

SECOND REGULAR SESSION

# SENATE BILL NO. 802

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Read 1st time January 20, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4138S.02I

## AN ACT

To amend chapter 348, RSMo, by adding thereto one new section relating to business development.

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

Section A. Chapter 348, RSMo, is amended by adding thereto one new  
2 section, to be known as section 348.268, to read as follows:

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

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

**20 3. (1) The Missouri technology corporation may use moneys in  
21 the proof of concept technology business finance program account, as**

22 appropriated, to make one-time loans to a company that is at the early  
23 development stage of commercializing advanced technology.

24 (2) The loan amount to any single advanced technology company  
25 shall not exceed seventy-five thousand dollars, provided that no more  
26 than one million two hundred fifty thousand dollars shall be available  
27 for loans to advanced technology companies per fiscal year.

28 (3) Loans shall be repaid to the Missouri technology corporation  
29 in an amount equal to two times the amount loaned. Repayment shall  
30 take place no later than five years from the date of the loan. Early  
31 repayment shall result in prorating of the repayment amount.

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

35 (5) Eligible advanced technology industries shall include animal  
36 health, biotechnology, information technology, communications  
37 technology, aerospace, electronics, robotics, medical devices and  
38 instruments, telecommunications, plant sciences, and energy. Ineligible  
39 company industries include banking and lending, development,  
40 management and investment companies, finance, insurance, mining, oil  
41 and gas exploration, real estate, wholesale, and retail.

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

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

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

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

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

59           4. Eligible uses of the proceeds of a proof of concept program  
60 loan shall include intellectual property development, building  
61 prototypes, market studies, identifying and securing a management  
62 team, and business operations.

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

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

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

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

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

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

75           (2) Approval of the loan by the Missouri technology corporation,  
76 which may be made after the board of directors finds, based upon the  
77 application submitted by the company and such additional  
78 investigation as the staff of the Missouri technology corporation shall  
79 make, that:

80           (a) The proceeds of the loan will be used only to cover eligible  
81 expenses of the company;

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

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

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

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

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

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

95           (h) Binding commitments have been made to the Missouri

96 technology corporation by the company for adequate reporting of  
97 financial data to the Missouri technology corporation, which shall  
98 include a requirement for an annual report or, if required by the board,  
99 an annual audit of the financial and operational records of the  
100 company.

101         6. The Missouri technology corporation may adopt such rules,  
102 statements of policy, procedures, forms, and guidelines as may be  
103 necessary to carry out the provisions of this section. Any rule or  
104 portion of a rule, as that term is defined in section 536.010 that is  
105 created under the authority delegated in this section shall become  
106 effective only if it complies with and is subject to all of the provisions  
107 of chapter 536, and, if applicable, section 536.028. This section and  
108 chapter 536 are nonseverable and if any of the powers vested with the  
109 general assembly under chapter 536, to review, to delay the effective  
110 date, or to disapprove and annul a rule are subsequently held  
111 unconstitutional, then the grant of rulemaking authority and any rule  
112 proposed or adopted after August 28, 2010, shall be invalid and void.

Bill ✓

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