

SECOND REGULAR SESSION

HOUSE BILL NO. 1885

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE POLLITT (52).

4365H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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

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

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

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

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

8 (2) "Agribusiness", a business that produces or provides any goods or services
9 produced in this state and that are normally used by farmers, ranchers, or producers
10 and harvesters of aquatic products in their business operations, or to improve the
11 welfare or livelihood of such persons, or is involved in the processing and marketing of
12 agricultural products, farm supplies, and input suppliers, or is engaged in agribusiness
13 as defined by the United States Department of Agriculture, or is engaged in
14 manufacturing, health care, technology, transportation, or related services, or if not

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.

15 engaged in such industries, the department determines that such investment will be
16 beneficial to the rural area and the economic growth of the state;

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

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

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

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

26 (c) Is designated by the rural fund as a capital investment under sections
27 620.3500 to 620.3530 and is certified by the department under the provisions of section
28 620.3510. This shall include any capital investment that does not meet the provisions of
29 subdivision (1) of subsection 1 of section 620.3510 if such investment was a capital
30 investment in the hands of a prior holder;

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

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

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

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

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

38

39 Any business that is classified as an eligible business at the time of the initial investment
40 in such business by a rural fund shall remain classified as an eligible business and may
41 receive follow-on investments from any rural fund, and such follow-on investments shall
42 be qualified investments even though such business may not meet the definition of an
43 eligible business at the time of such follow-on investments;

44 (8) "Principal business operations", the location where at least sixty percent of a
45 business's employees work or where employees who are paid at least sixty percent of
46 such business's payroll work. A business that has agreed to relocate employees using the
47 proceeds of a qualified investment to establish its principal business operations in a new
48 location shall be deemed to have its principal business operations in such new location if
49 it satisfied the requirements of this subdivision no later than one hundred eighty days
50 after receiving a qualified investment;

51 (9) "Purchase price", the amount paid to the rural fund that issues a capital
52 investment, which shall not exceed the amount of capital investment authority certified
53 under the provisions of section 620.3510;

54 (10) "Qualified investment", any investment in an eligible business or any loan
55 to an eligible business with a stated maturity date of at least one year after the date of
56 issuance, excluding revolving lines of credit and senior secured debt unless the chief
57 executive or similar officer of the eligible business certifies that the eligible business
58 sought and was denied similar financing from a depository institution, by a rural fund;
59 provided that, with respect to any one eligible business, the maximum amount of
60 investments made in such business by one or more rural funds, on a collective basis with
61 all of the business's affiliates, with the proceeds of capital investments shall be the
62 greater of twenty percent of the rural fund's capital investment authority or six million
63 five hundred thousand dollars, exclusive of investments made with repaid or redeemed
64 investments or interest or profits realized thereon;

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

67 (12) "Rural fund", an entity certified by the department under the provisions of
68 section 620.3510;

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

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

72 (15) "State tax liability", any liability incurred by any entity subject to the state
73 income tax imposed under chapter 143, excluding withholding tax imposed under
74 sections 143.191 to 143.265, or an insurance company paying an annual tax on its gross
75 premium receipts, including retaliatory tax, or other financial institution paying taxes to
76 the state or any political subdivision of the state under the provisions of chapter 148, or
77 an express 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
3 620.3500 to 620.3530 shall apply to the department. The department shall begin
4 accepting applications within ninety days of the effective date of sections 620.3500 to
5 620.3530. The 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 a certificate executed by an

10 executive officer of the applicant attesting that such license remains in effect and has not
11 been revoked;

12 (3) 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
15 counties within the United States with a population of less than fifty thousand
16 inhabitants according to the 2010 decennial census of United States; and

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

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

25 (5) 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
28 department shall grant or deny the application in full or in part. The department shall
29 deny the application if:

30 (1) The applicant does not satisfy all of the criteria provided under subsection 1
31 of 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
34 this state over a ten-year period that exceeds the cumulative amount of tax credits that
35 would 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
39 applicant of the grounds for such denial. If the applicant provides any additional
40 information required by the department or otherwise completes its application within
41 fifteen days of the notice of denial, the application shall be considered complete as of the
42 original date of submission. If the applicant fails to provide the information or fails to
43 complete its application within the fifteen-day period, the application shall remain
44 denied and shall be resubmitted in full with a new submission date and a new
45 application fee.

46 **4. Upon approval of an application, the department shall certify the proposed**
47 **equity investment as a capital investment eligible for credits under sections 620.3500 to**
48 **620.3530, subject to the limitations contained in section 620.3515. The department shall**
49 **provide written notice of the certification to the applicant, which shall include the**
50 **amount of the applicant's capital investment authority. The department shall certify**
51 **capital investments in the order that the applications are received by the department.**
52 **Applications received on the same day shall be deemed to have been received**
53 **simultaneously. For applications that are complete and received on the same day, the**
54 **department shall certify applications in proportionate percentages based upon the ratio**
55 **of the amount of capital investment authority requested in an application to the total**
56 **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**
3 **than twenty-five million dollars in state tax credits to be claimed against state tax**
4 **liability in any calendar year, excluding any credit amounts carried forward as provided**
5 **under subsection 1 of section 620.3520. Within ninety days of the applicant receiving**
6 **notice of certification, the rural fund shall issue the capital investment to, and receive**
7 **cash in the amount of the certified amount from, a rural investor. At least ten percent of**
8 **the rural investor's capital investment shall be composed of capital raised by the rural**
9 **investor directly or indirectly from sources, including directors, members, employees,**
10 **officers, and affiliates of the rural investor, other than the amount invested by the**
11 **allocatee claiming the tax credits in exchange for such allocation of tax credits. The**
12 **rural fund shall provide the department with evidence of the receipt of the cash**
13 **investment within ninety-five days of the applicant 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 fifteenth 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**

26 day, the business in which the rural fund proposes to invest shall be deemed an eligible
27 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
4 the applicable percentage for such credit allowance date multiplied by the purchase
5 price paid to the rural fund for the capital investment. The amount of the credit
6 claimed by a rural investor shall not exceed the amount of such entity's state tax liability
7 for the tax year for which the credit is claimed. Any amount of credit that a rural
8 investor is prohibited from claiming in a taxable year as a result of this section may be
9 carried forward for use in any of the five subsequent taxable years, and shall not be
10 carried back to prior taxable years. It is the intent of sections 620.3500 to 620.3530 that
11 a rural investor claiming a credit under the provisions of sections 620.3500 to 620.3530
12 is not required to pay any additional tax that may arise as a result of claiming such
13 credit.

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

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

25 (1) The rural fund does not invest sixty percent of its capital investment
26 authority in qualified investments in this state within two years of the credit allowance
27 date, and one hundred percent of its capital investment authority in qualified
28 investments in this state within three years of the credit allowance date, provided that
29 at least seventy percent of such initial qualified investments shall be made in eligible
30 businesses located in rural areas or eligible businesses that are also agribusinesses;

31 (2) The rural fund fails to maintain qualified investments equal to ninety percent
32 of its capital investment authority from the third anniversary until the sixth anniversary
33 of the credit allowance date, with seventy percent of such investments maintained in
34 eligible businesses located in rural areas or eligible businesses that are also
35 agribusinesses. For each year the rural fund fails to maintain such investments, the

36 department may recapture an amount of such year's allowed credits equal to the
37 percentage difference between ninety percent of a rural fund's capital investment
38 authority and the actual amount of qualified investments maintained for such year. For
39 the purposes of this subdivision, a qualified investment is considered maintained even if
40 the qualified investment was sold or repaid so long as the rural fund reinvests an
41 amount equal to the capital returned or recovered by the rural fund from the original
42 investment, exclusive of any profits realized, in other qualified investments in this state
43 within twelve months of the receipt of such capital. Amounts received periodically by a
44 rural fund shall be treated as continually invested in qualified investments if the
45 amounts are reinvested in one or more qualified investments by the end of the following
46 calendar year. A rural fund shall not be required to reinvest capital returned from
47 qualified investments after the fifth anniversary of the credit allowance date, and such
48 qualified investments shall be considered held continuously by the rural fund through
49 the sixth anniversary of the credit allowance date;

50 (3) The rural fund, before exiting the program in accordance with sections
51 620.3500 to 620.3530 or prior to thirty days after the sixth anniversary of the credit
52 allowance date, whichever is earlier, makes a distribution or payment that results in the
53 rural fund having less than one hundred percent of its capital investment authority
54 invested in qualified investments in this state or held in cash or other marketable
55 securities; or

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

59

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

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

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

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

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

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

12 **620.3530. 1. Rural funds shall submit a report to the department within the first**
13 **fifteen business days after the second and third anniversaries of the initial credit**
14 **allowance date. The report following the second anniversary shall provide**
15 **documentation as to the investment of sixty percent of the purchase price of such**
16 **capital investment in qualified investments. The report following the third anniversary**
17 **shall provide documentation as to the investment of one hundred percent of the**
18 **purchase price of such capital investment in qualified investments. Unless previously**
19 **reported under this subsection, such reports shall also include:**

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

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

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

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

28 **(5) The average annual salary of positions described in subdivision (4) of this**
29 **subsection; and**

30 **(6) Such other information as required by the department.**

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

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

36 **(2) The average annual salary of positions described in subdivision (1) of this**
37 **subsection; and**

38 **(3) Such other information as required by the department.**

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

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

41 **5. At the time a rural fund exits the program, it shall be subject to the following**
42 **penalties if projected job creation metrics are not achieved:**

43 **(1) If sixty percent or less of the projected jobs in the rural fund's approved**
44 **business plan are achieved, the rural fund shall pay the state a penalty payment of cash**
45 **in an amount equal to ten percent of the total tax credits distributed to the rural fund;**
46 **or**

47 **(2) If more than sixty percent but less than eighty percent of the projected jobs**
48 **in the rural fund's approved business plan are achieved, the rural fund shall pay the**
49 **state a penalty payment of cash in an amount equal to five percent of the total tax credits**
50 **distributed to the rural fund.**

51 **6. The department shall not accept any new applications for tax credits under**
52 **sections 620.3500 to 620.3530 after December 31, 2032.**

53 **7. The department may adopt such rules, statements of policy, procedures,**
54 **forms, and guidelines as may be necessary to carry out the provisions of sections**
55 **620.3500 to 620.3530. Any rule or portion of a rule, as that term is defined in section**
56 **536.010, that is created under the authority delegated in this section shall become**
57 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
58 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**
59 **of the powers vested with the general assembly pursuant to chapter 536 to review, to**
60 **delay the effective date, or to disapprove and annul a rule are subsequently held**
61 **unconstitutional, then the grant of rulemaking authority and any rule proposed or**
62 **adopted after August 28, 2022, shall be invalid and void.**