

FIRST REGULAR SESSION

# SENATE BILL NO. 465

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

2148S.01H

ADRIANE D. CROUSE, Secretary

## 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  
2 eight new sections, to be known as sections 620.3500, 620.3505,  
3 620.3510, 620.3515, 620.3520, 620.3525, 620.3530, and 620.3531,  
4 to read as follows:

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

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

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

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

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

16           (a) Is acquired after the effective date of sections  
17 620.3500 to 620.3530 at its original issuance solely in  
18 exchange for cash;

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

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

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

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

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

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

38           (b) Has its principal business operations in one or  
39 more rural areas in this state.

40 Any business which is classified as an eligible business at  
41 the time of the initial investment in such business by a  
42 rural fund shall remain classified as an eligible business  
43 and may receive follow-on investments from any rural fund,  
44 and such follow-on investments shall be qualified

45 investments even though such business may not meet the  
46 definition of an eligible business at the time of such  
47 follow-on investments;

48 (7) "Full-time job", a job in this state that is:

49 (a) Performed by an employee of an eligible business  
50 and requires thirty-five hours of work or more per week;

51 (b) Contracted out by an eligible business to perform  
52 work equivalent of a full-time employee of an eligible  
53 business; or

54 (c) A part-time equivalent;

55 (8) "Jobs created", the number of full-time jobs added  
56 by an eligible business during each twelve-month period  
57 following the date of a rural fund's initial qualified  
58 investment; provided, however, that if the number calculated  
59 is less than zero, such number shall be reported as zero;

60 (9) "Jobs retained", any full-time jobs that existed  
61 at an eligible business prior to a rural fund's initial  
62 qualified investment that are retained by an eligible  
63 business following a rural fund's initial qualified  
64 investment, calculated annually. The reported number of jobs  
65 retained for a year shall only include full-time jobs that  
66 would have been lost or moved out of this state had the  
67 qualified investment not been made, as certified in writing  
68 by affidavit by an executive officer of the eligible  
69 business, and may not exceed the number reported on the  
70 initial report under section 620.3530;

71 (10) "Part-time equivalent", the number of part-time  
72 employees working less than thirty-five hours per week  
73 employed by an eligible business equivalent to one full-time  
74 job, calculated by taking the weekly average hours worked by  
75 part-time employees for a week aggregated to determine the  
76 number of full-time equivalent jobs;

77           (11) "Principal business operations", the location  
78 where at least sixty percent of a business's employees work  
79 or where employees who are paid at least sixty percent of  
80 such business's payroll work. A business that has agreed to  
81 relocate employees using the proceeds of a qualified  
82 investment to establish its principal business operations in  
83 a new location shall be deemed to have its principal  
84 business operations in such new location if it satisfied the  
85 requirements of this subdivision no later than one hundred  
86 eighty days after receiving a qualified investment;

87           (12) "Purchase price", the amount paid to the rural  
88 fund that issues a capital investment which shall not exceed  
89 the amount of capital investment authority certified under  
90 the provisions of section 620.3510;

91           (13) "Qualified investment", any investment in an  
92 eligible business or any loan to an eligible business with a  
93 stated maturity date of at least one year after the date of  
94 issuance, not including investment in the form of revolving  
95 lines of credit and senior secured debt unless the eligible  
96 business has a credit refusal letter or similar  
97 correspondence from a depository institution or a referral  
98 letter or similar correspondence from a depository  
99 institution referring the business to a rural fund; provided  
100 that, with respect to any one eligible business, the maximum  
101 amount of investments made in such business by one or more  
102 rural funds, on a collective basis with all of the  
103 businesses' affiliates, with the proceeds of capital  
104 investments shall be the greater of twenty percent of the  
105 rural fund's capital investment authority or six million  
106 five hundred thousand dollars, exclusive of investments made  
107 with repaid or redeemed investments or interest or profits  
108 realized thereon;

109           (14) "Rural area", any county of this state that has a  
110 population of less than ninety thousand according to the  
111 2010 decennial census of the United States;

112           (15) "Rural fund", an entity certified by the  
113 department under the provisions of section 620.3510;

114           (16) "Rural investor", an entity that makes a capital  
115 investment in a rural fund;

116           (17) "State tax liability", any liability incurred by  
117 any entity subject to the state income tax imposed under  
118 chapter 143, excluding withholding tax imposed under  
119 sections 143.191 to 143.265, or an insurance company paying  
120 an annual tax on its gross premium receipts, including  
121 retaliatory tax, or other financial institution paying taxes  
122 to the state or any political subdivision of the state under  
123 the provisions of chapter 148, or an express company which  
124 pays an annual tax on its gross receipts in this state.

          620.3510. 1. A rural fund that seeks to have an  
2 equity investment certified as a capital investment eligible  
3 for credits authorized under the provisions of sections  
4 620.3500 to 620.3530 shall apply to the department. The  
5 department shall begin accepting applications within ninety  
6 days of the effective date of sections 620.3500 to  
7 620.3530. The application shall include:

8           (1) The amount of capital investment requested;

9           (2) A copy of the applicant's or an affiliate of the  
10 applicant's license as a rural business investment company  
11 under 7 U.S.C. Section 2009cc or as a small business  
12 investment company under 15 U.S.C. Section 681, and a  
13 certificate executed by an executive officer of the  
14 applicant attesting that such license remains in effect and  
15 has not been revoked;

16           (3) Evidence that, as of the date the application is  
17 submitted, the applicant or affiliates of the applicant have  
18 invested at least one hundred million dollars in nonpublic  
19 companies located in counties within the United States with  
20 a population of less than fifty thousand according to the  
21 2010 decennial census of United States;

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

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

35           2. Within thirty days after the receipt of a completed  
36 application, the department shall grant or deny the  
37 application in full or in part. The department shall deny  
38 the application if:

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

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

47           (3) The department has already approved the maximum  
48 amount of capital investment authority under section  
49 620.3515.

50           3. If the department denies any part of the  
51 application, it shall inform the applicant of the grounds  
52 for such denial. If the applicant provides any additional  
53 information required by the department or otherwise  
54 completes its application within fifteen days of the notice  
55 of denial, the application shall be considered complete as  
56 of the original date of submission. If the applicant fails  
57 to provide the information or fails to complete its  
58 application within the fifteen-day period, the application  
59 shall remain denied and shall be resubmitted in full with a  
60 new submission date and a new application fee.

61           4. Upon approval of an application, the department  
62 shall certify the proposed equity investment as a capital  
63 investment eligible for credits under sections 620.3500 to  
64 620.3530, subject to the limitations contained in section  
65 620.3515. The department shall provide written notice of  
66 the certification to the rural fund and include the  
67 aggregate number of jobs created and jobs retained required  
68 of the rural fund with such amount set forth in the rural  
69 fund's business plan prorated based on the amount of capital  
70 investment actually certified to the rural fund by the  
71 department. The department shall certify capital  
72 investments in the order that the applications are received  
73 by the department. Applications received on the same day  
74 shall be deemed to have been received simultaneously. For  
75 applications that are complete and received on the same day,  
76 the department shall certify applications in proportionate  
77 percentages based upon the ratio of the amount of capital  
78 investment authority requested in an application to the

79 total amount of capital investment authority requested in  
80 all applications.

620.3515. 1. The department may 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 twenty-five million dollars in state tax credits  
5 to be claimed against state tax liability in any calendar  
6 year, excluding any credit amounts carried forward as  
7 provided under subsection 1 of section 620.3520. Within  
8 ninety days of the applicant receiving notice of  
9 certification, the rural fund shall issue the capital  
10 investment to, and receive cash in the amount of the  
11 certified amount from, a rural investor. At least ten  
12 percent of the rural investor's capital investment shall be  
13 composed of capital raised by the rural investor from  
14 sources, including directors, members, employees, officers,  
15 and affiliates of the rural investor, other than the amount  
16 invested by the allocatee claiming the tax credits in  
17 exchange for such allocation of tax credits. The rural fund  
18 shall provide the department with evidence of the receipt of  
19 the cash investment within ninety-five days of the applicant  
20 receiving notice of certification.

21 2. If the rural fund does not receive the cash  
22 investment and issue the capital investment within such time  
23 period following receipt of the certification notice, the  
24 certification shall lapse and the rural fund shall not issue  
25 the capital investment without reapplying to the department  
26 for certification. Lapsed certifications shall revert to  
27 the department and shall be reissued pro rata to applicants  
28 whose capital investment allocations were reduced in  
29 accordance with the application process provided under  
30 subdivision (4) of subsection 3 of section 620.3520.



31           3. A rural fund, before making a qualified investment,  
32 may request from the department a written opinion as to  
33 whether the business in which it proposes to invest is an  
34 eligible business. The department, not later than the  
35 fifteenth business day after the date of receipt of such  
36 request, shall notify the rural fund of its determination.  
37 If the department fails to notify the rural fund of its  
38 determination by the twentieth business day, the business in  
39 which the rural fund proposes to invest shall be deemed an  
40 eligible business.

          620.3520. 1. Upon making a capital investment in a  
2 rural fund, a rural investor shall have a vested right to a  
3 credit against such entity's state tax liability that may be  
4 utilized on each credit allowance date of such capital  
5 investment in an amount equal to the applicable percentage  
6 for such credit allowance date multiplied by the purchase  
7 price paid to the rural fund for the capital investment.  
8 The amount of the credit claimed by a rural investor shall  
9 not exceed the amount of such entity's state tax liability  
10 for the tax year for which the credit is claimed. Any  
11 amount of credit that a rural investor is prohibited from  
12 claiming in a taxable year as a result of this section may  
13 be carried forward for use in any of the five subsequent  
14 taxable years, and shall not be carried back to prior  
15 taxable years.

          2. No credit claimed under the provisions of sections  
17 620.3500 to 620.3530 shall be refundable. Credits earned by  
18 or allocated to a partnership, limited liability company, or  
19 S-corporation may be allocated to the partners, members, or  
20 shareholders of such entity for their direct use in  
21 accordance with the provisions of any agreement among such  
22 partners, members, or shareholders, and a rural fund shall

23 notify the department of the names of the entities that are  
24 eligible to utilize credits pursuant to an allocation of  
25 credits or a change in allocation of credits, or due to a  
26 transfer of a capital investment upon such allocation,  
27 change, or transfer. Such allocation shall not be  
28 considered a sale for the purposes of this section.

29 3. The department may recapture credits from a rural  
30 investor that claimed a credit authorized under this section  
31 if:

32 (1) The rural fund does not invest sixty percent of  
33 its capital investment authority in qualified investments in  
34 this state within two years of the credit allowance date,  
35 and one hundred percent of its capital investment authority  
36 in qualified investments in this state within three years of  
37 the credit allowance date;

38 (2) The rural fund fails to maintain qualified  
39 investments equal to ninety percent of its capital  
40 investment authority from the third anniversary until the  
41 sixth anniversary of the credit allowance date. For each  
42 year the rural fund fails to maintain such investments, the  
43 department may recapture an amount of such year's allowed  
44 credits equal to the percentage difference between ninety  
45 percent of a rural fund's capital investment authority and  
46 the actual amount of qualified investments maintained for  
47 such year. For the purposes of this subdivision, a  
48 qualified investment is considered maintained even if the  
49 qualified investment was sold or repaid so long as the rural  
50 fund reinvests an amount equal to the capital returned or  
51 recovered by the rural fund from the original investment,  
52 exclusive of any profits realized, in other qualified  
53 investments in this state within twelve months of the  
54 receipt of such capital. Amounts received periodically by a

55 rural fund shall be treated as continually invested in  
56 qualified investments if the amounts are reinvested in one  
57 or more qualified investments by the end of the following  
58 calendar year. A rural fund shall not be required to  
59 reinvest capital returned from qualified investments after  
60 the fifth anniversary of the credit allowance date, and such  
61 qualified investments shall be considered held continuously  
62 by the rural fund through the sixth anniversary of the  
63 credit allowance date;

64 (3) The rural fund, before exiting the program in  
65 accordance with sections 620.3500 to 620.3530, makes a  
66 distribution or payment that results in the rural fund  
67 having less than ninety percent of its capital investment  
68 authority invested in qualified investments in this state; or

69 (4) The rural fund violates the provisions of section  
70 620.3525, in which case the department may recapture an  
71 amount equal to the amount of a rural fund's capital  
72 investment authority found to be in violation of such  
73 provisions.

74 For the purposes of meeting and maintaining the objectives  
75 established for investment in subdivisions (1) and (2) of  
76 this subsection, a rural fund's qualified investments shall  
77 be multiplied by a factor of one and a quarter in counties  
78 with less than thirty thousand in population and more than  
79 thirteen thousand in population and shall be multiplied by a  
80 factor of one and a half in counties with a population of  
81 thirteen thousand or less.

82 4. Recaptured credits and the related capital  
83 investment authority shall revert to the department and  
84 shall be reissued pro rata to applicants whose capital  
85 investment allocations were reduced in accordance with the

86 application process provided under subsection 4 of section  
87 620.3510.

88 5. No recapture shall occur until the rural fund has  
89 been given notice of noncompliance and afforded six months  
90 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 third anniversary of the initial credit allowance date that  
4 provides documentation as to the investment of one hundred  
5 percent of the purchase price of such capital investment in  
6 qualified investments. Such report shall include:

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

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

11 (3) A copy of the written opinion of the department,  
12 as provided in subsection 3 of section 620.3515, or evidence

13 that such business was an eligible business at the time of  
14 such qualified investment, as applicable;

15 (4) The number of jobs created and jobs retained as a  
16 result of qualified investments as of the first, second, and  
17 third anniversaries of the initial credit allowance date;

18 (5) The average annual salary of the jobs created and  
19 retained as a result of qualified investments; and

20 (6) Such other information as required by the  
21 department.

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

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

29 (2) The average annual salary of the jobs created and  
30 retained as a result of qualified investments; and

31 (3) Such other information as required by the  
32 department.

33 3. If at any time on or after the sixth anniversary of  
34 the credit allowance date a rural fund satisfies the jobs  
35 created and jobs retained amounts required in such fund's  
36 notice of certification as provided under subsection 4 of  
37 section 620.3510, then such rural fund shall no longer be  
38 subject to regulation under the provisions of sections  
39 620.3500 to 620.3530 and may exit the program by providing  
40 written notice to the department certifying such rural fund  
41 has met its requirements and will be exiting the program.

42 4. A rural fund not meeting the job requirements may  
43 apply to the department to exit the program and no longer be  
44 subject to the regulation under the provisions of sections

45 620.3500 to 620.3530 by paying the penalties provided under  
46 subsection 5 of this section, as applicable. The department  
47 shall respond to the exit application within fifteen days of  
48 receipt. In evaluating the exit application, the fact that  
49 no credits have been recaptured and that the rural fund has  
50 not received a notice of recapture that has not been cured  
51 pursuant to subsection 5 of section 620.3520 shall be  
52 sufficient evidence to prove that the rural fund is eligible  
53 for exit. The department shall not unreasonably deny an  
54 exit application submitted under this subsection. If the  
55 exit application is denied, the notice shall include the  
56 reasons for such determination.

57 5. (1) A rural fund is subject to a penalty in the  
58 amount provided under subdivision (2) of this subsection if:

59 (a) The rural fund authorizes a distribution to the  
60 rural fund's equity holders in an amount that, when added to  
61 all previous distributions to the rural fund's equity  
62 holders and any previous penalties under this section,  
63 exceeds the rural fund's capital investment authority; and

64 (b) The number of jobs created and jobs retained as a  
65 result of the rural fund's qualified investments, as  
66 reported on the rural fund's reports, is less than the  
67 number of jobs created and jobs retained included in such  
68 rural fund's notice of certification as provided under  
69 subsection 4 of section 620.3510.

70 (2) The amount of the penalty shall be equal to the  
71 amount of the distribution or fee paid by the rural fund  
72 that exceeds the rural fund's capital investment authority  
73 and multiplying such excess amount by a fraction:

74 (a) The numerator of which is the number of jobs  
75 created and jobs retained included in the rural fund's  
76 notice of certification as provided under subsection 4 of

77 section 620.3510, less the number of jobs created and jobs  
78 retained reported in all of the rural fund's reports  
79 submitted pursuant to this section; and

80 (b) The denominator of which is the number of jobs  
81 created and jobs retained included in such rural fund's  
82 notice of certification as provided under subsection 4 of  
83 section 620.3510. At the time of exit, before making a  
84 distribution to the rural fund's equity holders or payment  
85 of any fees, the rural fund shall deduct the amount of the  
86 penalty from the equity distribution or fee and pay such  
87 penalty to the department.

620.3531. Notwithstanding the provisions of section  
2 23.253 of the Missouri sunset act to the contrary:

3 (1) The provisions of the new program authorized under  
4 sections 620.3500 to 620.3530 shall automatically sunset ten  
5 years after the effective date of sections 620.3500 to  
6 620.3530 unless reauthorized by an act of the general  
7 assembly;

8 (2) If such program is reauthorized, the program  
9 authorized under sections 620.3500 to 620.3530 shall  
10 automatically sunset ten years after the effective date of  
11 the reauthorization of sections 620.3500 to 620.3530; and

12 (3) Sections 620.3500 to 620.3530 shall terminate on  
13 September first of the calendar year immediately following  
14 the calendar year in which the program authorized under  
15 sections 620.3500 to 620.3530 is sunset.

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