

HOUSE AMENDMENT NO. ____
TO
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Offered By

AMEND House Amendment No. ____ to House Committee Substitute for Senate Substitute for Senate Bill No. 23, Page 1, Line 1, by inserting after the number "23," the following:

"Page 29, Section 144.070, Line 121, by inserting after all of said section and line 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", moneys or money-equivalent contribution;

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

(3) "Investor":

(a) One of the following persons or entities:

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

b. A permitted entity investor who is an accredited investor as defined under 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 who qualifies under the federal Jumpstart Our Business Startups (JOBS) Act, Pub. L. 112-106, as in effect on August 28, 2013;

(b) The term "investor" shall not include any person who serves as an executive, officer, or employee of the business in which an otherwise qualified cash investment is made, and such person shall not qualify for the issuance of tax credits for such investment. However, an investor who serves solely as a director may qualify for the issuance of tax credits;

(4) "MTC", the Missouri technology corporation established under section 348.251;

(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 general partnership; limited partnership; corporation that has in effect a valid election to be taxed as an S corporation under the Internal Revenue Code of

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1986, as amended; revocable living trust; nonprofit corporation; or limited liability company that has elected to be taxed as a partnership under the Internal Revenue Code of 1986, as amended, and that was established and is operated for the purpose of making investments in other entities;

(7) "Qualified knowledge-based company", a company engaged in the research, development, implementation, and commercialization of innovative technologies, products, and services for use in the commercial marketplace;

(8) "Qualified Missouri business", a Missouri business that is approved and certified as a qualified knowledge-based company by the MTC that meets 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 has its business operations located 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 under this subdivision that has been approved in form and substance by the MTC. Forms of such financial assistance include, but are not limited to:

(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 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 requiring 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 the 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, chapter 147, 148, or 153.

3. (1) For all tax years beginning on or after January 1, 2023, 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. If the amount by which that portion of the credit allowed by this section exceeds the investor's tax liability in any one tax 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 such owners' equity investment in the permitted entity investor.

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

4 (3) The department and the MTC shall not allow tax credits of more than fifty thousand
5 dollars for a single qualified Missouri business per investor who is a natural person or a permitted
6 entity investor and shall not allow a total of two hundred fifty thousand dollars in tax credits for a
7 single year per investor who is a natural person or a permitted entity investor. No tax credit
8 authorized by this section or section 348.274 shall be allowed for any cash investments in qualified
9 securities made in any year beginning after December 31, 2032. The total amount of tax credits that
10 may be allowed under this section shall not exceed six million dollars during either tax years 2023
11 or 2024. For each tax year thereafter, the total amount of tax credits allowed under this section shall
12 be increased by twenty percent of the total amount of tax credits allowed in the immediately
13 preceding tax year, so long as the total amount of tax credits allowed in the immediately preceding
14 tax year was issued during the immediately preceding tax year. The balance of unissued tax credits
15 may be carried over for issuance in future years until December 31, 2032. The balance of unissued
16 tax credits carried over, if any, shall not be used in the calculation of the total amount of tax credits
17 allowed in a given tax year.

18 (4) At the beginning of each calendar year, the MTC shall equally designate the total tax
19 credits available during that calendar year to each geographic region comprised of the boundaries of
20 each congressional district, as such boundaries may be amended from time to time. At the
21 beginning of each calendar quarter, the MTC shall make available one-fourth of the total annual tax
22 credits for each region for investments made in qualified Missouri businesses located in each such
23 region. As soon as practicable at the end of each calendar quarter, the MTC shall prepare and issue
24 a report to the director of the department designating all tax credit awards for that quarter, so that the
25 department may issue such tax credits in accordance with the provisions of this section and section
26 348.274. The report shall aggregate any unissued tax credits allocated to any region for any
27 calendar quarter and divide such unissued tax credits equally over each other region and make such
28 credits available for the following calendar quarter, which shall be in addition to the new allocation
29 of tax credits available to that region for the calendar quarter.

30 (5) During the fourth calendar quarter, any unissued tax credits allocated to any region,
31 which shall include the aggregate tax credits that have been reallocated under this section and
32 section 348.274 and any unissued tax credits allocated for the fourth quarter, may be awarded in any
33 region.

34 4. (1) Before an investor may be entitled to receive tax credits under this section and
35 section 348.274, such investor shall have made a cash investment in a qualified security of a
36 qualified Missouri business. The business shall have been approved as a qualified Missouri
37 business before the date on which the cash investment was made. To be designated as a qualified
38 Missouri business, a business shall apply to the MTC.

1 (2) The application by a business shall be in the form and substance as required by the
2 MTC, in coordination with the department by and through its service on the MTC board of directors,
3 but shall include at least the following:

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

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

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

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

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

14 (f) Such other information as may be reasonably requested.

15 (3) The designation of a business as a qualified Missouri business shall be made by the
16 MTC, and such designation shall be renewed annually. A business shall be so designated if the
17 MTC determines, based upon the application submitted by the business and any additional
18 information provided in connection with such application, that such business meets established
19 criteria, including at least the following:

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

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

24 (c) The ability of investors in the business to receive tax credits for cash investments in
25 qualified securities of the business is beneficial to advancing the goals of this section and section
26 348.274;

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

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

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

34 b. The provision of professional services, such as legal, accounting, or engineering services;
35 however, contract research or manufacturing organizations, sometimes referred to as CROs or
36 CMOs, shall not be subject to this exclusion;

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

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

39 e. Insurance;

- 1 f. Construction, construction management, or contracting;
2 g. Business consulting or brokerage;
3 h. Any business engaged primarily as a passive business, having irregular or noncontiguous
4 operations, or deriving substantially all of the income of the business from passive investments that
5 generate interest, dividends, royalties, or capital gains or any business arrangements the effect of
6 which is to immunize an investor from risk of loss;
7 i. Any activity that is in violation of the law;
8 j. Any business raising moneys primarily to purchase real estate, land, or fixtures; and
9 k. Any gambling-related business;
10 (f) The business has a reasonable chance of success;
11 (g) The business has the reasonable potential to create measurable employment within the
12 region, this state, or both;
13 (h) The business is based on an innovative technology, product, or service designed to be
14 used in the commercial marketplace;
15 (i) The existing owners of the business and other founders have made or are committed to
16 making a substantial financial or time commitment to the business;
17 (j) The securities to be issued and purchased are qualified securities;
18 (k) The business has the reasonable potential to address the needs and opportunities specific
19 to the region, this state, or both;
20 (l) The business has made binding commitments to the MTC for adequate reporting of
21 financial data, including a requirement for an annual report or, if required, an annual audit of the
22 financial and operational records of the business; the right of access to the financial records of the
23 business; the right of the department and the MTC to record and publish normal and customary data
24 and information related to the issuance of tax credits that are not otherwise determined to be trade or
25 business secrets; and other such protections as may be in the best interest of Missouri taxpayers to
26 achieve the goals of this section and section 348.274; and
27 (m) The business shall satisfy all other requirements of this section and section 348.274.
28 (4) A qualified Missouri business shall have the burden of proof to demonstrate the
29 qualifications of the business under this section.
30 (5) Before accepting a qualified security, a qualified Missouri business shall convey to the
31 MTC a two-percent-equity interest in the business, which, if the interest is convertible debt or a
32 similar instrument, may be achieved upon the conversion of such debt to equity. The MTC shall
33 refrain from exercising any voting rights in the business while it holds an equity interest.
34 (6) The MTC may sell the equity interest at a time the MTC believes is in the economic best
35 interest of the state and goals of this section and section 348.274 but shall consider any requests
36 submitted by the business in writing.
37 (7) Any proceeds from the sale of the equity interest shall be used by the MTC to promote
38 the goals of this section and section 348.274.

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

12 (2) Each qualified Missouri business, for which the MTC has allocated tax credits such that
13 the department can issue tax credits to the qualified investors of such qualified Missouri business,
14 shall submit to the MTC a report before such tax credits are issued. Such report shall include the
15 following:

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

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

20 (c) Such other information as may be reasonably required under this section and section
21 348.273.

22 2. (1) The state of Missouri shall not be held liable for any damages to any investor that
23 makes an investment in any qualified security of a qualified Missouri business, any business that
24 applies to be designated as a qualified Missouri business and is turned down, or any investor that
25 makes an investment in a business that applies to be designated as a qualified Missouri business and
26 is turned down.

27 (2) Each qualified Missouri business shall have the obligation to notify the MTC, which
28 shall notify the director of the department, of any changes in the qualifications of the business or in
29 the eligibility of investors to claim a tax credit for cash investment in a qualified security.

30 (3) The director of the department, in cooperation with the MTC, shall provide the
31 information specified under subdivision (3) of subsection 4 of this section to the director of the
32 department of revenue on an annual basis. The MTC shall conduct an annual review of the
33 activities undertaken under this section and section 348.273 to ensure that tax credits issued under
34 this section and section 348.273 are issued in compliance with the provisions of this section and
35 section 348.273 or rules and regulations promulgated by the MTC or the department with respect to
36 this section and section 348.273. The reasonable costs of the annual review shall be paid by the
37 MTC according to a reasonable fee schedule adopted by the MTC in cooperation with the
38 department by and through its service on the MTC board of directors.

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

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

10 (6) A business may lose its designation as a qualified Missouri business under this section
11 and section 348.273 by moving either its headquarters outside of Missouri or a substantial number
12 of the jobs created in Missouri to a location outside Missouri within ten years after receiving
13 financial assistance under this section and section 348.273.

14 (7) In the event that a business loses its designation as a qualified Missouri business, such
15 business shall be precluded from being issued any additional tax credits with respect to the business,
16 shall be precluded from being approved as a qualified Missouri business, and shall be subject to an
17 appropriate clawback provision that the MTC, in cooperation with the department by and through its
18 service on the MTC board of directors, may institute.

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

21 (9) The portions of documents and other materials submitted to the department or MTC that
22 contain confidential information shall be kept confidential and shall be maintained in a secured
23 environment. For the purposes of this section and section 348.273, confidential information may
24 include, but not be limited to, such portions of trade secrets, documents, any customer lists, and
25 other materials; any formula, compound, production data, or compilation of information that will
26 allow certain individuals within a commercial concern using such portions of documents and other
27 material the means to fabricate, produce, or compound an article of trade; or any service having
28 commercial value that gives the user an opportunity to obtain a business advantage over competitors
29 who do not know or use such service.

30 (10) The department and the MTC may prepare and adopt procedures, rules, and published
31 guidance concerning the performance of the duties placed upon each respective entity by this
32 section and section 348.273.

33 3. Any qualified investor who makes a cash investment in a qualified security of a qualified
34 Missouri business may transfer the tax credits such qualified investor may receive under subsection
35 3 of section 348.273 to any natural person. Such transferee may claim the tax credit against the
36 transferee's Missouri income tax liability as provided in subdivision (1) of subsection 3 of section
37 348.273, subject to all restrictions and limitations set forth in this section and section 348.273.
38 Documentation of any tax credit transfer under this section shall be provided by the qualified

1 investor in the manner established by the MTC and the department, by and through its service on the
2 MTC board of directors.

3 4. (1) Each qualified Missouri business for which tax credits were issued under this section
4 and section 348.273 shall report to MTC annually on or before February first. The MTC shall
5 provide copies of the reports to the department under appropriate confidentiality agreements as may
6 be necessary under the circumstances. Such reports shall include the following:

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

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

12 (c) Such other information as may be reasonably required under this section and section
13 348.273.

14 (2) The MTC shall report quarterly to the director of the department on the allocation of the
15 tax credits in the preceding calendar quarter. Such reports shall include:

16 (a) The number of applications received;

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

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

20 (d) Such other information as reasonably agreed upon from time to time.

21 (3) The MTC and the department, as applicable, shall also report annually to the governor,
22 the director of the department of economic development, the president pro tempore of the senate,
23 and the speaker of the house of representatives, on or before April first, on the allocation and
24 issuance of the tax credits. Such reports shall include:

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

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

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

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

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

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

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

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

3 (i) Information regarding what businesses deriving benefits from the tax credits remained in
4 the region, what businesses ceased business, what businesses were purchased, and what businesses
5 may have moved out of a region or the state.

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

10 5. Section 348.273 and this section shall expire on December 31, 2032."; and

11
12 Further amend said bill"; and

13
14 Further amend said bill by amending the title, enacting clause, and intersectional references
15 accordingly.

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17 THIS AMENDS 1015H05.10H.