

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 92

102ND GENERAL ASSEMBLY

1210S.03C

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 620, RSMo, by adding thereto seven new sections relating to rural workforce development incentives.

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

Section A. Chapter 620, RSMo, is amended by adding thereto
2 seven new sections, to be known as sections 620.3500, 620.3505,
3 620.3510, 620.3515, 620.3520, 620.3525, and 620.3530, to read
4 as follows:

620.3500. Sections 620.3500 to 620.3530 shall be known
2 and may be cited as the "Missouri Rural Workforce
3 Development Act".

620.3505. As used in sections 620.3500 to 620.3530,
2 the following terms shall mean:

3 (1) "Affiliate", an entity that directly, or
4 indirectly through one or more intermediaries, controls, or
5 is controlled by, or is under common control with another
6 entity. An entity is controlled by another entity if the
7 controlling entity holds, directly or indirectly, the
8 majority voting or ownership interest in the controlled
9 entity or has control over day-to-day operations of the
10 controlled entity by contract or by law;

11 (2) "Agribusiness", a business that produces or
12 provides any goods or services produced in this state
13 normally used by farmers, ranchers, or producers and

14 harvesters of aquatic products in their business operations,
15 or to improve the welfare or livelihood of such persons, or
16 is involved in the processing and marketing of agricultural
17 products, farm supplies, and input suppliers, or is engaged
18 in agribusiness as defined by the United States Department
19 of Agriculture, or if not engaged in such industries, the
20 department determines that such investment will be
21 beneficial to the rural area and the economic growth of the
22 state;

23 (3) "Applicable percentage", zero percent for the
24 initial credit allowance date and the second credit
25 allowance date, and fifteen percent for the next four credit
26 allowance dates;

27 (4) "Capital investment", any equity investment in a
28 rural fund by a rural investor which:

29 (a) Is acquired after the effective date of sections
30 620.3500 to 620.3530 at its original issuance solely in
31 exchange for cash;

32 (b) Has one hundred percent of its cash purchase price
33 used by the rural fund to make qualified investments in
34 eligible businesses located in this state by the third
35 credit allowance date; and

36 (c) Is designated by the rural fund as a capital
37 investment under sections 620.3500 to 620.3530 and is
38 certified by the department under the provisions of section
39 620.3510. This shall include any capital investment that
40 does not meet the provisions of subdivision (1) of
41 subsection 1 of section 620.3510 if such investment was a
42 capital investment in the hands of a prior holder;

43 (5) "Credit allowance date", the anniversary of the
44 initial credit allowance date;

45 (6) "Department", the Missouri department of economic
46 development;

47 (7) "Eligible business", a business that, at the time
48 of the initial qualified investment in the business:

49 (a) Has fewer than two hundred fifty employees;

50 (b) Has its principal business operations in this
51 state; and

52 (c) Does not knowingly employ any individual who is
53 unlawfully present in this country.

54 Any business which is classified as an eligible business at
55 the time of the initial investment in such business by a
56 rural fund shall remain classified as an eligible business
57 and may receive follow-on investments from any rural fund,
58 and such follow-on investments shall be qualified

59 investments even though such business may not meet paragraph

60 (a) of this subdivision at the time of such investments;

61 (8) "Full-time employee", an employee of an eligible
62 business who is scheduled to work an average of at least
63 thirty-five hours per week for a twelve-month period;

64 (9) "Initial credit allowance date", the date on which
65 the department certifies a rural fund's capital investment;

66 (10) "Job", a position held by a full-time employee of
67 the eligible business;

68 (11) "Job created", a job that did not exist in the
69 twelve months prior to a qualified investment but existed
70 following that investment as calculated and reported
71 annually by the rural fund pursuant to section 620.3530;

72 (12) "Job sustained", a job that was created following
73 a qualified investment and continues to exist as reported
74 annually by the rural fund pursuant to section 620.3530;

75 (13) "Principal business operations", the location
76 where at least sixty percent of a business's employees work
77 or where employees who are paid at least sixty percent of
78 such business's payroll work. A business that has agreed to
79 relocate employees using the proceeds of a qualified
80 investment to establish its principal business operations in
81 a new location shall be deemed to have its principal
82 business operations in such new location if it satisfied the
83 requirements of this subdivision no later than one hundred
84 eighty days after receiving a qualified investment;

85 (14) "Purchase price", the amount paid to the rural
86 fund that issues a capital investment which shall not exceed
87 the amount of capital investment authority certified under
88 the provisions of section 620.3510;

89 (15) "Qualified investment", any investment in an
90 eligible business or any loan to an eligible business with a
91 stated maturity date of at least one year after the date of
92 issuance, excluding revolving lines of credit and senior
93 secured debt unless the chief executive or similar officer
94 of the eligible business certifies that the eligible
95 business sought and was denied similar financing from a
96 depository institution, by a rural fund; provided that, with
97 respect to any one eligible business, the maximum amount of
98 investments made in such business by one or more rural
99 funds, on a collective basis with all of the businesses'
100 affiliates, with the proceeds of capital investments shall
101 be the greater of twenty percent of the rural fund's capital
102 investment authority or six million five hundred thousand
103 dollars, exclusive of investments made with repaid or
104 redeemed investments or interest or profits realized thereon;

105 (16) "Rural area", any area of this state that is set
106 out in the United States Department of Agriculture census

107 places map as published by the United States Department of
108 Agriculture with a census place population of less than
109 fifty thousand inhabitants;

110 (17) "Rural fund", an entity certified by the
111 department under the provisions of section 620.3510;

112 (18) "Rural investor", an entity that makes a capital
113 investment in a rural fund;

114 (19) "Senior secured debt", any loan that is secured
115 by a first mortgage on real estate with a loan-to-value
116 ratio of less than eighty percent;

117 (20) "State tax liability", any liability incurred by
118 any entity subject to the state income tax imposed under
119 chapter 143, excluding withholding tax imposed under
120 sections 143.191 to 143.265, or an insurance company paying
121 an annual tax on its gross premium receipts, including
122 retaliatory tax, or other financial institution paying taxes
123 to the state or any political subdivision of the state under
124 the provisions of chapter 148, or an express company which
125 pays an annual tax on its gross receipts in this state.

620.3510. 1. A rural fund that seeks to have an
2 equity investment certified as a capital investment eligible
3 for credits authorized under the provisions of sections
4 620.3500 to 620.3530 shall apply to the department. The
5 department shall begin accepting applications within ninety
6 days of the effective date of sections 620.3500 to
7 620.3530. The application shall include:

8 (1) The amount of capital investment requested;

9 (2) A copy of the applicant's or an affiliate of the
10 applicant's license as a rural business investment company
11 under 7 U.S.C. Section 2009cc or as a small business
12 investment company under 15 U.S.C. Section 681 and a
13 certificate executed by an executive officer of the

14 applicant attesting that such license remains in effect and
15 has not been revoked;

16 (3) Evidence that, as of the date the application is
17 submitted, the applicant or affiliates of the applicant have
18 invested:

19 (a) At least one hundred million dollars in nonpublic
20 companies located in counties within the United States with
21 a population of less than fifty thousand according to the
22 2020 decennial census of United States; and

23 (b) At least thirty million dollars in nonpublic
24 companies located in Missouri;

25 (4) A business plan that includes a revenue impact
26 assessment projecting state and local tax revenue to be
27 generated by the applicant's proposed qualified investments,
28 prepared by a nationally recognized, third-party,
29 independent economic forecasting firm using a dynamic
30 economic forecasting model that analyzes the applicant's
31 business plan in yearly increments over the ten years
32 following the date the application is submitted to the
33 department. Such plan shall include an estimate of the
34 number of jobs created and jobs sustained in this state as a
35 result of the applicant's qualified investments; and

36 (5) A nonrefundable application fee of five thousand
37 dollars payable to the department.

38 2. Within sixty days after the receipt of a completed
39 application, the department shall grant or deny the
40 application in full or in part. The department shall deny
41 the application if:

42 (1) The applicant does not satisfy all of the criteria
43 provided under subsection 1 of this section;

44 (2) The revenue impact assessment submitted with the
45 application does not demonstrate that the applicant's

46 business plan will result in a positive fiscal impact on
47 this state over a ten-year period that exceeds the
48 cumulative amount of tax credits that would be issued to the
49 applicant if the application were approved; or

50 (3) The department has already approved the maximum
51 amount of capital investment authority under section
52 620.3515.

53 3. If the department denies any part of the
54 application, it shall inform the applicant of the grounds
55 for such denial. If the applicant provides any additional
56 information required by the department or otherwise
57 completes its application within fifteen days of the notice
58 of denial, the application shall be considered complete as
59 of the original date of resubmission. If the applicant
60 fails to provide the information or fails to complete its
61 application within the fifteen-day period, the application
62 shall remain denied and shall be resubmitted in full with a
63 new submission date and a new application fee.

64 4. Upon approval of an application, the department
65 shall certify the proposed equity investment as a capital
66 investment eligible for credits under sections 620.3500 to
67 620.3530, subject to the limitations contained in section
68 620.3515. The department shall provide written notice of
69 the certification to the applicant, which shall include the
70 amount of the applicant's capital investment authority. The
71 department shall certify capital investments in the order
72 that the applications are received by the department.
73 Applications received on the same day shall be deemed to
74 have been received simultaneously. For applications that
75 are complete and received on the same day, the department
76 shall certify applications in proportionate percentages
77 based upon the ratio of the amount of capital investment

78 authority requested in an application to the total amount of
79 capital investment authority requested in all applications.

620.3515. 1. The department shall certify capital
2 investment authority under the provisions of sections
3 620.3500 to 620.3530 in amounts that would authorize not
4 more than sixteen million dollars in state tax credits to be
5 claimed against state tax liability in any calendar year,
6 excluding any credit amounts carried forward as provided
7 under subsection 1 of section 620.3520. Within ninety days
8 of the applicant receiving notice of certification, the
9 rural fund shall issue the capital investment to, and
10 receive cash in the amount of the certified amount from, a
11 rural investor. At least ten percent of the rural
12 investor's capital investment shall be composed of capital
13 raised by the rural investor directly or indirectly from
14 sources, including directors, members, employees, officers,
15 and affiliates of the rural investor, other than the amount
16 invested by the allocatee claiming the tax credits in
17 exchange for such allocation of tax credits. The rural fund
18 shall provide the department with evidence of the receipt of
19 the cash investment within ninety-five days of the applicant
20 receiving notice of certification.

21 2. If the rural fund does not receive the cash
22 investment and issue the capital investment within such time
23 period following receipt of the certification notice, the
24 certification shall lapse and the rural fund shall not issue
25 the capital investment without reapplying to the department
26 for certification. Lapsed certifications shall revert to
27 the department and shall be reissued pro rata to applicants
28 whose capital investment allocations were reduced during the
29 immediately preceding application cycle in accordance with
30 the application process provided under subsection 4 of

31 section 620.3510. Any lapsed certification not reissued
32 within the same calendar year as the lapsed certification
33 was issued shall not be reissued.

34 3. A rural fund, before making a qualified investment,
35 may request from the department a written opinion as to
36 whether the business in which it proposes to invest is an
37 eligible business. Such request shall be on a form
38 developed by the department to be completed by the eligible
39 business and the rural fund. If the department fails to
40 notify the rural fund of its determination by the twentieth
41 business day following its receipt of the completed form and
42 all information necessary to form its opinion, the business
43 in which the rural fund proposes to invest shall be deemed
44 an eligible business.

620.3520. 1. Upon making a capital investment in a
2 rural fund, a rural investor shall have a vested right to
3 earn a tax credit that will be issued by the department that
4 may be used against such entity's state tax liability that
5 may be utilized on each credit allowance date of such
6 capital investment in an amount equal to the applicable
7 percentage for such credit allowance date multiplied by the
8 purchase price paid to the rural fund for the capital
9 investment. The amount of the credit claimed by a rural
10 investor shall not exceed the amount of such entity's state
11 tax liability for the tax year for which the credit is
12 claimed. Any amount of credit that a rural investor is
13 prohibited from claiming in a taxable year as a result of
14 this section may be carried forward for use in any of the
15 five subsequent taxable years, and shall not be carried back
16 to prior taxable years. A rural investor claiming a credit
17 under the provisions of sections 620.3500 to 620.3530 shall

18 not incur any additional tax that may arise as a result of
19 claiming such credit.

20 2. No credit claimed under the provisions of sections
21 620.3500 to 620.3530 shall be refundable or sellable on the
22 open market. Credits earned by or allocated to a
23 partnership, limited liability company, or S-corporation may
24 be allocated to the partners, members, or shareholders of
25 such entity for their direct use in accordance with the
26 provisions of any agreement among such partners, members, or
27 shareholders, and a rural fund shall notify the department
28 of the names of the entities that are eligible to utilize
29 credits pursuant to an allocation of credits or a change in
30 allocation of credits, or due to a transfer of a capital
31 investment upon such allocation, change, or transfer. Such
32 allocation shall not be considered a sale for the purposes
33 of this section.

34 3. The department may recapture credits from a
35 taxpayer that claimed a credit authorized under this section
36 if:

37 (1) The rural fund does not invest sixty percent of
38 its capital investment authority in qualified investments in
39 this state within two years of the credit allowance date,
40 and one hundred percent of its capital investment authority
41 in qualified investments in this state within three years of
42 the credit allowance date, provided that at least seventy
43 percent of such initial qualified investments shall be made
44 in eligible businesses located in rural areas or eligible
45 businesses that are also agribusinesses. In no event shall
46 more than thirty percent of such initial qualified
47 investments be made in eligible businesses located outside
48 of a rural area;

49 (2) The rural fund fails to maintain qualified
50 investments equal to ninety percent of its capital
51 investment authority from the third until the sixth credit
52 allowance date, with seventy percent of such investments
53 maintained in eligible businesses located in rural areas or
54 eligible businesses that are also agribusinesses, provided
55 that in no event shall more than thirty percent of such
56 qualified investments be made in eligible businesses located
57 outside of a rural area. For each year the rural fund fails
58 to maintain such investments, the department may recapture
59 an amount of such year's allowed credits equal to the
60 percentage difference between ninety percent of a rural
61 fund's capital investment authority and the actual amount of
62 qualified investments maintained for such year. For the
63 purposes of this subdivision, a qualified investment is
64 considered maintained even if the qualified investment was
65 sold or repaid so long as the rural fund reinvests an amount
66 equal to the capital returned or recovered by the rural fund
67 from the original investment, exclusive of any profits
68 realized, in other qualified investments in this state
69 within twelve months of the receipt of such capital.
70 Amounts received periodically by a rural fund shall be
71 treated as continually invested in qualified investments if
72 the amounts are reinvested in one or more qualified
73 investments by the end of the following calendar year. A
74 rural fund shall not be required to reinvest capital
75 returned from qualified investments after the fifth credit
76 allowance date, and such qualified investments shall be
77 considered held continuously by the rural fund through the
78 sixth credit allowance date;

79 (3) The rural fund, before exiting the program in
80 accordance with sections 620.3500 to 620.3530 or prior to

81 thirty days after the sixth credit allowance date, whichever
82 is earlier, makes a distribution or payment that results in
83 the rural fund having less than one hundred percent of its
84 capital investment authority invested in qualified
85 investments in this state or held in cash or other
86 marketable securities; or

87 (4) The rural fund violates the provisions of section
88 620.3525, in which case the department may recapture an
89 amount equal to the amount of a rural fund's capital
90 investment authority found to be in violation of such
91 provisions.

92 For the purposes of meeting and maintaining the objectives
93 established for investment in subdivisions (1) and (2) of
94 this subsection, a rural fund's qualified investments shall
95 be multiplied by a factor of one and a quarter in counties
96 with less than thirty thousand in population and more than
97 thirteen thousand in population and shall be multiplied by a
98 factor of one and a half in counties with a population of
99 thirteen thousand or less according to the most recent
100 decennial census.

101 4. No recapture shall occur until the rural fund has
102 been given notice of noncompliance and afforded six months
103 from the date of such notice to cure the noncompliance.

620.3525. No eligible business that receives a
2 qualified investment under the provisions of sections
3 620.3500 to 620.3530, or any affiliates of such eligible
4 businesses, shall directly or indirectly:

5 (1) Own or have the right to acquire an ownership
6 interest in a rural fund or member or affiliate of a rural
7 fund, including, but not limited to, a holder of a capital
8 investment issued by the rural fund; or

9 (2) Loan to or invest in a rural fund or member or
10 affiliate of a rural fund, including, but not limited to, a
11 holder of a capital investment issued by a rural fund, where
12 the proceeds of such loan or investment are directly or
13 indirectly used to fund or refinance the purchase of a
14 capital investment under sections 620.3500 to 620.3530.

620.3530. 1. Rural funds shall submit a report to the
2 department within the first fifteen business days after the
3 second and third credit allowance date. The report
4 following the second credit allowance date shall provide
5 documentation as to the investment of sixty percent of the
6 purchase price of such capital investment in qualified
7 investments. The report following the third credit
8 allowance date shall provide documentation as to the
9 investment of one hundred percent of the purchase price of
10 such capital investment in qualified investments. Unless
11 previously reported pursuant to this subsection, such
12 reports shall also include:

13 (1) The name and location of each eligible business
14 receiving a qualified investment;

15 (2) Bank statements of such rural fund evidencing each
16 qualified investment;

17 (3) A copy of the written opinion of the department,
18 as provided in subsection 3 of section 620.3515, or evidence
19 that such business was an eligible business at the time of
20 such qualified investment, as applicable;

21 (4) The number of jobs created and jobs sustained
22 resulting from each qualified investment;

23 (5) The average annual salary of positions described
24 in subdivision (4) of this subsection; and

25 (6) Such other information as required by the
26 department.

27 2. For all subsequent years, rural funds shall submit
28 an annual report to the department within ninety days of the
29 beginning of the calendar year during the compliance
30 period. The report shall include, but is not limited to,
31 the following:

32 (1) The number of jobs created and jobs sustained as a
33 result of qualified investments;

34 (2) The average annual salary of positions described
35 in subdivision (1) of this subsection and new payroll; and

36 (3) Such other information as required by the
37 department.

38 3. The program authorized pursuant to sections
39 620.3500 to 620.3530 shall be considered a business
40 recruitment tax credit under subdivision (4) of subsection 2
41 of section 135.800, and any rural fund approved under this
42 program shall be subject to the provisions of sections
43 135.800 to 135.830.

44 4. On or after the sixth anniversary of the initial
45 credit allowance date, a rural fund may apply to the
46 department to exit the program and no longer be subject to
47 regulation under the provisions of sections 620.3500 to
48 620.3530. Such request shall be on a form developed by the
49 department to be completed by the rural fund. The
50 department shall respond to the exit application within
51 thirty days of receipt of the completed form. In evaluating
52 the exit application, the fact that no credits have been
53 recaptured and that the rural fund has not received a notice
54 of recapture that has not been cured pursuant to subsection
55 4 of section 620.3520 shall be sufficient evidence to prove
56 that the rural fund is eligible for exit. The department
57 shall not unreasonably deny, delay, or withhold its
58 determination of an exit application submitted under this

59 subsection. If the exit application is denied, the notice
60 shall include the reasons for such determination.

61 5. Pursuant to section 23.253 of the Missouri sunset
62 act:

63 (1) The program authorized under sections 620.3500 to
64 620.3530 shall expire on August 28, 2029, unless
65 reauthorized by the general assembly; and

66 (2) Sections 620.3500 to 620.3530 shall terminate on
67 September first of the calendar year immediately following
68 the calendar year in which the program authorized under
69 sections 620.3500 to 620.3530 is sunset; and

70 (3) If such program is reauthorized, the program
71 authorized under sections 620.3500 to 620.3530 shall
72 automatically sunset six years after the effective date of
73 the reauthorization of sections 620.3500 to 620.3530; and

74 (4) Nothing in this subsection shall preclude a rural
75 fund that has received certified capital investment
76 authority from the department prior to the expiration of
77 sections 620.3500 to 620.3530 from issuing the capital
78 investment pursuant to that authority in accordance with
79 sections 620.3500 to 620.3530.

80 6. The department may adopt such rules, statements of
81 policy, procedures, forms, and guidelines as may be
82 necessary to carry out the provisions of sections 620.3500
83 to 620.3530. Any rule or portion of a rule, as that term is
84 defined in section 536.010, that is created under the
85 authority delegated in this section shall become effective
86 only if it complies with and is subject to all of the
87 provisions of chapter 536 and, if applicable, section
88 536.028. This section and chapter 536 are nonseverable and
89 if any of the powers vested with the general assembly
90 pursuant to chapter 536 to review, to delay the effective

91 date, or to disapprove and annul a rule are subsequently
92 held unconstitutional, then the grant of rulemaking
93 authority and any rule proposed or adopted after August 28,
94 2023, shall be invalid and void.

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