

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 92

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

1210S.05P

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 135.772, 135.775, and 135.778, RSMo, and to enact in lieu thereof ten new sections relating to tax credits.

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

Section A. Sections 135.772, 135.775, and 135.778, RSMo,
2 are repealed and ten new sections enacted in lieu thereof, to
3 be known as sections 135.772, 135.775, 135.778, 620.3500,
4 620.3505, 620.3510, 620.3515, 620.3520, 620.3525, and 620.3530,
5 to read as follows:

135.772. 1. For the purposes of this section, the
2 following terms shall mean:

3 (1) "Department", the Missouri department of revenue;

4 (2) "Distributor", a person, firm, or corporation
5 doing business in this state that:

6 (a) Produces, refines, blends, compounds, or
7 manufactures motor fuel;

8 (b) Imports motor fuel into the state; or

9 (c) Is engaged in distribution of motor fuel;

10 (3) "Higher ethanol blend", a fuel capable of being
11 dispensed directly into motor vehicle fuel tanks for

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 consumption that is comprised of at least fifteen percent
13 but not more than eighty-five percent ethanol;

14 (4) "Retail dealer", a person, firm, or corporation
15 doing business in this state that owns or operates a retail
16 service station in this state;

17 (5) "Retail service station", a location in this state
18 from which higher ethanol blend is sold to the general
19 public and is dispensed directly into motor vehicle fuel
20 tanks for consumption.

21 2. For all tax years beginning on or after January 1,
22 2023, a retail dealer that sells higher ethanol blend at
23 such retail dealer's retail service station or a distributor
24 that sells higher ethanol blend directly to the final user
25 located in this state shall be allowed a tax credit to be
26 taken against the retail dealer's or distributor's state
27 income tax liability. The amount of the credit shall equal
28 five cents per gallon of higher ethanol blend sold by the
29 retail dealer and dispensed through metered pumps at the
30 retail dealer's retail service station or by a distributor
31 directly to the final user located in this state during the
32 tax year for which the tax credit is claimed. **For any**
33 **retail dealer or distributor with a tax year beginning prior**
34 **to January 1, 2023, but ending during the 2023 calendar**
35 **year, such retail dealer or distributor shall be allowed a**
36 **tax credit for the amount of higher ethanol blend sold**
37 **during the portion of such tax year that occurs during the**
38 **2023 calendar year.** Tax credits authorized pursuant to this
39 section shall not be transferred, sold, or assigned. If the
40 amount of the tax credit exceeds the taxpayer's state tax
41 liability, the difference shall not be refundable but may be
42 carried forward to any of the five subsequent tax years.
43 The total amount of tax credits issued pursuant to this

44 section for any given fiscal year shall not exceed five
45 million dollars.

46 3. In the event the total amount of tax credits
47 claimed under this section exceeds the amount of available
48 tax credits, the tax credits shall be apportioned among all
49 eligible retail dealers and distributors claiming a tax
50 credit by April fifteenth, or as directed by section
51 143.851, of the fiscal year in which the tax credit is
52 claimed.

53 4. The tax credit allowed by this section shall be
54 claimed by such taxpayer at the time such taxpayer files a
55 return and shall be applied against the income tax liability
56 imposed by chapter 143, excluding the withholding tax
57 imposed by sections 143.191 to 143.265, after reduction for
58 all other credits allowed thereon. The department may
59 require any documentation it deems necessary to implement
60 the provisions of this section.

61 5. The department shall promulgate rules to implement
62 the provisions of this section. Any rule or portion of a
63 rule, as that term is defined in section 536.010, that is
64 created under the authority delegated in this section shall
65 become effective only if it complies with and is subject to
66 all of the provisions of chapter 536 and, if applicable,
67 section 536.028. This section and chapter 536 are
68 nonseverable and if any of the powers vested with the
69 general assembly pursuant to chapter 536 to review, to delay
70 the effective date, or to disapprove and annul a rule are
71 subsequently held unconstitutional, then the grant of
72 rulemaking authority and any rule proposed or adopted after
73 the effective date of this section shall be invalid and void.

74 6. Under section 23.253 of the Missouri sunset act:

75 (1) The provisions of this section shall automatically
76 sunset on December 31, 2028, unless reauthorized by an act
77 of the general assembly; and

78 (2) If such program is reauthorized, the program
79 authorized under this section shall automatically sunset
80 twelve years after the effective date of the reauthorization
81 of this section; and

82 (3) This section shall terminate on September first of
83 the calendar year immediately following the calendar year in
84 which the program authorized under this section is sunset.

135.775. 1. As used in this section, the following
2 terms mean:

3 (1) "Biodiesel blend", a blend of diesel fuel and
4 biodiesel fuel of at least five percent and not more than
5 twenty percent for on-road and off-road diesel-fueled
6 vehicle use;

7 (2) "Biodiesel fuel", a renewable, biodegradable, mono
8 alkyl ester combustible liquid fuel that is derived from
9 agricultural and other plant oils or animal fats and that
10 meets the most recent version of the ASTM International
11 D6751 Standard Specification for Biodiesel Fuel Blend
12 Stock. A fuel shall be deemed to be biodiesel fuel if the
13 fuel consists of a pure B100 or B99 ratio. Biodiesel
14 produced from palm oil is not biodiesel fuel for the
15 purposes of this section unless the palm oil is contained
16 within waste oil and grease collected within the United
17 States;

18 (3) "B99", a blend of ninety-nine percent biodiesel
19 fuel that meets the most recent version of the ASTM
20 International D6751 Standard Specification for Biodiesel
21 Fuel Blend Stock with a minimum of one-tenth of one percent
22 and maximum of one percent diesel fuel that meets the most

23 recent version of the ASTM International D975 Standard
24 Specification for Diesel Fuel;

25 (4) "Department", the Missouri department of revenue;

26 (5) "Distributor", a person, firm, or corporation
27 doing business in this state that:

28 (a) Produces, refines, blends, compounds, or
29 manufactures motor fuel;

30 (b) Imports motor fuel into the state; or

31 (c) Is engaged in distribution of motor fuel;

32 (6) "Retail dealer", a person, firm, or corporation
33 doing business in this state that owns or operates a retail
34 service station in this state;

35 (7) "Retail service station", a location in this state
36 from which biodiesel blend is sold to the general public and
37 is dispensed directly into motor vehicle fuel tanks for
38 consumption at retail.

39 2. For all tax years beginning on or after January 1,
40 2023, a retail dealer that sells a biodiesel blend at a
41 retail service station or a distributor that sells a
42 biodiesel blend directly to the final user located in this
43 state shall be allowed a tax credit to be taken against the
44 retail dealer or distributor's state income tax liability.

45 **For any retail dealer or distributor with a tax year**
46 **beginning prior to January 1, 2023, but ending during the**
47 **2023 calendar year, such retail dealer or distributor shall**
48 **be allowed a tax credit for the amount of biodiesel blend**
49 **sold during the portion of such tax year that occurs during**
50 **the 2023 calendar year.** The amount of the credit shall be
51 equal to:

52 (1) Two cents per gallon of biodiesel blend of at
53 least five percent but not more than ten percent sold by the
54 retail dealer at a retail service station or by a

55 distributor directly to the final user located in this state
56 during the tax year for which the tax credit is claimed; and

57 (2) Five cents per gallon of biodiesel blend in excess
58 of ten percent but not more than twenty percent sold by the
59 retail dealer at a retail service station or by a
60 distributor directly to the final user located in this state
61 during the tax year for which the tax credit is claimed.

62 3. Tax credits authorized under this section shall not
63 be transferred, sold, or assigned. If the amount of the tax
64 credit exceeds the taxpayer's state tax liability, the
65 difference shall be refundable. The total amount of tax
66 credits issued under this section for any given fiscal year
67 shall not exceed sixteen million dollars.

68 4. In the event the total amount of tax credits
69 claimed under this section exceeds the amount of available
70 tax credits, the tax credits shall be apportioned among all
71 eligible retail dealers and distributors claiming a tax
72 credit by April fifteenth, or as directed by section
73 143.851, of the fiscal year in which the tax credit is
74 claimed.

75 5. The tax credit allowed by this section shall be
76 claimed by such taxpayer at the time such taxpayer files a
77 return and shall be applied against the income tax liability
78 imposed by chapter 143, excluding the withholding tax
79 imposed by sections 143.191 to 143.265, after reduction for
80 all other credits allowed thereon. The department may
81 require any documentation it deems necessary to administer
82 the provisions of this section.

83 6. Notwithstanding any other provision of law to the
84 contrary, if the maximum amount of tax credits authorized by
85 this section are not claimed, the remaining amount of tax
86 credits available to claim shall be applied to the tax

87 credit in section 135.778 if the maximum amount of tax
88 credits authorized by section 135.778 have been claimed.

89 7. Notwithstanding the provisions of section 32.057 to
90 the contrary, the department may work with the division of
91 weights and measures within the department of agriculture to
92 validate that the biodiesel blend a retail dealer or
93 distributor claims for the tax credit authorized under this
94 section contains a sufficient percentage of biodiesel fuel.

95 8. The department shall promulgate rules to implement
96 and administer the provisions of this section. Any rule or
97 portion of a rule, as that term is defined in section
98 536.010, that is created pursuant to the authority delegated
99 in this section shall become effective only if it complies
100 with and is subject to all of the provisions of chapter 536
101 and, if applicable, section 536.028. This section and
102 chapter 536 are nonseverable and if any of the powers vested
103 with the general assembly pursuant to chapter 536 to review,
104 to delay the effective date, or to disapprove and annul a
105 rule are subsequently held unconstitutional, then the grant
106 of rulemaking authority and any rule proposed or adopted
107 after January 2, 2023, shall be invalid and void.

108 9. Under section 23.253 of the Missouri sunset act:

109 (1) The provisions of the new program authorized under
110 this section shall automatically sunset on December 31,
111 2028, unless reauthorized by an act of the general assembly;

112 (2) If such program is reauthorized, the program
113 authorized under this section shall automatically sunset
114 twelve years after the effective date of the reauthorization
115 of this section; and

116 (3) This section shall terminate on September first of
117 the calendar year immediately following the calendar year in
118 which the program authorized under this section is sunset.

119 The termination of the program as described in this
120 subsection shall not be construed to preclude any qualified
121 taxpayer who claims any benefit under any program that is
122 sunset under this subsection from claiming such benefit for
123 all allowable activities related to such claim that were
124 completed before the program was sunset or to eliminate any
125 responsibility of the department to verify the continued
126 eligibility of qualified individuals receiving tax credits
127 and to enforce other requirements of law that applied before
128 the program was sunset.

135.778. 1. For the purposes of this section, the
2 following terms shall mean:

3 (1) "Biodiesel fuel", a renewable, biodegradable, mono
4 alkyl ester combustible liquid fuel that is derived from
5 agricultural and other plant oils or animal fats and that
6 meets the most recent version of the ASTM International
7 D6751 Standard Specification for Biodiesel Fuel Blend
8 Stock. A fuel shall be deemed to be biodiesel fuel if the
9 fuel consists of a pure B100 or B99 ratio. Biodiesel
10 produced from palm oil is not biodiesel fuel for the
11 purposes of this section unless the palm oil is contained
12 within waste oil and grease collected within the United
13 States;

14 (2) "B99", a blend of ninety-nine percent biodiesel
15 fuel that meets the most recent version of the ASTM
16 International D6751 Standard Specification for Biodiesel
17 Fuel Blend Stock with a minimum of one-tenth of one percent
18 and maximum of one percent diesel fuel that meets the most
19 recent version of the ASTM International D975 Standard
20 Specification for Diesel Fuel;

21 (3) "Department", the Missouri department of revenue;

22 (4) "Missouri biodiesel producer", a person, firm, or
23 corporation doing business in this state that produces
24 biodiesel fuel in this state, is registered with the United
25 States Environmental Protection Agency according to the
26 requirements of 40 CFR Part 79, and has begun construction
27 on such facility or has been selling biodiesel fuel produced
28 at such facility on or before January 2, 2023.

29 2. For all tax years beginning on or after January 1,
30 2023, a Missouri biodiesel producer shall be allowed a tax
31 credit to be taken against the producer's state income tax
32 liability. **For any Missouri biodiesel producer with a tax**
33 **year beginning prior to January 1, 2023, but ending during**
34 **the 2023 calendar year, such Missouri biodiesel producer**
35 **shall be allowed a tax credit for the amount of biodiesel**
36 **fuel produced during the portion of such tax year that**
37 **occurs during the 2023 calendar year.** The amount of the tax
38 credit shall be two cents per gallon of biodiesel fuel
39 produced by the Missouri biodiesel producer during the tax
40 year for which the tax credit is claimed.

41 3. Tax credits authorized under this section shall not
42 be transferred, sold, or assigned. If the amount of the tax
43 credit exceeds the taxpayer's state tax liability, the
44 difference shall be refundable. The total amount of tax
45 credits issued under this section for any given fiscal year
46 shall not exceed **[four] five million five hundred thousand**
47 **dollars, which shall be authorized on a first-come first-**
48 **served basis.**

49 4. **[In the event the total amount of tax credits**
50 **claimed under this section exceeds the amount of available**
51 **tax credits, the tax credits shall be apportioned among all**
52 **eligible Missouri biodiesel producers claiming the credit by**

53 April fifteenth, or as directed by section 143.851, of the
54 fiscal year in which the tax credit is claimed.

55 [5.] The tax credit authorized under this section shall
56 be claimed by such taxpayer at the time such taxpayer files
57 a return and shall be applied against the income tax
58 liability imposed by chapter 143, excluding the withholding
59 tax imposed by sections 143.191 to 143.265, after reduction
60 for all other credits allowed thereon. The department may
61 require any documentation it deems necessary to administer
62 the provisions of this section.

63 [6.] 5. Notwithstanding any other provision of law to
64 the contrary, if the maximum amount of tax credits
65 authorized by this section are not claimed, the remaining
66 amount of tax credits available to claim shall be applied to
67 the tax credit in section 135.775 if the maximum amount of
68 tax credits authorized by section 135.775 have been claimed.

69 [7.] 6. The department shall promulgate rules to
70 implement and administer the provisions of this section.
71 Any rule or portion of a rule, as that term is defined in
72 section 536.010, that is created pursuant to the authority
73 delegated in this section shall become effective only if it
74 complies with and is subject to all of the provisions of
75 chapter 536 and, if applicable, section 536.028. This
76 section and chapter 536 are nonseverable and if any of the
77 powers vested with the general assembly pursuant to chapter
78 536 to review, to delay the effective date, or to disapprove
79 and annul a rule are subsequently held unconstitutional,
80 then the grant of rulemaking authority and any rule proposed
81 or adopted after January 2, 2023, shall be invalid and void.

82 [8.] 7. Under section 23.253 of the Missouri sunset
83 act:

84 (1) The provisions of the new program authorized under
85 this section shall automatically sunset on December 31,
86 2028, unless reauthorized by an act of the general assembly;

87 (2) If such program is reauthorized, the program
88 authorized under this section shall automatically sunset
89 twelve years after the effective date of the reauthorization
90 of this section; and

91 (3) This section shall terminate on September first of
92 the calendar year immediately following the calendar year in
93 which the program authorized under this section is sunset.
94 The termination of the program as described in this
95 subsection shall not be construed to preclude any qualified
96 taxpayer who claims any benefit under any program that is
97 sunset under this subsection from claiming such benefit for
98 all allowable activities related to such claim that were
99 completed before the program was sunset, or to eliminate any
100 responsibility of the department to verify the continued
101 eligibility of qualified individuals receiving tax credits
102 and to enforce other requirements of law that applied before
103 the program was sunset.

**620.3500. Sections 620.3500 to 620.3530 shall be known
2 and may be cited as the "Missouri Rural Access to Capital
3 Act".**

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

**(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) "Affiliate capital", capital raised by the rural
12 investor directly or indirectly from sources, including
13 leverage sources, directors, members, employees, officers,
14 and affiliates of the rural investor, other than the amount
15 invested by the allocatee claiming the tax credits in
16 exchange for such allocation of tax credits;

17 (3) "Agribusiness", a business that produces or
18 provides any goods or services produced in this state
19 normally used by farmers, ranchers, or producers and
20 harvesters of aquatic products in their business operations,
21 or to improve the welfare or livelihood of such persons, or
22 is involved in the processing and marketing of agricultural
23 products, farm supplies, and input suppliers, or is engaged
24 in agribusiness as defined by the United States Department
25 of Agriculture, or if not engaged in such industries, the
26 department determines that such investment will be
27 beneficial to the rural area and the economic growth of the
28 state;

29 (4) "Applicable percentage", zero percent for the
30 initial credit allowance date and the second credit
31 allowance date, and fifteen percent for the next four credit
32 allowance dates;

33 (5) "Base employment", the total number of qualified
34 employees receiving taxable wages from the eligible business
35 in the tax year preceding the date of the initial capital
36 investment;

37 (6) "Base payroll", the total amount of taxable wages
38 paid by the eligible business to qualified employees in the
39 tax year preceding the date of the initial capital
40 investment;

41 (7) "Base revenue", the total net revenue earned by
42 the eligible business in the tax year preceding the date of
43 the initial capital investment;

44 (8) "Base taxable sales", the taxable sales of the
45 eligible business in the tax year preceding the date of the
46 initial investment;

47 (9) "Capital investment", any equity investment in a
48 rural fund by a rural investor which:

49 (a) Is acquired after the effective date of sections
50 620.3500 to 620.3530 at its original issuance solely in
51 exchange for cash;

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

56 (c) Is designated by the rural fund as a capital
57 investment under sections 620.3500 to 620.3530 and is
58 certified by the department under the provisions of section
59 620.3510. This shall include any capital investment that
60 does not meet the provisions of subdivision (1) of
61 subsection 1 of section 620.3510 if such investment was a
62 capital investment in the hands of a prior holder;

63 (10) "Credit allowance date", the anniversary of the
64 initial credit allowance date;

65 (11) "Department", the Missouri department of economic
66 development;

67 (12) "Eligible business", a business that, at the time
68 of the initial qualified investment in the business:

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

70 (b) Has its principal business operations in this
71 state;

72 (c) Is engaged in North American Industry
73 Classification System (NAICS) Sectors 11, 21, 22, 31-33, 48-
74 49, 62, or 811, or, if not engaged in such industries, the
75 department determines that such investment will be
76 beneficial to the rural area and economic growth of the
77 state;

78 (d) Does not knowingly employ any individual who is
79 unlawfully present in this country; and

80 (e) Is located or has committed to locate in a rural
81 area in this state.

82 Any business which is classified as an eligible business at
83 the time of the initial investment in such business by a
84 rural fund shall remain classified as an eligible business
85 and may receive follow-on investments from any rural fund,
86 and such follow-on investments shall be qualified
87 investments even though such business may not meet paragraph
88 (a) of this subdivision at the time of such investments;

89 (13) "Full-time employee", an employee of an eligible
90 business who is scheduled to work an average of at least
91 thirty-five hours per week for a twelve-month period;

92 (14) "Initial credit allowance date", the date on
93 which the department certifies a rural fund's capital
94 investment;

95 (15) "Leverage source", third party capital raised as
96 debt from a depository institution;

97 (16) "Maintained job", the number of qualified
98 employees at the eligible business at or below base
99 employment;

100 (17) "Maintained payroll", the total taxable wages
101 paid by the eligible business to qualified employees at or
102 below base payroll;

103 (18) "Maintained revenue", the total revenue earned by
104 the eligible business at or below base revenue;

105 (19) "Maintained taxable sales", the total taxable
106 sales of the eligible business at or below base taxable
107 sales;

108 (20) "New jobs", the number of qualified employees at
109 the eligible business less the eligible business' base
110 employment;

111 (21) "New payroll", the amount of taxable wages paid
112 to qualified employees at the eligible business less the
113 eligible business' base payroll;

114 (22) "New revenue", the total revenue earned by the
115 eligible business less the eligible business' base revenue;

116 (23) "New taxable sales", the total taxable sales of
117 the eligible business less the eligible business' base
118 taxable sales;

119 (24) "Principal business operations", the location
120 where at least sixty percent of a business's employees work
121 or where employees who are paid at least sixty percent of
122 such business's payroll work. A business that has agreed to
123 relocate employees using the proceeds of a qualified
124 investment to establish its principal business operations in
125 a new location shall be deemed to have its principal
126 business operations in such new location if it satisfied the
127 requirements of this subdivision no later than one hundred
128 eighty days after receiving a qualified investment;

129 (25) "Purchase price", the amount paid to the rural
130 fund that issues a capital investment which shall not exceed
131 the amount of capital investment authority certified under
132 the provisions of section 620.3510;

133 (26) "Qualified employee", an employee of an eligible
134 business who is scheduled to work an average of at least

135 thirty-five hours per week for a twelve-month period or
136 meets the customary practices accepted by that industry as
137 full time;

138 (27) "Qualified investment", any investment in an
139 eligible business or any loan to an eligible business with a
140 stated maturity date of at least one year after the date of
141 issuance, excluding revolving lines of credit and senior
142 secured debt unless the chief executive or similar officer
143 of the eligible business certifies that the eligible
144 business sought and was denied similar financing from a
145 depository institution, by a rural fund; provided that, with
146 respect to any one eligible business, the maximum amount of
147 investments made in such business by one or more rural
148 funds, on a collective basis with all of the businesses'
149 affiliates, with the proceeds of capital investments shall
150 be the greater of twenty percent of the rural fund's capital
151 investment authority or six million five hundred thousand
152 dollars, exclusive of investments made with repaid or
153 redeemed investments or interest or profits realized thereon;

154 (28) "Rural area", any area of this state that is set
155 out in the United States Department of Agriculture census
156 places map as published by the United States Department of
157 Agriculture with a census place population of less than
158 fifty thousand inhabitants;

159 (29) "Rural fund", an entity certified by the
160 department under the provisions of section 620.3510;

161 (30) "Rural investor", an entity that makes a capital
162 investment in a rural fund;

163 (31) "Senior secured debt", any loan that is secured
164 by a first mortgage on real estate with a loan-to-value
165 ratio of less than eighty percent;

166 (32) "State sharing ratio", the ratio equal to the sum
167 of the actual and projected direct and indirect state and
168 local tax benefits following a rural fund's qualified
169 investments in eligible businesses, including, but not
170 limited to, the state and local tax benefits from new jobs,
171 maintained jobs, new payroll, maintained payroll, new
172 revenue, maintained revenue, new taxable sales, and
173 maintained taxable sales, which direct and indirect state
174 and local tax benefits shall be determined using a
175 nationally recognized dynamic economic forecasting model,
176 divided by the amount of tax credits earned by the rural
177 investor of such rural fund. The economic forecasting model
178 used at the beginning of the program shall be the same model
179 used for the remainder of the program and shall project
180 state and local tax benefits for a minimum of ten years;

181 (33) "State tax liability", any liability incurred by
182 any entity subject to the state income tax imposed under
183 chapter 143, excluding withholding tax imposed under
184 sections 143.191 to 143.265, or an insurance company paying
185 an annual tax on its gross premium receipts, including
186 retaliatory tax, or other financial institution paying taxes
187 to the state or any political subdivision of the state under
188 the provisions of chapter 148, or an express company which
189 pays an annual tax on its gross receipts in this state;

190 (34) "Taxable sales", taxable sales as reported to the
191 Missouri department of revenue, calculated as set forth in
192 sections 144.010 to 144.525;

193 (35) "Third party capital", the difference between the
194 rural fund's capital investment and the sum of the amount
195 invested by the allocatee claiming the tax credits and the
196 affiliate capital.

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 the 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 the same dynamic
30 economic forecasting model used to calculate the state
31 sharing ratio that analyzes the applicant's business plan in
32 yearly increments over the ten years following the date the

33 application is submitted to the department. Such plan shall
34 include an estimate of the new and maintained jobs, new and
35 maintained payroll, new and maintained revenue, and new and
36 maintained taxable sales in this state as a result of the
37 applicant's qualified investments; and

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

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

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

46 (2) The revenue impact assessment submitted with the
47 application does not demonstrate that the applicant's
48 business plan will result in a positive fiscal impact on
49 this state over a ten-year period that exceeds the
50 cumulative amount of tax credits that would be issued to the
51 applicant if the application were approved; or

52 (3) The department has already approved the maximum
53 amount of capital investment authority under section
54 620.3515.

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

64 shall remain denied and shall be resubmitted in full with a
65 new submission date and a new application fee.

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

15 five days of the applicant receiving notice of
16 certification. Such evidence shall include details of the
17 third-party capital raised, including from any leverage
18 source.

19 2. If the rural fund does not receive the cash
20 investment and issue the capital investment within such time
21 period following receipt of the certification notice, the
22 certification shall lapse and the rural fund shall not issue
23 the capital investment without reapplying to the department
24 for certification. Lapsed certifications shall revert to
25 the department and shall be reissued pro rata to applicants
26 whose capital investment allocations were reduced during the
27 immediately preceding application cycle in accordance with
28 the application process provided under subsection 4 of
29 section 620.3510. Any lapsed certification not reissued
30 within the same calendar year as the lapsed certification
31 was issued shall not be reissued.

32 3. A rural fund, before making a qualified investment,
33 may request from the department a written opinion as to
34 whether the business in which it proposes to invest is an
35 eligible business. Such request shall be on a form
36 developed by the department to be completed by the eligible
37 business and the rural fund. If the department fails to
38 notify the rural fund of its determination by the twentieth
39 business day following its receipt of the completed form and
40 all information necessary to form its opinion, the business
41 in which the rural fund proposes to invest shall be deemed
42 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. For all
11 subsequent years, rural funds shall submit an annual report
12 to the department within ninety days of the beginning of the
13 calendar year during the compliance period. Unless

14 previously reported pursuant to this subsection, such
15 reports shall also include:

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

18 (2) Bank statements of such rural fund evidencing each
19 qualified investment;

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

24 (4) The total number of new jobs, maintained jobs, new
25 payroll, maintained payroll, new revenue, and maintained
26 revenue by each eligible business receiving a qualified
27 investment from a rural fund; and

28 (5) Such other information as required by the
29 department.

30 2. The program authorized pursuant to sections
31 620.3500 to 620.3530 shall be considered a business
32 recruitment tax credit under subdivision (4) of subsection 2
33 of section 135.800, and any rural fund approved under this
34 program shall be subject to the provisions of sections
35 135.800 to 135.830.

36 3. On or after the sixth anniversary of the initial
37 credit allowance date, a rural fund may apply to the
38 department to exit the program and no longer be subject to
39 regulation under the provisions of sections 620.3500 to
40 620.3530. Such request shall be on a form developed by the
41 department to be completed by the rural fund. The
42 department shall respond to the exit application within
43 thirty days of receipt of the completed form. In evaluating
44 the exit application, the fact that no credits have been
45 recaptured and that the rural fund has not received a notice

46 of recapture that has not been cured pursuant to subsection
47 4 of section 620.3520 shall be sufficient evidence to prove
48 that the rural fund is eligible for exit. The department
49 shall not unreasonably deny, delay, or withhold its
50 determination of an exit application submitted under this
51 subsection. If the exit application is denied, the notice
52 shall include the reasons for such determination.

53 4. Upon exit from the program in accordance with
54 subsection 3 of this section, in the event the state sharing
55 ratio is less than one, the state shall receive a share of
56 distributions made with respect to the capital investment
57 raised by the rural fund equal to one minus the state
58 sharing ratio multiplied by the amount of tax credits earned
59 by the rural investor of such rural fund, provided the rural
60 fund may make distributions to make payments on the leverage
61 source in an amount not to exceed principal and interest
62 owed on the leverage source. The maximum amount of
63 distributions the state shall be entitled to receive shall
64 not exceed an amount equal to ten percent of the tax credits
65 earned by such rural investor and the state shall receive no
66 distributions if the state sharing ratio exceeds one.

67 5. Pursuant to section 23.253 of the Missouri sunset
68 act:

69 (1) The program authorized under sections 620.3500 to
70 620.3530 shall expire on August 28, 2029, unless
71 reauthorized by the general assembly; and

72 (2) Sections 620.3500 to 620.3530 shall terminate on
73 September first of the calendar year immediately following
74 the calendar year in which the program authorized under
75 sections 620.3500 to 620.3530 is sunset; and

76 (3) If such program is reauthorized, the program
77 authorized under sections 620.3500 to 620.3530 shall

78 automatically sunset six years after the effective date of
79 the reauthorization of sections 620.3500 to 620.3530; and

80 (4) Nothing in this subsection shall preclude a rural
81 fund that has received certified capital investment
82 authority from the department prior to the expiration of
83 sections 620.3500 to 620.3530 from issuing the capital
84 investment pursuant to that authority in accordance with
85 sections 620.3500 to 620.3530.

86 6. The department may adopt such rules, statements of
87 policy, procedures, forms, and guidelines as may be
88 necessary to carry out the provisions of sections 620.3500
89 to 620.3530. Any rule or portion of a rule, as that term is
90 defined in section 536.010, that is created under the
91 authority delegated in this section shall become effective
92 only if it complies with and is subject to all of the
93 provisions of chapter 536 and, if applicable, section
94 536.028. This section and chapter 536 are nonseverable and
95 if any of the powers vested with the general assembly
96 pursuant to chapter 536 to review, to delay the effective
97 date, or to disapprove and annul a rule are subsequently
98 held unconstitutional, then the grant of rulemaking
99 authority and any rule proposed or adopted after August 28,
100 2023, shall be invalid and void.

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