

FIRST REGULAR SESSION

HOUSE BILL NO. 1361

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE POLLITT (52).

2543H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 620, RSMo, by adding thereto eight 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 eight new sections, to be known as sections 620.3500, 620.3505, 620.3510, 620.3515, 620.3520, 620.3525, 620.3530, and 620.3531, to read as follows:

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

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

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

(2) "Applicable percentage", zero percent for the first two credit allowance dates, and fifteen percent for the next four credit allowance dates;

(3) "Capital investment", any equity investment in a rural fund by a rural investor that:

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

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

13 **(b) Has one hundred percent of its cash purchase price used by the rural fund to**
14 **make qualified investments in eligible businesses located in this state by the third**
15 **anniversary of the initial credit allowance date; and**

16 **(c) Is designated by the rural fund as a capital investment under sections 620.3500**
17 **to 620.3530 and is certified by the department under the provisions of section 620.3510.**
18 **This shall include any capital investment that does not meet the provisions of subdivision**
19 **(1) of subsection 1 of section 620.3510 if such investment was a capital investment in the**
20 **hands of a prior holder;**

21 **(4) "Credit allowance date", the date on which the department certifies a rural**
22 **fund's capital investment and each of the five anniversary dates of such date thereafter;**

23 **(5) "Department", the Missouri department of economic development;**

24 **(6) "Eligible business", a business that, at the time of the initial qualified**
25 **investment in the business:**

26 **(a) Has fewer than two hundred fifty employees; and**

27 **(b) Has its principal business operations in this state.**

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29 **Any business that is classified as an eligible business on the date of the initial investment**
30 **in such business by a rural fund shall remain classified as an eligible business and may**
31 **receive follow-on investments from any rural fund, and such follow-on investments shall**
32 **be qualified investments even if such business does not meet the definition of an eligible**
33 **business at the time of such follow-on investments;**

34 **(7) "Principal business operations", the location where at least sixty percent of a**
35 **business's employees work or where employees who are paid at least sixty percent of such**
36 **business's payroll work. A business that has agreed to relocate employees using the**
37 **proceeds of a qualified investment to establish its principal business operations in a new**
38 **location shall be deemed to have its principal business operations in such new location if**
39 **it satisfied the requirements of this subdivision no later than one hundred eighty days after**
40 **receiving a qualified investment;**

41 **(8) "Purchase price", the amount paid to the rural fund that issues a capital**
42 **investment, which shall not exceed the amount of capital investment authority certified**
43 **under the provisions of section 620.3510;**

44 **(9) "Qualified investment", any investment by a rural fund in an eligible business**
45 **or any loan by a rural fund to an eligible business with a stated maturity date of at least**
46 **one year after the date of issuance, excluding revolving lines of credit and senior secured**
47 **debt unless the chief executive or similar officer of the eligible business certifies that the**
48 **eligible business sought and was denied similar financing from a depository institution,**

49 provided that with respect to any one eligible business, the maximum amount of
50 investments made in such business by one or more rural funds, on a collective basis with
51 all of the business's affiliates, with the proceeds of capital investments shall be the greater
52 of twenty percent of the rural fund's capital investment authority or six million five
53 hundred thousand dollars, exclusive of investments made with repaid or redeemed
54 investments or interest or profits realized thereon;

55 (10) "Rural area", any county of this state that has a population of less than ninety
56 thousand according to the 2010 decennial census of the United States;

57 (11) "Rural fund", an entity certified by the department under the provisions of
58 section 620.3510;

59 (12) "Rural investor", an entity that makes a capital investment in a rural fund;

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

62 (14) "State tax liability", any liability incurred by any entity subject to the state
63 income tax imposed under chapter 143, excluding withholding tax imposed under sections
64 143.191 to 143.265; an insurance company paying an annual tax on its gross premium
65 receipts, including retaliatory tax; any other financial institution paying taxes to the state
66 or any political subdivision of the state under the provisions of chapter 148; or an express
67 company that pays an annual tax on its gross receipts in this state.

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

6 (1) The amount of capital investment requested;

7 (2) A copy of the applicant's or an affiliate of the applicant's license as a rural
8 business investment company under 7 U.S.C. Section 2009cc or as a small business
9 investment company under 15 U.S.C. Section 681; and

10 (3) A certificate executed by an executive officer of the applicant attesting that such
11 license remains in effect and has not been revoked;

12 (4) Evidence that, as of the date the application is submitted, the applicant or
13 affiliates of the applicant have invested:

14 (a) At least one hundred million dollars in nonpublic companies located in counties
15 within the United States with a population of less than fifty thousand according to the 2010
16 decennial census of United States; and

17 (b) At least fifty million dollars in nonpublic companies located in Missouri;

18 **(5) A business plan that includes a revenue impact assessment projecting state and**
19 **local tax revenue to be generated by the applicant's proposed qualified investments,**
20 **prepared by a nationally recognized, third-party, independent economic forecasting firm**
21 **using a dynamic economic forecasting model that analyzes the applicant's business plan**
22 **over the ten years following the date the application is submitted to the department. Such**
23 **plan shall include an estimate of the number of jobs created and jobs retained in this state**
24 **as a result of the applicant's qualified investments; and**

25 **(6) A nonrefundable application fee of five thousand dollars payable to the**
26 **department.**

27 **2. Within thirty days after the receipt of a completed application, the department**
28 **shall grant or deny the application in full or in part. The department shall deny the**
29 **application if:**

30 **(1) The applicant does not satisfy all of the criteria provided under subsection 1 of**
31 **this section;**

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

36 **(3) The department has already approved the maximum amount of capital**
37 **investment authority under section 620.3515.**

38 **3. If the department denies any part of the application, it shall inform the applicant**
39 **of the grounds for such denial. If the applicant provides any additional information**
40 **required by the department or otherwise completes its application within fifteen days of**
41 **the notice of denial, the application shall be considered complete as of the original date of**
42 **submission. If the applicant fails to provide the information or fails to complete its**
43 **application within the fifteen-day period, the application shall remain denied but may be**
44 **resubmitted in full with a new submission date and a new application fee.**

45 **4. Upon approval of an application, the department shall certify the proposed**
46 **equity investment as a capital investment eligible for credits under sections 620.3500 to**
47 **620.3530, subject to the limitations contained in section 620.3515. The department shall**
48 **provide written notice of the certification to the applicant, which shall include the amount**
49 **of the applicant's capital investment authority. The department shall certify capital**
50 **investments in the order that the applications are received by the department.**
51 **Applications received on the same day shall be deemed to have been received**
52 **simultaneously. For applications that are complete and received on the same day, the**
53 **department shall certify applications in proportionate percentages based upon the ratio**

54 of the amount of capital investment authority requested in an application to the total
55 amount of capital investment authority requested in all applications.

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

14 2. If the rural fund does not receive the cash investment and issue the capital
15 investment within such time period following receipt of the certification notice, the
16 certification shall lapse and the rural fund shall not issue the capital investment without
17 reapplying to the department for certification. Lapsed certifications shall revert to the
18 department and shall be reissued pro rata to applicants whose capital investment
19 allocations were reduced in accordance with the application process provided under
20 subsection 4 of section 620.3510.

21 3. A rural fund, before making a qualified investment, may request from the
22 department a written opinion as to whether the business in which it proposes to invest is
23 an eligible business. The department, not later than the twentieth business day after the
24 date of receipt of such request, shall notify the rural fund of its determination. If the
25 department fails to notify the rural fund of its determination by the twentieth business day,
26 the business in which the rural fund proposes to invest shall be deemed an eligible business.

620.3520. 1. Upon making a capital investment in a rural fund, a rural investor
2 shall have a vested right to a credit against such entity's state tax liability that may be
3 utilized on each credit allowance date of such capital investment in an amount equal to the
4 applicable percentage for such credit allowance date multiplied by the purchase price paid
5 to the rural fund for the capital investment. The amount of the credit claimed by a rural
6 investor shall not exceed the amount of such entity's state tax liability for the tax year for
7 which the credit is claimed. Any amount of credit that a rural investor is prohibited from

8 claiming in a taxable year as a result of this section may be carried forward for use in any
9 of the five subsequent taxable years, and shall not be carried back to prior taxable years.

10 2. No credit claimed under the provisions of sections 620.3500 to 620.3530 shall be
11 refundable. Credits earned by or allocated to a partnership, limited liability company, or
12 S-corporation may be allocated to the partners, members, or shareholders of such entity
13 for direct use in accordance with the provisions of any agreement among such partners,
14 members, or shareholders, and a rural fund shall notify the department of the names of
15 the entities that are eligible to utilize credits pursuant to an allocation of credits or a
16 change in allocation of credits, or due to a transfer of a capital investment upon such
17 allocation, change, or transfer. Such allocation shall not be considered a sale for the
18 purposes of this section.

19 3. The department may recapture credits from a taxpayer that claimed a credit
20 authorized under this section if:

21 (1) The rural fund does not invest sixty percent of its capital investment authority
22 in qualified investments in this state within two years of the credit allowance date, and one
23 hundred percent of its capital investment authority in qualified investments in this state
24 within three years of the credit allowance date, provided that at least seventy percent of
25 these initial qualified investments shall be invested in eligible businesses located in rural
26 areas;

27 (2) The rural fund fails to maintain qualified investments equal to ninety percent
28 of its capital investment authority from the third anniversary until the sixth anniversary
29 of the credit allowance date, with seventy percent of such investments maintained in
30 eligible businesses located in rural areas. For each year the rural fund fails to maintain
31 such investments, the department may recapture an amount of such year's allowed credits
32 equal to the percentage difference between ninety percent of a rural fund's capital
33 investment authority and the actual amount of qualified investments maintained for such
34 year. For the purposes of this subdivision, a qualified investment is considered maintained
35 even if the qualified investment was sold or repaid so long as the rural fund reinvests an
36 amount equal to the capital returned or recovered by the rural fund from the original
37 investment, exclusive of any profits realized, in other qualified investments in this state
38 within twelve months of the receipt of such capital. Amounts received periodically by a
39 rural fund shall be treated as continuously invested in qualified investments if the amounts
40 are reinvested in one or more qualified investments by the end of the following calendar
41 year. A rural fund shall not be required to reinvest capital returned from qualified
42 investments after the fifth anniversary of the credit allowance date, and such qualified

43 investments shall be considered held continuously by the rural fund through the sixth
44 anniversary of the credit allowance date;

45 (3) Prior to the earlier of:

46 (a) Exiting the program in accordance with sections 620.3500 to 620.3530; or

47 (b) Thirty days after the sixth anniversary of the credit allowance date,

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49 the rural fund makes a distribution or payment that results in the rural fund having less
50 than one hundred percent of its capital investment authority invested in qualified
51 investments in this state or held in cash or other marketable securities; or

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

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56 For the purposes of meeting and maintaining the objectives established for investment in
57 subdivisions (1) and (2) of this subsection, a rural fund's qualified investments shall be
58 multiplied by a factor of one and a quarter in counties with less than thirty thousand in
59 population and more than thirteen thousand in population and shall be multiplied by a
60 factor of one and a half in counties with a population of thirteen thousand or less.

61 4. Recaptured credits and the related capital investment authority shall revert to
62 the department and shall be reissued pro rata to applicants whose capital investment
63 allocations were reduced in accordance with the application process provided under
64 subsection 4 of section 620.3510.

65 5. No recapture shall occur until the rural fund has been given notice of
66 noncompliance and afforded six months from the date of such notice to cure the
67 noncompliance.

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

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

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

620.3530. 1. Rural funds shall submit a report to the department within fifteen business days after the second and third anniversary of the initial credit allowance date. The report following the second anniversary shall provide documentation as to the investment of sixty percent of the purchase price of such capital investment in qualified investments. The report following the third anniversary shall provide documentation as to the investment of one hundred percent of the purchase price of such capital investment in qualified investments. Unless previously reported pursuant to this subsection, such reports shall also include:

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

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

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

(4) The number of jobs created and jobs retained resulting from each qualified investment;

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

(6) Such other information as the department may require.

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

(1) The number of jobs created and jobs retained as a result of qualified investments;

(2) The average annual salary of positions described under subdivision (1) of this subsection; and

(3) Such other information as the department may require.

3. On or after the sixth anniversary of the credit allowance date, a rural fund may apply to the department to exit the program and no longer be subject to regulation under sections 620.3500 to 620.3530. The department shall respond to the exit application within fifteen days of receipt. In evaluating the exit application, the fact that no credits have been recaptured and that the rural fund has not received a notice of recapture that has not been cured pursuant to subsection 5 of section 620.3520 shall be sufficient evidence to prove that the rural fund is eligible for exit. The department shall not unreasonably deny an exit application submitted under this subsection. If the exit application is denied, the notice shall include the reasons for the determination.

620.3531. The department shall not accept any new applications for tax credits
2 **authorized under the provisions of sections 620.3500 to 620.6530 after December 31, 2031.**

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