

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Substitute for Senate Bill No. 802, Page 1, Section A, Line 4, by inserting after all
2 of said section and line the following:

3
4 348.273. 1. This section and section 348.274 shall be known and may be cited as the
5 "Missouri Angel Investment Incentive Act".

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

7 (1) "Cash investment", any moneys or money-equivalent contribution in consideration of
8 qualified securities;

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

10 (3) "Designated geographic regions", one of the following four regions:

11 (a) Region 1: Counties of Andrew, Bates, Benton, Buchanan, Cass, Clay, Clinton, DeKalb,
12 Gentry, Henry, Holt, Jackson, Johnson, Lafayette, Platte, Ray, and Worth;

13 (b) Region 2: Counties of Franklin, Jefferson, Lincoln, St. Charles, Warren, and St. Louis,
14 and the City of St. Louis;

15 (c) Region 3: Counties geographically north of the Missouri River, but excluding any
16 counties in region 1 or region 2; and

17 (d) Region 4: Counties geographically south of the Missouri River, but excluding any
18 counties in region 1 or region 2;

19 (4) "Investor":

20 (a) One of the following persons or entities:

21 a. A natural person who is an accredited investor as defined under 17 CFR 230.501(a)(5) or
22 230.501(a)(6), as in effect on August 28, 2013;

23 b. A permitted entity investor who is an accredited investor as defined under 17 CFR
24 230.501(a)(8), as in effect on August 28, 2013; or

25 c. A natural person or permitted entity investor making an investment who qualifies under
26 the federal Jumpstart Our Business Startups (JOBS) Act, Pub. L. 112-106, as in effect on August 28,
27 2013; and

28 (b) The term "investor" shall not include any person who serves as an executive, officer, or
29 employee of the business in which an otherwise qualified cash investment is made, and such person

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1 shall not qualify for the issuance of tax credits for such investment. However, an investor who
2 serves solely as a director may qualify for the issuance of tax credits;

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

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

6 (7) "Permitted entity investor", any general partnership; limited partnership; corporation that
7 has in effect a valid election to be taxed as an S corporation under the Internal Revenue Code of
8 1986, as amended; revocable living trust; nonprofit corporation; or limited liability company that
9 has elected to be taxed as a partnership under the Internal Revenue Code of 1986, as amended, and
10 that was established and is operated for the purpose of making investments in other entities;

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

14 (9) "Qualified Missouri business", a Missouri business that is approved as a qualified
15 knowledge-based company by the MTC and meets at least one of the following criteria:

16 (a) Any partnership, association, limited liability company, or corporation domiciled in
17 Missouri; or

18 (b) Any limited liability company or corporation that is domiciled outside the state of
19 Missouri but has its business operations located primarily in Missouri or does substantially all of
20 such business's production in Missouri;

21 (10) "Qualified securities", a cash investment through any form or combination of forms of
22 financial assistance as provided under this subdivision. Such forms of financial assistance include,
23 but are not limited to:

24 (a) Any form of equity, such as:

25 a. A general or limited partnership interest;

26 b. Common stock;

27 c. Simple agreement for future equity (SAFE); or

28 d. Preferred stock, without regard to voting rights or seniority position, and regardless of
29 whether convertible into common stock; and

30 (b) Any debt instrument subordinate to the general creditors of the qualified Missouri
31 company debtor that requires no payment from the qualified Missouri company debtor and that shall
32 convert to some form of equity prior to, or in conjunction with, the qualified Missouri company
33 raising any additional funds;

34 (11) "Rural county", any county in the state of Missouri with fewer than twenty-five
35 thousand inhabitants, and such term shall be deemed to include both the farm and nonfarm
36 population thereof. The number of inhabitants specified in this subdivision shall be increased by six
37 percent every ten years after each decennial census beginning in 2030; and

38 (12) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding
39 withholding tax imposed by sections 143.191 to 143.265, chapter 147, or chapter 148.

1 3. (1) For all tax years beginning on or after January 1, 2025, a tax credit shall be allowed
2 for an investor's cash investment in the qualified securities of a qualified Missouri business. The
3 credit shall be in a total amount equal to forty percent of such investor's cash investment in any
4 qualified Missouri business, subject to the limitations set forth in this subsection. The credit shall be
5 in a total amount equal to fifty percent where the investor's cash investment in the qualified
6 securities of a qualified Missouri business are in a county that meets the rural county classification
7 as defined in this section. If the amount by which that portion of the credit allowed by this section
8 exceeds the investor's tax liability in any one tax year, the remaining portion of the credit may be
9 carried forward five years or until the total amount of the credit is used, whichever occurs first. If
10 the investor is a permitted entity investor, the credit provided by this section shall be claimed by the
11 permitted entity investor in proportion to such owner's equity investment in the permitted entity
12 investor.

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

16 (3) The department and the MTC shall not allow tax credits of more than seventy-five
17 thousand dollars for a single qualified Missouri business per investor who is a natural person or a
18 permitted entity investor and shall not allow a total of three hundred thousand dollars in tax credits
19 for a single tax year per investor who is a natural person or a permitted entity investor. No tax credit
20 authorized by this section or section 348.274 shall be allowed for any cash investments in qualified
21 securities made in any year after December 31, 2031. The total amount of tax credits that may be
22 allowed under this section shall not exceed six million dollars during either calendar year 2025 or
23 2026. Beginning calendar year 2027, the total amount of tax credits allowed under this section shall
24 be increased by twenty percent of the total amount of tax credits allowed in the immediately
25 preceding calendar year, so long as the total amount of tax credits allowed in the immediately
26 preceding calendar year was completely issued during the immediately preceding calendar year. For
27 each successive year thereafter, if the total amount of tax credits allowed in the immediately
28 preceding calendar year under this section is issued, the total amount of tax credits shall be
29 increased by an additional twenty percent. Such increase of twenty percent of tax credits allowed
30 shall continue, so long as the total amount of tax credits allowed in the immediately preceding
31 calendar year was completely issued. The balance of unissued tax credits may be carried over for
32 issuance in future years before December 31, 2033. The balance of unissued tax credits carried
33 over, if any, shall not be used in the calculation of the total amount of tax credits allowed in a given
34 calendar year.

35 (4) At the beginning of each calendar year, the MTC shall equally designate the total
36 amount of tax credits available during the first six months of that calendar year to each designated
37 geographic region: region 1, region 2, region 3, and region 4. As soon as practicable at the end of
38 the first six months of that calendar year, the MTC shall prepare and issue a report to the director of

1 the department designating all tax credit awards for that year to date, so that the department may
2 issue such tax credits in accordance with the provisions of this section and section 348.274.

3 (5) During the last six months of the calendar year, any unissued tax credits previously
4 allocated to any designated geographic region may be awarded at the discretion of the MTC to a
5 qualified Missouri company in any designated geographic region throughout the state.

6 4. (1) Before an investor is entitled to receive tax credits under this section and section
7 348.274, such investor shall have made a cash investment in a qualified security of a qualified
8 Missouri business. The business shall have been approved as a qualified Missouri business before
9 the date on which the cash investment was made. To be designated as a qualified Missouri business,
10 a business shall apply to the MTC.

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

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

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

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

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

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

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

25 (3) The designation of a business as a qualified Missouri business shall be made by the
26 MTC, and each qualified Missouri business shall apply to renew annually such designation to be
27 approved by the MTC. A business shall be so designated if the MTC determines, based upon the
28 application submitted by the business and any additional information provided in connection with
29 such application or as reasonably requested by the MTC, that such business meets established
30 criteria, including at least the following:

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

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

35 (c) The ability of investors in the business to receive tax credits for cash investments in
36 qualified securities of the business is beneficial to advancing the goals of this section and section
37 348.274;

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

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

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

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

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

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

13 e. Insurance;

14 f. Construction, construction management, or contracting;

15 g. Business consulting or brokerage;

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

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

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

22 k. Any gambling-related business;

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

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

26 (h) The business is based on an innovative technology, product, or service designed to be
27 used in the commercial marketplace;

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

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

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

33 (l) The business has made binding commitments to the MTC for adequate reporting of
34 financial data, including a requirement for an annual report or, if required, an annual audit of the
35 financial and operational records of the business; the right of access to the financial records of the
36 business; the right of the department and the MTC to record and publish normal and customary data
37 and information related to the issuance of tax credits that are not otherwise determined to be trade or
38 business secrets; and other such protections as may be in the best interest of Missouri taxpayers to
39 achieve the goals of this section and section 348.274; and

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

2 (4) A qualified Missouri business shall have the burden of proof to demonstrate the
3 qualifications of the business under this section.

4 (5) The MTC shall establish an application fee for qualified Missouri businesses and
5 investors or transferees. This fee shall be utilized by MTC to administer this act, issue the tax
6 credits, and review the applications.

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

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

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

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

25 (c) Such other information as may be reasonably required under this section and section
26 348.273 or reasonably requested by the department or the MTC.

27 2. (1) The state of Missouri, the department, or the MTC shall not be held liable for any
28 damages to any investor that makes an investment in any qualified security of a qualified Missouri
29 business, any business that applies to be designated as a qualified Missouri business and is denied,
30 or any investor that makes an investment in a business that applies to be designated as a qualified
31 Missouri business and is denied.

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

35 (3) The director of the department, in cooperation with the MTC, shall provide the
36 information specified under subdivision (3) of subsection 4 of this section to the director of the
37 department of revenue on an annual basis. The MTC shall conduct an annual review of the
38 activities undertaken under this section and section 348.273 to ensure that tax credits issued under
39 this section and section 348.273 are issued in compliance with the provisions of this section and

1 section 348.273 or rules and regulations promulgated by the MTC or the department with respect to
2 this section and section 348.273. The reasonable costs of the annual review shall be paid by the
3 MTC according to a reasonable fee schedule adopted by the MTC in cooperation with the
4 department by and through its service on the MTC board of directors.

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

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

15 (6) A business may lose its designation as a qualified Missouri business under this section
16 and section 348.273 by moving either its headquarters outside of Missouri or a substantial number
17 of the jobs created in Missouri to a location outside Missouri within ten years after receiving
18 financial assistance under this section and section 348.273, provided that no business may lose its
19 designation as a qualified Missouri business under this section and section 348.273 if such move is
20 in connection with the acquisition of the business by sale of all or substantially all of its business,
21 whether by merger, sale of stock, sale of assets, or otherwise.

22 (7) In the event that a business loses its designation as a qualified Missouri business, such
23 business shall be precluded from being issued any additional tax credits available under this section
24 and section 348.273 with respect to the business, shall be precluded from being approved as a
25 qualified Missouri business, and shall be subject to an appropriate clawback provision that the MTC,
26 in cooperation with the department by and through its service on the MTC board of directors, may
27 institute.

28 (8) Investors who lawfully make an investment in a qualified Missouri business shall not
29 have issued tax credits disallowed solely due to the business subsequently losing its designation as a
30 qualified Missouri business. In the event such qualified business loses its designation as a qualified
31 Missouri business, the amount of tax credits issued under this section and section 348.273 shall be
32 subject to clawback provisions from the qualified Missouri business, to be determined by the
33 department and the MTC board of directors.

34 (9) The portions of documents and other materials submitted to the department or MTC that
35 contain confidential information shall be kept confidential and shall be maintained in a secured
36 environment. For the purposes of this section and section 348.273, confidential information shall
37 include, but not be limited to, such portions of trade secrets, documents, any customer lists, and
38 other materials; any formula, compound, production data, or compilation of information that will
39 allow certain individuals within a commercial concern using such portions of documents and other

1 material the means to fabricate, produce, or compound an article of trade; or any service having
2 commercial value that gives the user an opportunity to obtain a business advantage over competitors
3 who do not know or use such service.

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

7 3. Any investor who makes a cash investment in a qualified security of a qualified Missouri
8 business may transfer the tax credits such investor may receive under subsection 3 of section
9 348.273 to any natural person. So long as the investor has not claimed the tax credit against the
10 investor's Missouri income tax liability, such transferee may claim the tax credit against the
11 transferee's Missouri income tax liability as provided in subdivision (1) of subsection 3 of section
12 348.273, subject to all restrictions and limitations set forth in this section and section 348.273.
13 Documentation of any tax credit transfer under this section shall be provided by the investor in the
14 manner established by the MTC and the department, by and through its service on the MTC board of
15 directors.

16 4. (1) Each qualified Missouri business for which tax credits were issued under this section
17 and section 348.273 shall report to the MTC annually on or before February first. The MTC shall
18 provide copies of the reports to the department under appropriate confidentiality agreements as may
19 be necessary under the circumstances. Such reports shall include the following:

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

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

25 (c) Such other information as may be reasonably required under this section and section
26 348.273.

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

29 (a) The number of applications received;

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

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

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

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

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

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

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

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

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

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

12 (g) An estimate of jobs created and jobs preserved by cash investments made in qualified
13 Missouri businesses within the state;

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

16 (i) Information regarding what businesses deriving benefits from the tax credits remained in
17 the designated geographic region, what businesses ceased business, what businesses were
18 purchased, and what businesses may have moved out of a designated geographic region or the state.

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

23 5. Notwithstanding any provision of section 105.1500 to the contrary, any requirement to
24 provide information, documents, or records under section 348.273 or 348.274, and any requirement
25 established by the MTC or any state agency to provide information, documents, or records for the
26 purpose of administering these sections, shall be exempt from section 105.1500 of the personal
27 privacy protection act.

28 6. Tax credits issued under section 348.273 or 348.274 shall be classified as "entrepreneurial
29 tax credits" under section 135.800 of the tax credit accountability act.

30 7. Section 348.273 and this section shall expire on December 31, 2031."; and
31

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