

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 802

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

3920S.03P

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 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 not an alien, foreign entity or foreign-owned
73 entity, or a foreign government; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

131 (26) "Qualified employee", an employee of an eligible
132 business who is scheduled to work an average of at least
133 thirty-five hours per week for a twelve-month period or

134 meets the customary practices accepted by that industry as
135 full time;

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

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

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

159 (30) "Rural investor", an entity that makes a capital
160 investment in a rural fund, provided that such entity is not
161 an alien, foreign entity or foreign-owned entity, or a
162 foreign government;

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 determined by
167 taking the sum of the actual and projected direct and
168 indirect state and local tax revenue projected over a period
169 of at least ten subsequent years, as shown on the most
170 recent revenue impact assessment submitted by the rural fund
171 as required in subdivision (5) of subsection 1 of section
172 620.3530, divided by the amount of tax credit equity
173 contributed by the investors of the rural investor in
174 exchange for the tax credits authorized pursuant to sections
175 620.3500 to 620.3530;

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

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

188 (35) "Third party capital", the difference between the
189 rural fund's capital investment and the sum of the amount
190 invested by the allocatee claiming the tax credits and the
191 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 engaged by the
30 applicant using a dynamic economic forecasting model that
31 analyzes the applicant's business plan in yearly increments
32 over the ten years following the date the application is
33 submitted to the department. Such plan shall include an
34 estimate of the new and maintained jobs, new and maintained
35 payroll, new and maintained revenue, and new and maintained
36 taxable sales in this state as a result of the applicant's
37 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 and
40 one hundred percent of its capital investment authority in
41 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, provided a rural fund shall be
87 permitted to make distributions in amounts necessary for the
88 principal and interest payments due to the leverage source;
89 or

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

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

104 4. No recapture shall occur until the rural fund has
105 been given notice of noncompliance and afforded six months
106 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;
- 28 (5) A revenue impact assessment projecting state and
29 local tax revenue actually generated and projected to be
30 generated from a rural fund's qualified investments,
31 prepared by a nationally-recognized, third-party,
32 independent firm engaged by the rural fund, in agreement
33 with the department, that uses a dynamic forecasting model
34 that projects the direct and indirect state and local tax
35 revenue for a period of not less than ten years; and
- 36 (6) Such other information as required by the
37 department.

38 2. 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 3. 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 4. Upon exit from the program in accordance with
62 subsection 3 of this section, in the event the state sharing
63 ratio is less than one, the state shall receive a share of
64 distributions made with respect to the capital investment
65 raised by the rural fund equal to one minus the state
66 sharing ratio multiplied by the amount of tax credit equity
67 contributed by the investors of the rural investor in
68 exchange for the tax credits authorized pursuant to sections
69 620.3500 to 620.3530, provided the rural fund may make
70 distributions to make payments on the leverage source in an
71 amount not to exceed principal and interest owed on the
72 leverage source.

73 5. Pursuant to section 23.253 of the Missouri sunset
74 act:

75 (1) The program authorized under sections 620.3500 to
76 620.3530 shall expire six years after the effective date of
77 sections 620.3500 to 620.3530, unless reauthorized by the
78 general assembly; and

79 (2) Sections 620.3500 to 620.3530 shall terminate on
80 September first of the calendar year immediately following
81 the calendar year in which the program authorized under
82 sections 620.3500 to 620.3530 is sunset; and

83 (3) If such program is reauthorized, the program
84 authorized under sections 620.3500 to 620.3530 shall
85 automatically sunset six years after the effective date of
86 the reauthorization of sections 620.3500 to 620.3530; and

87 (4) Nothing in this subsection shall preclude a rural
88 fund that has received certified capital investment
89 authority from the department prior to the expiration of
90 sections 620.3500 to 620.3530 from issuing the capital
91 investment pursuant to that authority in accordance with
92 sections 620.3500 to 620.3530.

93 6. The department may adopt such rules, statements of
94 policy, procedures, forms, and guidelines as may be
95 necessary to carry out the provisions of sections 620.3500
96 to 620.3530. Any rule or portion of a rule, as that term is
97 defined in section 536.010, that is created under the
98 authority delegated in this section shall become effective
99 only if it complies with and is subject to all of the
100 provisions of chapter 536 and, if applicable, section
101 536.028. This section and chapter 536 are nonseverable and
102 if any of the powers vested with the general assembly
103 pursuant to chapter 536 to review, to delay the effective
104 date, or to disapprove and annul a rule are subsequently
105 held unconstitutional, then the grant of rulemaking
106 authority and any rule proposed or adopted after August 28,
107 2024, shall be invalid and void.

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