SECOND REGULAR SESSION

HOUSE BILL NO. 1511

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FLOOK (Sponsor), DIEHL, BRANDOM, CORCORAN, KOMO, ZERR, SCHARNHORST, BROWN (50), JONES (117), DEEKEN, FAITH, NOLTE, MUNZLINGER, DIECKHAUS, BURLISON, SILVEY, LAIR, GRISAMORE, STORCH, TALBOY BURNETT, WEBB, HOLSMAN, RUCKER, FRAME, BIVINS, FUNDERBURK, JONES (89), NANCE, SCHAAF, WASSON, FISHER (125), STEVENSON, SCHAD, NASHEED, FALLERT, YAEGER, CARTER, KIRKTON, FISCHER (107) ,BROWN (149), WEBBER, GRILL, ENGLUND, DENISON, WELLS, FLANIGAN, WRIGHT, LAMPE, STILL, ZIMMERMAN, DAY, BRUNS, HOSKINS (121), KANDER, SCHUPP AND McNEIL (Co-sponsors).

4223L.01I D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 174, RSMo, by adding thereto twenty new sections relating to science and innovation reinvestment.

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

Section A. Chapter 174, RSMo, is amended by adding thereto twenty new sections, to be known as sections 174.800, 174.803, 174.806, 174.809, 174.812, 174.815, 174.818, 174.821, 174.824, 174.827, 174.830, 174.833, 174.836, 174.839, 174.842, 174.848, 174.851, 174.854, 174.857, and 174.860, to read as follows:

174.800. 1. Sections 174.800 to 174.860 shall be known and may be cited as the "Missouri Science and Innovation Reinvestment Act".

2. As used in sections 174.800 to 174.860, the following words and phrases shall have the following meanings:

(1) "Act", the Missouri science and innovation reinvestment act;

(2) "Applicable percentage", the percentage of state income tax withheld by science and innovation companies that will be credited and transferred to the science and innovation reinvestment fund in accordance with section 174.809, determined as follows: for the first fifteen funding years following August 28, 2010, the applicable percentage shall be one hundred percent; for the immediately subsequent five funding years the applicable

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

percentage shall be seventy-five percent; and for the immediately subsequent five funding years the applicable percentage shall be fifty percent; provided, however that in no case shall the applicable percentage in any funding year be lower than the applicable percentage captured by comparable funds and allocated to comparable agencies in other states geographically contiguous with the state in any comparable period;

(3) "Applied research", any activity that seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specific problem, question, or issue of science and innovation, including but not limited to translational research;

(4) "Authority", the Missouri science and innovation authority created under sections 174.800 to 174.860;

(5) "Authority employee", an employee of the authority who performs services for the authority and whose salary is paid in whole or in part by the authority. An authority employee shall not be considered to be an employee of the state of Missouri, as such term is defined in this act, or in any other statute or regulation;

(6) "Base year", the calendar year ending December 31, 2008;

(7) "Base year taxation", the aggregate amount of all withholding taxes for the base year;

(8) "Basic research", any original investigation for the advancement of scientific or technological knowledge of science and technology;

(9) "Board", the board of directors of the authority established under section 174.818;

(10) "Bonds", any bonds, notes, lease certificates of participation, or other evidences of indebtedness, whether or not the interest on which is subject to federal income taxation, issued by the authority under sections 174.800 to 174.860;

(11) "Commercialization", any of the full spectrum of activities required for a new technology, product, or process to be developed from its basic research or conceptual stage through applied research or development to the marketplace, including without limitation, the steps leading up to and including licensing, sales, and services;

(12) "Conflicts of interest policy", the policy to be adopted by the authority in accordance with section 174.836;

(13) "Director", any natural person properly appointed to, and serving as a member of, the board in compliance with the provisions of section 174.818;

(14) "Eminent scholar", world-class, distinguished, and established investigators recognized nationally for their research, achievements, and ability to garner significant funding from sources outside of Missouri, including without limitation, the federal

government or other national or international government body, or another private or public organization making grants or extending funding for science and innovation. Eminent scholars shall be persons recognized for their scientific knowledge and entrepreneurial spirit to enhance the innovative research that leads to economic gains and whose relationship with the state will enhance the state's reputation for world class research in the applicable field;

(15) "Fields of applicable expertise", any of the following fields: science and innovation research, development, or commercialization, including basic research and applied research; corporate finance, venture capital, and private equity; the business and management of science and innovation companies; health care; legal affairs; science and innovation education; or civic or corporate leadership in areas related to science and innovation;

(16) "Funding year", any of the series of twenty-five consecutive twelve full calendar month periods ending on June thirtieth, with the first such funding year to begin July 1, 2011;

(17) "Inherent conflict of interest", a fundamental or systemic conflict of interest that prevents a person from serving as a disinterested director and routinely performing his or her duties as a director by properly exercising his or her fiduciary duties to the authority without having to frequently recuse him or herself from matters in front of the board, including:

(a) Any person who is currently serving in any elected or appointed position with the state or any subdivision thereof, including any quasi-governmental body of the state or any subdivision thereof, or who has served in any such capacity within the twenty-four months prior to the date in question;

(b) Any person who is a director, officer, or employee of any entity that is likely to have material business dealings with, or interests that are likely to materially conflict with the interests of, the authority;

(c) Any person who is an independent contractor to, or agent or representative of, any entity that is likely to have material business dealings with, or interests that are likely to materially conflict with the interests of, the authority; or

(d) Any other situation or circumstance which, in the opinion of the nominating committee, prevents a board member or candidate from regularly serving as a disinterested board member and executing his or her fiduciary duties to the authority;

(18) "Initial term", the terms for the initial directors set forth in subsection 2 of section 174.818;

(19) "NAICS industry groups" or "NAICS codes", the North American Industry Classification System developed under the auspices of the Office of Management and Budget adopted in 1997, as may be amended, revised, or replaced by similar classification systems for similar uses from time to time;

(20) "Powers", the powers granted to the authority under sections 174.800 to 174.860, including but not limited to section 174.806;

(21) "President", the chief executive officer of the authority, who may alternatively be the "executive director" or "chief executive officer" as determined by the board;

(22) "Rising star scholar", up-and-coming distinguished investigators growing in their national or international reputations in their fields, who are active and demonstrate leadership in their associated professional societies, and who attract significant research grant support from sources outside of Missouri, including without limitation, the federal government, other national or international government bodies, or another private or public organization making grants or extending funding for science and innovation;

(23) "Science and innovation", the use of compositions, methods, and organisms in research, development, and manufacturing processes for such diverse areas as animal health and veterinary medicine, plant sciences and plant biology, agricultural sciences, renewable energy, pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biology, biochemistry, biotechnology, nanotechnology, bioinformatics, microbiology, forestry, environmental sciences and technologies; and industrial, environmental, and homeland security applications of science and technology, including future developments in science and innovation;

(24) "Science and innovation company", a corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, non-profit entity, sole proprietorship, business trust, person, group, or other entity that is:

(a) Engaged in the research, development, commercialization, or business of science and innovation in the state, including, without limitation, research, development, or production directed toward developing or providing science and innovation products, processes, or services for specific commercial or public purposes, including hospitals, nonprofit research institutions, incubators, accelerators, and state universities currently located in or involved in the research, development, commercialization, or business of science and innovation in the state; or

(b) Is identified by the following NAICS industry groups or NAICS codes, or any amended or successor code sections covering these areas of research, development, and commercial endeavors:

a. 3251 Basic chemical manufacturing;

b. 3253 Agricultural chemical manufacturing;
c. 3254 Pharmaceutical and medicine manufacturing;
d. 3391 Medical equipment and supplies manufacturing;
e. 51121 Prepackaged software;
f. 621311 Medical laboratories;
g. 62231 Specialty hospitals;
h. 54171 Commercial physical research;
i. 54171 Noncommercial research organizations;
j. 54138 Testing laboratories;
k. 54171 Physical, engineering, and biological research;
l. 333298 Special industry machinery;
m. 424910 Farm supplies merchant wholesalers;
n. Industrial biotechnology;
o. 311119 Prepared animal feeds;
p. 311221 Wet corn milling;
q. 311222 Soybean processing;
r. 311223 Other oilseed processing;
s. 325193 Ethyl alcohol manufacturing;
t. 325199 All other basic organic chemical manufacturing;
u. 325221 Cellulosic organic fiber manufacturing;
v. 325222 Noncellulosic organic fiber manufacturing;
w. 325611 Soap and other detergent manufacturing;
x. 325612 Polish and other sanitation good manufacturing;
y. 325613 Surface active agent manufacturing;
z. 325311 Nitrogenous fertilizer manufacturing;
aa. 325312 Phosphatic fertilizer manufacturing;
bb. 325314 Fertilizer (mixing only) manufacturing;
cc. 325320 Pesticide and other agricultural chemical;
dd. 325414 Biological products;
ee. Drugs and pharmaceuticals;
ff. 325411 Medicinal and botanical manufacturing;
gg. 325412 Pharmaceutical preparation manufacturing;
hh. 325414 Other biological product manufacturing;
ii. Medical devices, equipment, and supplies;
jj. 334510 Electromedical apparatus manufacturing;
kk. 334516 Analytical laboratory instrument manufacturing;

ll. 334517 Irradiation apparatus manufacturing;
mm. 339111 Laboratory apparatus and furniture;
nn. 339112 Surgical and medical instrument;
oo. 339113 Surgical appliance and supplies manufacturing;
pp. 339114 Dental equipment and supplies manufacturing;
qq. 339115 Opthalmic good manufacturing;
rr. 339116 Dental laboratories;
ss. Research, testing, and medical laboratories;
tt. 541380 Testing laboratories;
uu. 541710 Physical, engineering, and biological;
vv. 621511 Medical laboratories;
ww. 621512 Diagnostic imaging centers;
xx. Agricultural biotechnology;
yy. 111191 Oilseed and grain combination farming;
zz. 111421 Nursery and tree production;
aaa. 111920 Cotton farming;
bbb. 111998 All other miscellaneous crop farming;
ccc. 311211 Flour milling;

Each of the above listed four-digit codes shall include all six-digit codes in that four-digit industry; however, each six-digit code shall stand alone and not indicate the inclusion of other, omitted six-digit codes that also are subsets of the pertinent four-digit industry to which the included six-digit code belongs;

(25) "Science and innovation employee", any employee, officer, or director of a science and innovation company who is a state taxpayer and any employee of a state university who is associated with or supports the research, development, commercialization, or business of science and technology in the state and is obligated to pay state income tax to the state;

(26) "Scientific advisory board", the advisory board described in section 174.827;

(27) "Science and innovation reinvestment fund", the fund described in section 174.809;

(28) "State", the state of Missouri;

(29) "State income tax", the annual tax imposed by the state on a person's income, as imposed by chapter 143;

(30) "State university", an institution of post-high school education, public or private, that grants undergraduate or postgraduate academic degrees; that conducts

significant research or development activities in the areas of science and innovation; and that has a significant physical presence in the state;

(31) "Withholding taxes", for any period, the aggregate of all amounts withheld from amounts paid to science and innovation employees during such period for the payment of state income taxes;

(32) "Year", any twelve full calendar month period ending on any December thirty-first.

174.803. 1. The authority shall be an independent instrumentality of the state. Its exercise of the rights, powers, and privileges conferred by sections 174.800 to 174.860 shall be deemed and held to be the performance of an essential governmental function of the state.

2. The mission and purpose of the authority shall be to:

(1) Make Missouri the most desirable state in which to conduct, facilitate, support, fund, and perform science and innovation research, development, and commercialization;

(2) Facilitate and effect the creation, attraction, retention, growth, and enhancement of both existing and new science and innovation companies in the state;

(3) Make Missouri a national leader in science and innovation; and

(4) Enhance workforce development, retain quality jobs, create new jobs, foster economic growth, advance scientific knowledge, and improve the quality of life for the citizens of the state of Missouri.

3. The authority shall have perpetual existence until an act of law expressly terminating the authority; provided that no such law shall take effect so long as the authority has obligations or bonds outstanding unless adequate provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority, all property, funds, and assets thereof shall be vested in the state.

4. The state hereby pledges to, and agrees with, recipients of authority funding or beneficiaries of authority programs under sections 174.800 to 174.860 that the state shall not limit or alter the rights vested in the authority under sections 174.800 to 174.860 to fulfill the terms of any agreements made or obligations incurred by the authority with or to such third parties, or in any way impair the rights and remedies of such third parties until the obligations of the authority and the state are fully met and discharged in accordance with sections 174.800 to 174.860.

174.806. 1. The authority shall have all of the powers necessary to carry out the purposes and provisions of sections 174.800 to 174.860, including, without limitation, the power to:

(1) Make and execute contracts, guarantees, or any other instruments and agreements necessary or convenient for the exercise of its powers and functions including, without limitation, to make and execute contracts with science and technology enterprises, including start-up companies, other public and private persons and entities, health care businesses, state universities, and colleges, and to incur liabilities and secure the obligations of any entity or individual;

(2) Engage in undertakings, programs, enterprises, and activities involving applied research, basic research, or science and innovation commercialization;

(3) Borrow money and to pledge all or any part of the authority's assets therefore;

(4) Purchase, lease, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, sell, and dispose of personal property, whether tangible or intangible, and any interest therein; and to purchase, lease, trade, exchange, or otherwise acquire real property or any interest therein, and to maintain, hold, improve, mortgage, sell, lease, and otherwise transfer such real property to the universities, colleges, public institutions, and private enterprises in the state, so long as such transactions do not conflict with the mission of the authority as specified in sections 174.800 to 174.860;

(5) Own, acquire, construct, renovate, equip, improve, operate, maintain, sell, or lease any land, buildings, or facilities in the state that can now or may in the future be used in researching, developing, sponsoring, or commercializing science and innovation in the state, including state-of-the-art facilities, laboratories, or commercial wet lab space incubators, land assembly for research districts, tenant improvements, or equipment purchases, to be used by science and innovation companies for research and the commercialization of science and innovation, including science and technology concepts, products, and processes; and commit to do so in the future for the purpose of attracting programs of national or international repute, including government laboratories or other research or development facilities;

(6) Issue bonds in such principal amounts as the board decides are necessary to provide sufficient funds for achieving any of the authority's purposes under sections 174.800 to 174.860;

(7) Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon sound business practices;

(8) Solicit, study, and assist in the preparation of business plans and proposals of new or established businesses to advance science and innovation in the state;

(9) Organize, conduct, sponsor, fund, cooperate in or assist with institutes, conferences, meetings, events, demonstrations, and studies relating to the stimulation,

formulation, or implementation of applied research, basic research, or science and innovation endeavors in the state;

(10) Spend funds in the science and innovation reinvestment fund in order to own and possess patents, copyrights, trademarks, and proprietary technology and to enter into contracts for the purposes of commercializing and establishing charges for the use of such patents, copyrights, trademarks, and proprietary technology;

(11) Contract for and to accept any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply with the provisions of the terms and conditions thereof;

(12) Make, amend, and repeal bylaws, rules, and regulations for the management of its affairs;

(13) Have the duties, privileges, immunities, rights, liabilities, and disabilities of a body politic and corporate and independent instrumentality of the state;

(14) Have perpetual existence and succession;

(15) Adopt, have, and use a seal and to alter the same at its pleasure;

(16) Sue and be sued in its own name;

(17) Acquire space, equipment, services, supplies, and insurance necessary to carry out the purposes of sections 174.800 to 174.860;

(18) Deposit any moneys of the authority in any banking institution within or without the state or in any depository authorized to receive such deposits, with one or more persons to act as custodians of the moneys of the authority;

(19) Procure such insurance, participate in such insurance plans, or provide such self insurance or both as it deems necessary or convenient to carry out the purposes and provisions of sections 174.800 to 174.860; the purchase of insurance, participation in an insurance plan, or creation of a self-insurance fund by the authority shall not be deemed as a waiver or relinquishment of any sovereign immunity to which the authority or its officers, directors, employees, or agents are otherwise entitled;

(20) Appoint, supervise, and set the salary and compensation of the president, who shall be appointed by and serve at the pleasure of the board;

(21) Fix, revise, charge, and collect rates, rentals, fees, and other charges for the services or facilities furnished by or on behalf of the authority, and to establish policies and procedures regarding any such service rendered for the use, occupancy, or operation of any such facility; such charges and policies and procedures not to be subject to supervision or regulation by any commission, board, bureau, or agency of the state; and

(22) Do any and all things necessary or convenient to carry out the authority's purposes and mission and exercise the powers given in sections 174.800 to 174.860.

2. The authority is authorized to expend any and all funds from the science and innovation reinvestment fund, all funds derived from bonds issued under section 174.815, and all other assets and resources of the authority for the exclusive purpose of fulfilling any purpose, power, or duty of the authority under sections 174.800 to 174.860, including but not limited to implementing the powers, purposes, and duties of the authority as enumerated in subsection 1 of this section.

3. The authority may make grants, loans, and investments in any person or entity to further the purposes, on such terms as the board may determine are in the best interests of the authority and in furtherance of the purposes, and the authority may create, invest in, and own, in whole or in part, or otherwise acquire or dispose of any entity organized for a purpose related to or in support of the mission of the authority.

4. The authority may participate in joint ventures and collaborate with any taxpayer, governmental body or agency, insurer, university, or college of the state, or any other entity to facilitate any activities or programs consistent with the purpose and intent of sections 174.800 to 174.860.

5. The authority may create a nonprofit entity or entities for the purpose of soliciting, accepting, and administering grants, outright gifts and bequests, endowment gifts and bequests, and gifts and bequests in trust, which entity or entities shall not engage in trust business.

6. In carrying out any activities authorized by sections 174.800 to 174.860, the authority may provide appropriate assistance, including the making of investments, grants, and loans, and providing time of employees, to any taxpayer, governmental body, or agency, insurer, university, or college of the state, or any other entity, whether or not any such taxpayer, governmental body or agency, insurer, university, or college of the state, or any other entity, is owned or controlled in whole or in part, directly or indirectly, by the authority.

7. Notwithstanding any provision of law to the contrary, in furtherance of the powers of the authority, the authority may invest the funds of the science and innovation reinvestment fund, and those received from gifts, grants, donations, and other operations of the authority, in such investments as would be lawful for a private corporation having purposes similar to the authority, including pre-seed, seed capital, proof-of-concept, SBIR/STTR, and venture capital investments, through either direct investments or indirect investments through another investment vehicle or fund, and in any obligations or securities as authorized by the board.

8. Except as expressly provided in sections 174.800 to 174.860, all moneys earned or received by the authority, including all funds derived from the commercialization of science and innovation products, methods, services, and technology by the authority, or any affiliate or subsidiary thereof, or from the science and innovation reinvestment fund, shall belong exclusively to and be subject to the exclusive control of the authority.

9. The authority may own and possess all patents, copyrights, trademarks, and proprietary technology, developed at any facility owned or operated by the authority, paid for or sponsored by the authority, or associated with the commercialization of science and innovation products by the authority or any employee, officer, agent, or representative of the authority. The board shall also have the right to compensate any employee, officer, agent, or representative of the authority who develops or makes such discovery. No such payment shall be deemed to violate the Missouri laws now existing or later amended or adopted, including prohibitions on private inurement and private benefit.

10. The authority may sell, license, contribute, or provide science and innovation intellectual property to any third party for a fee, for an ownership interest in the third party, or other consideration, so as to commercialize science and innovation intellectual property. The authority may also provide services, facilities, and assist in commercializing third party innovation for a fee, for an ownership interest in the third party, or other consideration. The authority may take all such actions necessary to commercialize any innovation in which the authority has an interest.

11. The authority may promote and facilitate the transfer of technology developed by eminent scholars, rising star scholars, state universities, science and technology companies, and start-up companies engaged in science and innovation in the state. The transfer of technology includes, without limitation, assisting with filing patent applications, executing licenses, paying maintenance fees and managing the finance, production, sales, and marketing of science and innovation intellectual property.

12. The exercise, by the authority, of the powers permitted by sections 174.800 to 174.860 is deemed to be an essential governmental function in matters of public necessity in the cultivation of job creation, work force development, and education and research, development, and commercialization in the areas of science and innovation.

174.809. 1. There is hereby created in the state treasury the "Science and Innovation Reinvestment Fund", which shall consist of money collected under sections 174.800 to 174.860. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the administration of sections 174.800 to 174.860. Notwithstanding the provisions of section 33.080 to the contrary, any

moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. As soon as practicable after the effective date of this act, the director of the department of revenue and the authority shall establish base year taxation and shall communicate the amount of the base year taxation to the board of the authority. Within one hundred twenty days after the end of each year beginning with the year ending December 31, 2010, and for each subsequent year prior to the end of the last funding year, the director of revenue and the authority shall determine and report the increase of aggregate withholding taxes for the year over the base year taxation. The director of revenue and the authority may consider any verifiable evidence, including but not limited to the NAICS code assigned or recorded by the Department of Labor for companies with employees in the state, when determining which organizations should be classified as science and innovation companies.

3. For each of the twenty-five funding years, beginning with the funding year beginning July 1, 2011, the director of revenue shall pay to, or direct employers of science and innovation employees to pay to, the science and innovation reinvestment fund an amount equal to a percentage of all withholding taxes received or withheld for any period during such funding year that shall equal the product of the applicable percentage for the current year multiplied by an amount equal to the difference of all withholding taxes for the prior year, minus the base year taxation. Such employers of science and innovation employees shall pay any remaining withholding taxes not paid to the science and innovation reinvestment fund under sections 174.800 to 174.860 to the Missouri department of revenue, as required by law. The director of revenue may make estimated payments to the science and innovation reinvestment fund more frequently based on estimates provided by the director of revenue and reconciled annually.

174.812. 1. Within six months after the end of each fiscal year, the authority shall prepare and submit to the general assembly and governor an annual report:

(1) Of all distributions from the science and innovation reinvestment fund under the provisions of sections 174.800 to 174.860, and from any income, investment and income tax credits, and exemptions under sections 174.800 to 174.860;

(2) Tracking the growth of science and innovation research and industry in Missouri. The authority may contract with a third party to prepare such report;

(3) Setting forth a complete and detailed operating and financial statement of the authority during such fiscal year;

(4) Which shall include comprehensive information regarding all audit reports performed in such year, and any recommendations with reference to additional legislation or other action that may be necessary to carry out the purposes of the authority.

2. The authority shall keep its books and records in accordance with generally accepted accounting procedures. Within four months following the end of each fiscal year, the authority shall cause a firm of independent certified public accountants of national repute to conduct and deliver to the board an audit of the financial statements of the authority and an opinion thereon, to be conducted in accordance with generally accepted audit standards. The board may establish an audit committee of the board to facilitate the interaction between the authority and the audit firm.

174.815. 1. Except as may otherwise be expressly provided by the board, every issue of the authority's bonds shall be obligations of the authority payable out of any revenues or monies of the authority, including but not limited to the assets in the science and innovation reinvestment fund, subject only to any agreements with the holders of particular bonds pledging any particular revenues. Any resolution by the board authorizing any bonds or any issue thereof may contain such provisions as deemed appropriate by the board for the purpose of carrying out the authority's purposes under sections 174.800 to 174.860 and securing such bonds, which shall be a part of the contract with the holders thereof, including, without limitation:

(1) Pledging all or any part of the assets or revenues of the authority to secure the payment of the bonds or of any issue of bonds, subject to such agreements with bondholders as may then exist, such assets to include any grant or contribution from the federal government or any corporation, association, institution, or person;

(2) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(3) Limitations on the purpose to which the proceeds of sale of bonds may be applied and pledging such proceeds to secure the payment of the bonds or of any issues thereof;

(4) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;

(5) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(6) Limitations on the amount of moneys to be expended by the authority for operating expenses of the authority;

(7) Vesting in a trustee such property, rights, powers, and duties in trust as the board may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders under sections 174.800 to 174.860, and limiting or abrogating the right of the bondholders to appoint a trustee under this act or limiting the rights, powers, and duties of such trustee;

(8) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority to the holders of the bonds and providing for the rights and remedies of the holders of the bonds in the event of such default, including as a matter of right, the appointment of a receiver, except that such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of sections 174.800 to 174.860; and

(9) Any other matters which in any way affect the security or protection of the holders of the notes or bonds.

2. Any of the provisions relating to any bonds described in this section may be set forth in a trust indenture authorized by a resolution of the board.

3. The bonds of each issue may, in the discretion of the board, be made redeemable before maturity at such prices and under such terms and conditions as may be determined by the board. Bonds shall mature at such time, not exceeding thirty years from their date of issue, as may be determined by the board. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The bonds shall:

(1) Bear interest at a rate either fixed or variable;

(2) Be in such denominations;

(3) Be in either coupon or registered form;

(4) Carry such registration privileges;

(5) Be executed in such manner;

(6) Be payable in such medium of payment and at such place; and

(7) Be subject to such terms of redemption, as provided in the resolution of trust indenture. The bonds of the authority may be sold by the authority, at public or private sale, at such price as the board shall determine.

4. If the director whose signature or a facsimile of whose signature appears on any bonds or coupons attached thereto ceases to be a director before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if such director had remained in office until such delivery. The board may also provide for the authentication of the bonds by a trustee or fiscal agent.

5. Before the preparation of definitive bonds, the authority may issue interim receipts or temporary bonds until such definitive bonds have been executed and are available for delivery.

6. The authority, subject to such agreements with bondholders as may then exist, may purchase bonds of the authority, which shall thereupon be cancelled at a price not exceeding:

(1) The redemption price then applicable plus accrued interest to the next interest payment thereon if the bonds are then redeemable; or

(2) The redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption plus accrued interest to such date if the bonds are not then redeemable.

7. In the discretion of the board, the bonds may be secured by a trust indenture by, and between, the authority and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without the state. Such trust indenture may contain provisions to protect and enforce the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the exercise of its powers and the custody, safeguarding, and application of all monies. The board may provide, by such trust indenture, for the payment of the proceeds of the bonds and the revenues to the trustee under such trust indenture or other depository and for the method of disbursement thereof. Expenses incurred in carrying out such trust indenture may be treated as a part of the operating expenses of the authority.

8. Any bonds issued under sections 174.800 to 174.860, and the income therefrom, including any profit from the sale thereof, shall, at all times, be free from taxation by the state or any agency, political subdivision, or instrumentality of the state.

9. Any holder of bonds issued under the provisions of sections 174.800 to 174.860, or any coupons relating thereto and the trustee under any trust agreement or resolution authorizing the issuance of such bonds, except the rights under sections 174.800 to 174.860, may be restricted by such trust agreement or resolution, may, either at law or in equity by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted under sections 174.800 to 174.860, or under such agreement or resolution, or under any other contract executed by the board under sections 174.800 to 174.860, and may enforce and compel the performance of all duties required by this act by such trust agreement or resolution to be performed by the authority or by a director thereof.

10. Notwithstanding provisions of sections 174.800 to 174.860, or any recitals in any bonds issued under the provisions of sections 174.800 to 174.860 to the contrary, all bonds and interest coupons relating thereto shall be negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.

11. Bonds issued under the provisions of sections 174.800 to 174.860 shall be securities in which all insurance companies, trust companies, banking associations, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds shall be securities that may properly and legally be deposited with, and received by, any state or municipal officer, or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is authorized by law.

12. Neither the state, nor the authority, shall be liable for bonds of the authority, and such bonds shall not constitute a debt of the state. Bonds shall contain a statement to such effect on their face. The members of the board shall not be personally liable for bonds by reason of the execution or issuance thereof. The state shall not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights and remedies of such holders.

13. Nothing in sections 174.800 to 174.860 shall be construed as a restriction or limitation upon any other powers that the authority might otherwise have under any other law of this state, and sections 174.800 to 174.860 are supplemental to any such powers. The issuance of bonds under the provisions of sections 174.800 to 174.860, however, need not comply with the requirements of any other state law applicable to the issuance of bonds. No proceedings, notice, or approval shall be required for the issuance of any bonds or any instrument as security therefor, except as is provided in sections 174.800 to 174.860.

14. Any provisions relating to bonds described in this section may be included in contracts relating to obligations of the authority.

174.818. 1. The authority shall be governed by an eleven-member board of directors, each of whom:

(1) Shall be a representative of the general public who is recognized for outstanding knowledge and leadership expertise and experience in one or more of the applicable fields;

(2) Does not, in the determination of the nominating committee, have an inherent conflict of interest;

(3) Shall agree that if he or she develops an inherent conflict of interest he or she shall immediately either divest himself or herself of the inherent conflict of interest or

otherwise eliminate such inherent conflict of interest, or immediately resign from the board; and

(4) Must be a resident of the state.

2. The eleven directors who shall be appointed to the authority's first board shall all be appointed by the governor no later than one hundred eighty days after August 28, 2010, for the following initial terms: four of the initial directors shall be appointed to an initial term ending at the end of the third full year following their appointment; four of the initial directors shall be appointed for an initial term ending at the end of the second full year following their appointment; and three of the initial directors shall be appointed for an initial term ending at the end of the first full year following their appointment. The initial term for each such initial director shall end at the end of such stated period, or upon the earlier death, resignation, permanent disability, or removal of such director.

3. After the end of the initial term of any director, each subsequent member of the board shall be proposed to the board by the nominating committee, considered and, if appropriate, appointed by the board, for a term that expires at the end of the third full year following the date of their appointment. In the event of a vacancy, the appointment filling such vacancy shall be for the remainder of the unexpired portion of the term. The governor shall be deemed to have approved any person approved by the board for any open position or vacancy on the board after the end of the initial terms if the governor does not reject such appointment in writing, delivered to the board within ten business days after the date such appointment is delivered in writing by the board to the governor.

4. Any member of the board is eligible for reappointment, but members of the board shall not be eligible to serve more than two consecutive three year terms and may not be reappointed to the board until they have not served on the board for a period of at least three interim years.

5. All members of the board shall be subject to senate confirmation. Any person appointed to the board shall serve as a full member of the board pending senate confirmation but such person's status as a member of the board shall be deemed terminated if and when the senate rejects the nomination. No such termination shall affect the validity of any action taken by the board with which such member participating before such termination.

6. Each member of the board shall hold office for the term of appointment and until the nomination of his or her successor has become effective, subject to senate confirmation, except in the case that a vacancy is created by the death, permanent disability, resignation, or removal of a director, which shall become immediately effective.

7. Annually, the board shall elect one of their members as chairperson and at least one other as vice-chairperson. The board also shall elect a secretary and treasurer for terms to be determined by the board. The board may elect the same person to serve as both secretary and treasurer. The board shall establish an executive committee, nominating committee, scientific advisory board, and commercialization advisory board, and such other standing or special committees as they deem appropriate, and prescribe their duties and powers to the extent not set forth in sections 174.800 to 174.860. Any executive committee of the board may exercise all such powers and duties of the board as the board may delegate.

8. Members of the board shall serve without compensation. Members of the board attending meetings of the board, or attending a subcommittee meeting thereof that is authorized by the board, shall be paid mileage and all other applicable expenses, provided such expenses are consistent with policies established from time to time by the board.

9. No funds of the authority shall inure to the benefit of, or be distributed to, its employees, officers, or members of the board, except that the authority may make reasonable payments for expenses incurred on its behalf relating to any of its lawful purposes and the authority shall be authorized and empowered to pay reasonable compensation for services rendered to or for its benefit relating to any of its lawful purposes, including to pay its employees reasonable compensation.

10. Any member of the board may be removed by affirmative vote of eight members of the board for malfeasance or misfeasance in office, regularly failing to attend meetings, failure to comply with the authority's conflicts of interest policy, or for any cause that renders the member incapable of or unfit to discharge the duties of director.

11. The board shall meet at least four times per year and at such other times as it deems appropriate, or upon call by the president or the chairperson, or upon written request of a majority of the directors of the board. Unless otherwise restricted by Missouri law, the directors may participate in a meeting of the board by means of telephone conference or other electronic communications equipment whereby all persons participating in the meeting can communicate clearly with each other, and participation in a meeting in such manner will constitute presence in person at such meeting.

12. A majority of the total voting membership of the board shall constitute a quorum for meetings. The board may act by a majority of those at any meeting where a quorum is present, except upon such issues as the board may determine shall require a vote of more members of the board for approval. The board shall meet for the initial meeting upon call by the governor, who shall designate one member of the board to act as temporary chairperson until officers of the board are elected under subsection 7 of this

section. All resolutions and orders of the board shall be recorded and authenticated by the signature of the secretary or any assistant secretary of the board.

13. The board may adopt, repeal, and amend such rules, procedures, and bylaws, not contrary to law or inconsistent with sections 174.800 to 174.860, as it deems expedient for its own governance and for the governance and management of the authority and its committees and advisory boards.

14. The board shall appoint a president as soon as reasonably practicable after the creation of the authority, who shall serve at the pleasure of the board as the chief executive officer of the authority reporting to the board. The president shall be a person of national prominence, with expertise in one or more of the fields of applicable expertise. The president's salary and other terms and conditions of employment shall be set by the board. The board may negotiate and enter into an employment agreement with the individual selected as president of the authority, which may provide for compensation allowances, benefits, and expenses. The president shall direct and supervise administrative affairs and the general management of the authority. Neither the president nor any other employee of the authority shall be eligible to serve as a member of the board until two years after the end of his or her employment by the authority. The president and all employees of the authority shall be bound by, and agree to obey, the authority's conflicts of interest policy, including annually completing and submitting to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy.

15. The board may provide supplemental benefits to the president and other authority employees designated by the board in addition to the benefits provided in sections 174.800 to 174.860.

174.821. 1. The board shall establish an executive committee of the authority, to be composed of the chairman, the vice-chairman, the secretary, and at least two additional directors.

2. The executive committee, in intervals between meetings of the board, may transact any business of the board that has been expressly delegated to the executive committee by the board. If so stipulated by the board, action delegated to the executive committee may be subject to subsequent ratification by the board; provided, however that until ratified or rejected by the board, any action delegated to, and taken by, the executive committee between meetings of the board will be binding upon the authority as if ratified, and may be relied upon by third parties.

174.824. The board shall establish a nominating committee of the authority, to be composed of at least three members. The nominating committee shall meet as necessary or appropriate to suggest candidates to fill any expiring term or vacancy on the board. As

set forth in section 174.818, whenever a vacancy on the board occurs, except for the initial appointment of directors by the governor under subsection 2 of section 174.818, or a director's term is set to expire, the nominating committee shall, with respect to each applicable vacancy, submit to the board a proposed candidate. Candidates suggested by the nominating committee shall not, in the determination of the nominating committee, have an inherent conflict of interest. The nominating committee shall consult with and take into consideration any input or comments received from any directors or other persons, which the nominating committee believes would be helpful to its deliberations for the purpose of obtaining candidates to be nominated for election to the board.

174.827. 1. The board shall establish and maintain a scientific advisory board, composed of not fewer than three members, each of whom shall have national or internationally recognized expertise in the areas of science and innovation and qualifications suitable for membership in the National Academies of Science, the American Association for the Advancement of Science, or another organization of similar standard and repute. Members of the scientific advisory board shall be selected for such terms of membership under such terms and conditions, and for such compensation and other benefits, as the board deems necessary and appropriate to advance the purposes of sections 174.800 to 174.860 and as are comparable to other similar public sector bodies.

2. The scientific advisory board shall meet as necessary, but not less than four times each year. The board shall consult the scientific advisory board, and the scientific advisory board shall review, analyze, and advise the authority, including offering strategic guidance, regarding scientific matters, including, but not limited to:

(1) Recruitment and support of eminent scholars and rising star scholars;

(2) Quality and relevance of the scientific and technical information being used or proposed as the basis for authority programs and investments, including applied research and basic research;

(3) Status, progress, viability, and scientific merit of research programs and the technical basis of applied programs; and

(4) Scientific matters in science, innovation, and economic issues.

3. The board may establish rules, policies, and procedures for the selection and conduct of the scientific advisory board. Members of the scientific advisory board shall be bound by, and shall agree to comply with the authority's conflicts of interest policy, but may have an inherent conflict of interest so long as such conflict is fully disclosed to the board and to the other members of the scientific advisory board and that appropriate procedures are followed to protect the interests of the authority from such inherent conflict

of interest, including but not limited to appropriate recusal, abstinence, and confidentiality procedures relating to the person with such inherent conflict of interest.

4. Members of the scientific advisory board may be paid compensation comparable to that received by members of comparable scientific advisory boards, of national or international repute, serving governmental, quasi-governmental, or nonprofit entities.

174.830. 1. The board shall establish and maintain a commercialization advisory board, composed of not fewer than three members, each of whom shall have national or internationally recognized expertise in the areas of commercialization of science and innovation. Members of the commercialization advisory board shall be selected for such terms of membership, and on such terms and conditions, and for such compensation and other benefits, as the board deems necessary and appropriate to advance the purposes of sections 174.800 to 174.860 and as are comparable to other similar public sector bodies.

2. The commercialization advisory board shall meet as necessary, but not less than four times each year. The board shall consult with the commercialization advisory board, and the commercialization advisory board shall review, analyze, and advise the authority, including offering strategic guidance, regarding commercialization matters, including, but not limited to:

(1) Commercial start-up, capitalization, and operation issues, including issues related to venture capital, private equity, and other equity and debt placements;

(2) Valuation, pricing, returns, and market evaluation, including market composition and market competition regarding specific products and services;

(3) Procedures, policies, and techniques of investment and assistance;

(4) Status, progress, viability, and commercial value of portfolio companies; and

(5) Authority commercialization programs.

3. The board may establish rules, policies, and procedures for the selection and conduct of the commercialization advisory board. Members of the commercialization advisory board shall be bound by, and shall agree to comply with, the authority's conflicts of interest policy, but may have an inherent conflict of interest so long as such conflict is fully disclosed to the board and to the other members of the scientific advisory board and that appropriate procedures are followed to protect the interests of the authority from such inherent conflict of interest, including but not limited to appropriate recusal, abstinence, and confidentiality procedures relating to the person with such inherent conflict of interest.

4. Members of the commercialization advisory board may be paid compensation comparable to that received by members of comparable advisory bodies, of national or international repute, serving governmental, quasi-governmental, or nonprofit entities.

174.833. 1. Except as otherwise provided in this section, the authority shall be subject to requirements applicable to governmental bodies and records contained in sections 610.010 to 610.225.

2. In addition to the exceptions available under sections 610.010 to 610.225 the records of the authority shall not be subject to the provisions of sections 610.010 to 610.225 when, in the opinion of such body, the disclosure of the information in the records would be harmful to the competitive position of the authority and such records contain:

(1) Proprietary information gathered by or in the possession of the authority from third parties under a promise of confidentiality;

(2) Contract cost estimates prepared for confidential use in awarding contracts for research development, construction, renovation, commercialization, or the purchase of goods or services;

(3) Data, records, or information of a proprietary nature produced or collected by or for the authority, its employees, officers, or members of its board;

(4) Financial statements not publicly available that may be shared with the authority from third parties and records and related data;

(5) Consulting or other reports paid for by the authority to assist the authority in connection with its strategic planning and goals; and

(6) The determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the authority.

3. In addition to the exceptions available under sections 610.010 to 610.225, the authority, including the board, executive committee, nominating committee, scientific advisory board, and commercialization board, may discuss, consider, and take action on any of the following in executive session, when in the opinion of the authority, including as appropriate the board, executive committee, nominating committee, scientific advisory board, and commercialization board, disclosure of the items would be harmful to the competitive position of the authority:

(1) Plans that could affect the value of property, real or personal, owned or desirable for ownership by the authority;

(2) The condition, acquisition, use, or disposition of real or personal property; or

(3) Contracts for applied research; basic research; science and innovation product development, manufacturing, or commercialization; construction and renovation of science and innovation facilities; or marketing or operational strategies.

174.836. 1. As soon as possible after August 28, 2010, the authority shall adopt and maintain a conflicts of interest policy to protect the authority's interests by requiring disclosure by an interested party, appropriate recusal by such person, and appropriate

action by the interested party or the board where a conflict of interest may exist or arise between the authority and a director, officer, employee, or agent of the authority.

2. Each member of the board, scientific advisory board, or commercialization board, and each officer, employee, or independent contractor to the authority, shall agree to obey with conflicts of interest policy, including annually completing and certifying to the board a disclosure and compliance certificate in accordance with such conflicts of interest policy and certifying that such person does not have any inherent conflict of interest.

174.839. 1. The authority may employ such employees as it may require and upon such terms and conditions as it may establish. The authority shall establish personnel, payroll, benefit, and other such systems as authorized by the board, such systems to be initially established or contracted as designated by the board. The authority shall determine the qualifications and duties of its employees. The board shall develop and adopt policies and procedures that shall afford its employees grievance rights, ensure that employment decisions shall be based upon merit and fitness of applicants, and shall prohibit discrimination because of race, religion, color, sex, or national origin.

2. Nothing in sections 174.800 to 174.860 shall be construed as placing any officer or employee of the authority or member of the board in the classified or the unclassified service of the state of Missouri under Missouri laws and regulations governing civil service.

174.842. The authority shall be exempt from any general ad valorem taxes upon any property of the authority acquired and used for its public purposes, and from any taxes or assessments upon any projects or upon any operations of the authority or the income therefrom, and from any taxes or assessments upon any project or any property or local obligation acquired or used by the authority under the provisions of sections 174.800 to 174.860 or upon the income therefrom. Purchases by the authority to be used for its public purposes shall not be subject to sales or use tax under chapter 144. The exemptions hereby granted shall not extend to persons or entities conducting business on the authority's property for which payment of state and local taxes would otherwise be required.

174.848. Nothing contained in sections 174.800 to 174.860 shall be construed as a restriction or limitation upon any powers that the authority might otherwise have under other law of this state, and the provisions of sections 174.800 to 174.860 are cumulative to such powers.

174.851. Nothing in sections 174.800 to 174.860 should be construed as allowing the board to sell the authority or substantially all of the assets of the authority, or to merge the authority with another institution, without prior authorization by the general assembly.

174.854. Notwithstanding any state laws or regulations to the contrary, the authority shall not be subject to any further process or procedure that requires the submission, review, or approval to any capital project.

174.857. Notwithstanding the provisions of section 23.253 to the contrary, the provisions of this section shall not sunset. The provisions of sections 174.800 to 174.860 shall terminate upon the satisfaction of all outstanding obligations, notes, and bonds provided for under sections 174.800 to 174.860.

174.860. The authority may, at the election of the board, affiliate with the Missouri state employees retirement system with respect to any or all employees employed by the authority on or after August 28, 2010. The authority may, at the election of the board, adopt, in accordance with requirements of the federal Internal Revenue Code, a retirement plan or plans sponsored by the authority with respect to employees employed by the authority on or after August 28, 2010. The authority may, at the election of the board, provide death and disability benefits.

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