for a single qualified Missouri business per investor who is a natural person or permitted entity investor or a total of $250,000 for a single year per investor who is a natural person or owner of a permitted entity investor. No tax credits can be allowed for any cash investments in qualified securities for any year beginning after December 31, 2024. The total amount of tax credits that can be allowed cannot exceed $6 million in any fiscal year. The balance of unissued tax credits may be carried over for issuance in future years until December 31, 2024.

The tax credits must be administered by the MTC. At the beginning of each year, the MTC must equally designate the tax credits available during that year to each geographic region (the states congressional districts). At the beginning of each calendar quarter, the coordinator must allocate to each region one-fourth of the total tax credits designated to the region for the year so that the MTC can allocate tax credits to qualified Missouri businesses and the department can then issue tax credits to qualified investors for cash investments in the qualified Missouri businesses during that quarter.

At the end of each calendar quarter, the MTC must aggregate all the tax credits and reallocate them equally among the regions as soon as possible during the next consecutive calendar quarter. Each region must receive the reallocation in addition to the new allocation of designated tax credits for the quarter. During the fourth calendar quarter, a MTC may allocate the unallocated tax credits to be allocated to any region.

Before an investor may be entitled to receive tax credits, the investor must have made a cash investment in a qualified security of a qualified Missouri business. The business must have been approved by a 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 must make application to the MTC that includes specified information.

The designation of a business as a qualified Missouri business must be made by the MTC and must be renewed annually. A business must be so designated if the MTC determines specified criteria as established by the department. A business may be considered as a qualified Missouri business under the provisions of the substitute if it falls within a standard industrial classification code established by the coordinator. A qualified Missouri business must have the burden of proof to demonstrate to the MTC the qualifications of the business.

The MTC is authorized to allocate tax credits to qualified Missouri businesses and the department is authorized to issue tax credits to qualified investors in those qualified Missouri businesses. The tax credits must 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 business. The MTC may consider numerous factors in the 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.

Each qualified Missouri business for which the MTC has allocated tax credits to the qualified investors of the qualified Missouri business must submit to the MTC a report before the tax credits are issued that includes specified information.

The State of Missouri cannot 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.

Each qualified Missouri business must notify in a timely manner the MTC that allocated the tax credits and the coordinator 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.

The Department must provide specified information to the Department of Revenue on an annual basis. The Department must conduct an annual review of the activities to ensure that tax credits issued under these provisions are issued in compliance with the bill or rules and regulations promulgated by the MTC or the Department. If the Department determines that a business is not in substantial compliance to maintain its designation, the Department, by written notice, may inform the business that it will lose its designation as a qualified Missouri business 120 days from the date of mailing the notice unless the business corrects the deficiencies and is once again in compliance with the requirements for designation. After the 120-day period, if the qualified Missouri business is still not in compliance, the Department may 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. A business may lose its designation as a qualified Missouri business by moving its headquarters outside of Missouri or a substantial number of the jobs created in Missouri to a location outside Missouri within 10 years after receiving financial assistance under the provisions of the bill. In the event that a business loses its designation as a qualified Missouri business, it will be precluded from being issued any additional tax credits with respect to the business, must be precluded from being approved as a qualified Missouri business, and must repay any financial assistance to the MTC in an amount to be determined by the MTC. Each qualified Missouri business that loses its designation must enter into a repayment agreement with the MTC specifying the terms of the repayment obligation.

Investors in a qualified Missouri business must be entitled to keep all of the tax credits properly issued to the investors under these provisions.

The portions of documents and other materials submitted to the MTC or the Department that contain trade secrets must be kept confidential and must be maintained in a secured environment by the MTC and the Department.

Any qualified investor who makes a cash investment in a qualified security of a qualified Missouri business may transfer the tax credits to any natural person. Only the full credit for any one investment must be transferred and this interest must only be transferred one time. Documentation of any tax credit transfer must be provided by the qualified investor in the manner required by the Department.

Each qualified Missouri business for which tax credits have been issued must report specified information to the MTC on an annual basis, on or before February 1. The MTC and the Department must also report annually, on or before April 1, to the Governor; Director of the Department of Economic Development; President Pro Tem of the Senate and the Speaker of the House.

Any violation of the reporting requirements may be grounds for the loss of designation of the qualified Missouri business, and the business must be subject to the specified restrictions.

The provisions of the bill expire December 31, 2024.

PROPONENTS: Supporters say that the bill creates major investment opportunities, spurs economic development, and makes us more competitive with surrounding states for jobs and development. Investments in early stage capital companies are investments in the future growth of Missouri’s economy. States with angel tax credits pull investments and companies from states which don’t have them.

Testifying for the bills were Representative Torpey; Representative Hoskins; City of Kansas City; City of St. Louis, Mayor’s Office; The Civic Council of Greater Kansas City, Greater Kansas City Chamber of Commerce; Missouri Chamber of Commerce; Associated Industries of Missouri; BIO St. Louis; National Federation of Independent Business; Economic Development Corporation of Kansas City, Missouri; St. Louis Regional Chamber and Growth Association; Jake Halliday, Missouri Innovation Center; Missouri Biotechnology Association; and Cortex and Center for Emerging Technologies.

OPPONENTS: Those opposed to the bill say that while they are not opposed to economic development and ethical research, the bill needs protective language added to protect every innocent human life at every stage of development. The bills need to state that public funds cannot be used to pay for research involving abortion services, human cloning, or human embryonic stem cell research.

Testifying against the bill was Susan Klein, Missouri Right to Life.