

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 120, Page 38, Section 253.559, Line 23

2 of said page, by inserting immediately after all of said line the
3 following:

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

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

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

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

12 (3) "Investor":

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

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

19 (c) A natural person or permitted entity investor making an
20 investment that is permitted under the Jumpstart Our Business
21 Startups Act, Pub. L. No. 112-106, Sections 301-305, 126 Stat.

1 315-323, as in effect on August 28, 2013.

2
3 A person who serves as an executive, officer, or employee of the
4 business in which an otherwise qualified cash investment is made
5 is not an investor and such person shall not qualify for the
6 issuance of tax credits for such investment;

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

10 (5) "Permitted entity investor", any charitable
11 organization which is exempt from federal income tax and whose
12 Missouri unrelated business taxable income, if any, would be
13 subject to the state income tax imposed under chapter 143,
14 general partnership, limited partnership, small corporation
15 described in section 143.471, revocable living trust, or limited
16 liability company that has elected to be taxed as a partnership
17 under the United States internal revenue code, and that was
18 established and is operated for the purpose of making investments
19 in other entitites;

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

23 (7) "Qualified Missouri business", the Missouri businesses
24 that are approved and certified as qualified knowledge-based
25 companies by the regional SBTDC that meet at least one of the
26 following criteria:

27 (a) Any business owned by an individual;

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

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

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

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

9 a. A general or limited partnership interest;

10 b. Common stock;

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

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

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

22 (9) "SBTDC", the Missouri small business and technology
23 development center; and

24 (10) "Tax credit", a credit against the tax otherwise due
25 under chapter 143, excluding withholding tax imposed by sections
26 143.191 to 143.265.

27 3. The Missouri angel investment incentive act shall be
28 administered by the regional SBTDCs and the department, with the
29 primary goal of encouraging individuals to provide seed-capital

1 financing for emerging Missouri businesses engaged in the
2 development, implementation, and commercialization of innovative
3 technologies, products, and services. Each regional SBTDC shall
4 establish a regional committee consisting of no fewer than three
5 but no more than five persons for the purpose of reviewing
6 applications from businesses requesting designation as a
7 qualified Missouri business and allocating the amount of
8 available tax credits among the qualified Missouri businesses.
9 The department shall establish its own rules of procedure,
10 including the form and substance of applications to be used by
11 each regional SBTDC and the criteria to be considered by each
12 regional SBTDC when evaluating a qualified Missouri business,
13 such applications and criteria to be not less than the minimum
14 requirements set forth in subsection 5 of this section. The
15 department shall issue tax credits to qualified investors that
16 make cash investments in qualified Missouri businesses that have
17 been allocated available tax credits by a regional SBTDC.

18 4. (1) A tax credit shall be allowed for an investor's
19 cash investment in the qualified securities of a qualified
20 Missouri business. The credit shall be in a total amount equal
21 to fifty percent of such investor's cash investment in any
22 qualified Missouri business, subject to the limitations set forth
23 in this subsection. This tax credit may be used in its entirety
24 in the taxable year in which the cash investment is made except
25 that no tax credit shall be allowed in a year prior to the year
26 beginning January 1, 2014. If the amount by which that portion
27 of the credit allowed by this section exceeds the investor's
28 liability in any one taxable year, the remaining portion of the
29 credit may be carried forward five years or until the total

1 amount of the credit is used, whichever occurs first. If the
2 investor is a permitted entity investor, the credit provided by
3 this section shall be claimed by the owners of the permitted
4 entity investor in proportion to their equity investment in the
5 permitted entity investor.

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

10 (3) The director of the department of revenue shall not
11 allow tax credits of more than fifty thousand dollars for a
12 single qualified Missouri business or a total of two hundred
13 fifty thousand dollars in tax credits for a single year per
14 investor who is a natural person or owner of a permitted entity
15 investor. No tax credits authorized by this section and section
16 348.274 shall be allowed for any cash investments in qualified
17 securities for any year beginning after December 31, 2024. The
18 total amount of tax credits allocated under this section shall
19 not exceed six million dollars per year. The balance of unissued
20 tax credits may be carried over for issuance in future years
21 until December 31, 2024.

22 (4) At the beginning of each calendar year, the department
23 shall equally designate the tax credits available during that
24 year to each regional SBTDC. At the beginning of each calendar
25 quarter, the department shall allocate to each regional SBTDC
26 one-fourth of the total tax credits designated to such regional
27 SBTDC for the calendar year such that the regional SBTDC can
28 allocate tax credits among the qualified Missouri businesses.
29 The department shall then issue tax credits to qualified

1 investors for cash investments in such qualified Missouri
2 businesses during that calendar quarter.

3 (5) At the end of each calendar quarter, each regional
4 SBTDC shall report to the department any unallocated tax credits
5 for the preceding quarter. Such report shall meet the
6 requirements set forth in section 348.274. The department shall
7 aggregate all such tax credits and reallocate them equally among
8 the regional SBTDCs as soon as possible during the next
9 consecutive calendar quarter. Each regional SBTDC shall receive
10 such reallocation in addition to the new allocation of designated
11 tax credits for such quarter.

12 (6) During the fourth calendar quarter, a regional SBTDC in
13 need of additional tax credits for transactions closing in the
14 fourth calendar quarter may request that another regional SBTDC
15 with unallocated tax credits permit such unallocated tax credits
16 to be allocated by the requesting SBTDC. No regional SBTDC shall
17 be required to grant such request. When a granting SBTDC
18 transfers the allocation of the unallocated tax credits to a
19 requesting SBTDC under this subdivision, the granting SBTDC shall
20 provide to the requesting SBTDC a written confirmation
21 authorizing such transfer, the granting SBTDC shall include a
22 copy of such written confirmation in its reports provided under
23 section 348.274, and the requesting SBTDC shall include a copy of
24 such written confirmation in its reports provided under section
25 348.274.

26 5. (1) Before an investor may be entitled to receive tax
27 credits under this section and section 348.274, such investor
28 shall have made a cash investment in a qualified security of a
29 qualified Missouri business. The business shall have been

1 approved by a regional SBTDC as a qualified Missouri business
2 before the date on which the cash investment was made. To be
3 designated as a qualified Missouri business, a business shall
4 make application to a regional SBTDC in accordance with the
5 provisions of this section.

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

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

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

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

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

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

23 (f) Such other information as the regional SBTDC or the
24 department may reasonably request.

25 (3) The designation of a business as a qualified Missouri
26 business shall be made by the regional SBTDC, and such
27 designation shall be renewed annually. A business shall be so
28 designated if the regional SBTDC determines, based upon the
29 application submitted by the business and any additional

1 investigation the regional SBTDC shall make, that such business
2 meets the criteria established by the department. Such criteria
3 shall include at least the following:

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

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

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

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

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

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

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

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

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

29 e. Insurance;

1 f. Construction or construction management or contracting;
2 g. Business consulting or brokerage;

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

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

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

12 k. Any gambling related business;

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

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

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

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

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

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

26 (l) The business has made binding commitments to the
27 regional SBTDC for adequate reporting of financial data,
28 including a requirement for an annual report, or, if required by
29 the regional SBTDC, an annual audit of the financial and

1 operational records of the business, the right of access to the
2 financial records of the business, and the right of the regional
3 SBTDC to record and publish normal and customary data and
4 information related to the issuance of tax credits that are not
5 otherwise determined to be trade or business secrets; and

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

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

13 (5) A qualified Missouri business shall have the burden of
14 proof to demonstrate to the regional SBTDC the qualifications of
15 the business under this section.

16 6. Any rule or portion of a rule, as that term is defined
17 in section 536.010 that is created under the authority delegated
18 in this section and section 348.274 shall become effective only
19 if it complies with and is subject to all of the provisions of
20 chapter 536, and, if applicable, section 536.028. This section
21 and chapter 536 are nonseverable and if any of the powers vested
22 with the general assembly pursuant to chapter 536, to review, to
23 delay the effective date, or to disapprove and annul a rule are
24 subsequently held unconstitutional, then the grant of rulemaking
25 authority and any rule proposed or adopted after August 28, 2013,
26 shall be invalid and void.

27 348.274. 1. (1) Each regional SBTDC is authorized to
28 allocate tax credits to qualified Missouri businesses. The
29 department is authorized to issue tax credits to qualified

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

15 (2) Each qualified Missouri business for which a regional
16 SBTDC has allocated tax credits such that the department can
17 issue tax credits to the qualified investors of such qualified
18 Missouri business shall submit to the regional SBTDC a report
19 before such tax credits are issued. The regional SBTDC shall
20 provide copies of this report to the department. Such report
21 shall include the following:

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

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

28 (c) Any additional information as the regional SBTDC may
29 reasonably require under this section and section 348.273.

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

8 (2) Each qualified Missouri business shall have the
9 obligation to notify the regional SBTDC that allocated tax
10 credits to the qualified Missouri business and the department in
11 a timely manner of any changes in the qualifications of the
12 business or in the eligibility of investors to claim a tax credit
13 for cash investment in a qualified security.

14 (3) The department shall provide the information specified
15 in subdivision (3) of subsection 4 of this section to the
16 department of revenue on an annual basis. The department shall
17 conduct an annual review of the activities undertaken under this
18 section and section 348.273 to ensure that tax credits issued
19 under this section and section 348.273 are issued in compliance
20 with the provisions of this section and section 348.273 or rules
21 and regulations promulgated by each regional SBTDC or the
22 department with respect to this section and section 348.273.

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

1 compliance with the requirements for designation.

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

8 (6) A business shall lose its designation as a qualified
9 Missouri business under this section and section 348.273 by
10 moving its operations outside Missouri within ten years after
11 receiving financial assistance under this section and section
12 348.273.

13 (7) In the event that a business loses its designation as a
14 qualified Missouri business, such business shall be precluded
15 from being issued any additional tax credits with respect to the
16 business, shall be precluded from being approved as a qualified
17 Missouri business and shall repay any financial assistance to the
18 regional SBTDC, in an amount to be determined by the regional
19 SBTDC. Each qualified Missouri business that loses its
20 designation as a qualified Missouri business shall enter into a
21 repayment agreement with the regional SBTDC specifying the terms
22 of such repayment obligation.

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

26 (9) The portions of documents and other materials submitted
27 to any regional SBTDC or the department that contain trade
28 secrets shall be kept confidential and shall be maintained in a
29 secured environment by the regional SBTDC and the department, as

1 applicable. For the purposes of this section and section
2 348.273, "trade secrets" means any customer lists, formula,
3 compound, production data, or compilation of information that
4 will allow individuals within a commercial concern using such
5 information the means to fabricate, produce, or compound an
6 article of trade or perform any service having commercial value,
7 which gives the user an opportunity to obtain a business
8 advantage over competitors who do not know or use such service.

9 (10) Each regional SBTDC and the department may prepare and
10 adopt procedures concerning the performance of the duties placed
11 upon each respective entity by this section and section 348.273.

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

25 4. (1) Each qualified Missouri business for which tax
26 credits have been issued under this section and section 348.273
27 shall report to the applicable regional SBTDC on an annual basis,
28 on or before February first. The regional SBTDC shall provide
29 copies of the reports to the department. Such reports shall

1 include the following:

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

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

9 (c) Any additional information as the regional SBTDC or the
10 department may reasonably require under this section and section
11 348.273.

12 (2) Each regional SBTDC shall report quarterly to the
13 department on the allocation of the tax credits in the preceding
14 calendar quarter. Such reports shall include:

15 (a) The amount of applications the regional SBTDC received;

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

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

22 (d) The amount of unallocated tax credits; and

23 (e) Such other information as reasonably agreed upon by
24 each regional SBTDC and the department.

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

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

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

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

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

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

15 (f) The total cash investments made for the purchase of
16 qualified securities of qualified Missouri businesses within the
17 region during the preceding year and cumulatively since the
18 effective date of this section and section 348.273;

19 (g) An estimate of jobs created and jobs preserved by cash
20 investments made in qualified Missouri businesses within the
21 region;

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

25 (i) Information regarding what businesses derived benefit
26 from the tax credits remained in the region, what businesses
27 ceased business, what businesses were purchased, and what
28 businesses may have moved out-of-region or out-of-state and why.

29 (4) Any violation of the reporting requirements of this

1 subsection by a qualified Missouri business may be grounds for
2 the loss of designation of such qualified Missouri business, and
3 such business that loses its designation as a qualified Missouri
4 business shall be subject to the restrictions upon loss of
5 designation set forth in subsection 2 of this section.

6 5. Notwithstanding sections 23.250 to 23.298 of the
7 Missouri sunset act, sections 348.273 and 348.274 shall expire on
8 December 31, 2024."; and

9 Further amend the title and enacting clause accordingly.

10