

# SENATE BILL NO. 92

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

1210S.01H

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 and the second credit allowance date, and fifteen  
25 percent for the next four credit allowance dates;

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

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

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

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

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

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

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

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

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

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

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

58 investments even though such business may not meet paragraph  
59 (a) of this subdivision at the time of such investments;

60 (8) "Initial credit allowance date", the date on which  
61 the department certifies a rural fund's capital investment;

62 (9) "Principal business operations", the location  
63 where at least sixty percent of a business's employees work  
64 or where employees who are paid at least sixty percent of  
65 such business's payroll work. A business that has agreed to  
66 relocate employees using the proceeds of a qualified  
67 investment to establish its principal business operations in  
68 a new location shall be deemed to have its principal  
69 business operations in such new location if it satisfied the  
70 requirements of this subdivision no later than one hundred  
71 eighty days after receiving a qualified investment;

72 (10) "Purchase price", the amount paid to the rural  
73 fund that issues a capital investment which shall not exceed  
74 the amount of capital investment authority certified under  
75 the provisions of section 620.3510;

76           (11) "Qualified investment", any investment in an  
77 eligible business or any loan to an eligible business with a  
78 stated maturity date of at least one year after the date of  
79 issuance, excluding revolving lines of credit and senior  
80 secured debt unless the chief executive or similar officer  
81 of the eligible business certifies that the eligible  
82 business sought and was denied similar financing from a  
83 depository institution, by a rural fund; provided that, with  
84 respect to any one eligible business, the maximum amount of  
85 investments made in such business by one or more rural  
86 funds, on a collective basis with all of the businesses'  
87 affiliates, with the proceeds of capital investments shall  
88 be the greater of twenty percent of the rural fund's capital  
89 investment authority or six million five hundred thousand  
90 dollars, exclusive of investments made with repaid or  
91 redeemed investments or interest or profits realized thereon;

92           (12) "Rural area", any area of this state that is set  
93 out in the United States Department of Agriculture census  
94 places map as published by the United States Department of  
95 Agriculture with a census place population of less than  
96 fifty thousand inhabitants;

97           (13) "Rural fund", an entity certified by the  
98 department under the provisions of section 620.3510;

99           (14) "Rural investor", an entity that makes a capital  
100 investment in a rural fund;

101           (15) "Senior secured debt", any loan that is secured  
102 by a first mortgage on real estate with a loan-to-value  
103 ratio of less than eighty percent;

104           (16) "State tax liability", any liability incurred by  
105 any entity subject to the state income tax imposed under  
106 chapter 143, excluding withholding tax imposed under  
107 sections 143.191 to 143.265, or an insurance company paying

108 an annual tax on its gross premium receipts, including  
109 retaliatory tax, or other financial institution paying taxes  
110 to the state or any political subdivision of the state under  
111 the provisions of chapter 148, or an express company which  
112 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 retained 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 rural fund, a rural investor shall have a vested right to earn a tax credit that will be issued by the department that may be used against such entity's state tax liability that may be utilized on each credit allowance date of such capital investment in an amount equal to the applicable percentage for such credit allowance date multiplied by the purchase price paid to the rural fund for the capital investment. The amount of the credit claimed by a rural investor shall not exceed the amount of such entity's state tax liability for the tax year for which the credit is claimed. Any amount of credit that a rural investor is prohibited from claiming in a taxable year as a result of this section may be carried forward for use in any of the five subsequent taxable years, and shall not be carried back to prior taxable years. A rural investor claiming a credit under the provisions of sections 620.3500 to 620.3530 shall not incur any additional tax that may arise as a result of claiming such credit.

2. No credit claimed under the provisions of sections 620.3500 to 620.3530 shall be refundable or sellable on the open market. Credits earned by or allocated to a partnership, limited liability company, or S-corporation may be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders, and a rural fund shall notify the department of the names of the entities that are eligible to utilize credits pursuant to an allocation of credits or a change in allocation of credits, or due to a transfer of a capital 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 retained  
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 retained 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 credit  
45 allowance date, a rural fund may apply to the department to  
46 exit the program and no longer be subject to regulation  
47 under the provisions of sections 620.3500 to 620.3530. Such  
48 request shall be on a form developed by the department to be  
49 completed by the rural fund. The department shall respond  
50 to the exit application within thirty days of receipt of the  
51 completed form. In evaluating the exit application, the  
52 fact that no credits have been recaptured and that the rural  
53 fund has not received a notice of recapture that has not  
54 been cured pursuant to subsection 4 of section 620.3520  
55 shall be sufficient evidence to prove that the rural fund is  
56 eligible for exit. The department shall not unreasonably  
57 deny, delay, or withhold its determination of an exit  
58 application submitted under this subsection. If the exit  
59 application is denied, the notice shall include the reasons  
60 for such determination.

61 5. At the time a rural fund exits the program, it  
62 shall be subject to pay a cash penalty if projected job  
63 creation metrics are not achieved, as follows:

64 (1) If less than sixty percent of the projected jobs  
65 in the rural fund's approved business plan are achieved,  
66 then the rural fund shall pay the state a penalty payment of  
67 cash in an amount equal to fifteen percent of the total tax  
68 credits distributed to the rural fund; or

69 (2) If at least sixty percent but less than eighty  
70 percent of the projected jobs in the rural fund's approved  
71 business plan are achieved, then the rural fund shall pay  
72 the state a penalty payment of cash in an amount equal to

73 ten percent of the total tax credits distributed to the  
74 rural fund; or

75 (3) If at least eighty percent but less than one  
76 hundred percent of the projected jobs in the rural fund's  
77 approved business plan are achieved, then the rural fund  
78 shall pay the state a penalty payment of cash in an amount  
79 equal to five percent of the total tax credits distributed  
80 to the rural fund.

81 (4) After a fund's application for exit is approved  
82 under subsection 4 of this section, the department shall  
83 calculate the state reimbursement amount. The state  
84 reimbursement amount shall equal the amount by which the  
85 total amount of tax credits issued to the fund exceeds the  
86 product obtained by multiplying the rural area average wage  
87 by the aggregate number of jobs created resulting from such  
88 fund's qualified investments. If that product is greater  
89 than the total amount of tax credits issued to the fund for  
90 the qualified investments under the provisions of sections  
91 620.3500 to 620.3530, the state reimbursement amount shall  
92 equal zero. The number of jobs created equals the sum of  
93 jobs created as reported by the fund annually pursuant to  
94 section 620.3530.

95 6. Pursuant to section 23.253 of the Missouri sunset  
96 act:

97 (1) The program authorized under sections 620.3500 to  
98 620.3530 shall expire on August 28, 2029, unless  
99 reauthorized by the general assembly; and

100 (2) Sections 620.3500 to 620.3530 shall terminate on  
101 September first of the calendar year immediately following  
102 the calendar year in which the program authorized under  
103 sections 620.3500 to 620.3530 is sunset; and

104           (3) If such program is reauthorized, the program  
105 authorized under sections 620.3500 to 620.3530 shall  
106 automatically sunset six years after the effective date of  
107 the reauthorization of sections 620.3500 to 620.3530; and

108           (4) Nothing in this subsection shall preclude a rural  
109 fund that has received certified capital investment  
110 authority from the department prior to the expiration of  
111 sections 620.3500 to 620.3530 from issuing the capital  
112 investment pursuant to that authority in accordance with  
113 sections 620.3500 to 620.3530.

114           7. The department may adopt such rules, statements of  
115 policy, procedures, forms, and guidelines as may be  
116 necessary to carry out the provisions of sections 620.3500  
117 to 620.3530. Any rule or portion of a rule, as that term is  
118 defined in section 536.010, that is created under the  
119 authority delegated in this section shall become effective  
120 only if it complies with and is subject to all of the  
121 provisions of chapter 536 and, if applicable, section  
122 536.028. This section and chapter 536 are nonseverable and  
123 if any of the powers vested with the general assembly  
124 pursuant to chapter 536 to review, to delay the effective  
125 date, or to disapprove and annul a rule are subsequently  
126 held unconstitutional, then the grant of rulemaking  
127 authority and any rule proposed or adopted after August 28,  
128 2023, shall be invalid and void.

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