

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 465

101ST GENERAL ASSEMBLY

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2148S.02C

ADRIANE D. CROUSE, Secretary

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## AN ACT

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

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*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 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 this  
39 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) "Principal business operations", the location  
49 where at least sixty percent of a business's employees work  
50 or where employees who are paid at least sixty percent of  
51 such business's payroll work. A business that has agreed to  
52 relocate employees using the proceeds of a qualified  
53 investment to establish its principal business operations in  
54 a new location shall be deemed to have its principal  
55 business operations in such new location if it satisfied the  
56 requirements of this subdivision no later than one hundred  
57 eighty days after receiving a qualified investment;

58 (8) "Purchase price", the amount paid to the rural  
59 fund that issues a capital investment which shall not exceed  
60 the amount of capital investment authority certified under  
61 the provisions of section 620.3510;

62 (9) "Qualified investment", any investment in an  
63 eligible business or any loan to an eligible business with a  
64 stated maturity date of at least one year after the date of  
65 issuance, excluding revolving lines of credit and senior  
66 secured debt unless the chief executive or similar officer  
67 of the eligible business certifies that the eligible  
68 business sought and was denied similar financing from a  
69 depository institution, by a rural fund; provided that, with  
70 respect to any one eligible business, the maximum amount of  
71 investments made in such business by one or more rural  
72 funds, on a collective basis with all of the businesses'  
73 affiliates, with the proceeds of capital investments shall  
74 be the greater of twenty percent of the rural fund's capital  
75 investment authority or six million five hundred thousand

76 dollars, exclusive of investments made with repaid or  
77 redeemed investments or interest or profits realized thereon;

78 (10) "Rural area", any county of this state that has a  
79 population of less than ninety thousand according to the  
80 2010 decennial census of the United States;

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

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

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

88 (14) "State tax liability", any liability incurred by  
89 any entity subject to the state income tax imposed under  
90 chapter 143, excluding withholding tax imposed under  
91 sections 143.191 to 143.265, or an insurance company paying  
92 an annual tax on its gross premium receipts, including  
93 retaliatory tax, or other financial institution paying taxes  
94 to the state or any political subdivision of the state under  
95 the provisions of chapter 148, or an express company which  
96 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:

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 2010 decennial census of United States; and

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

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

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

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

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

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

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

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

64           4. Upon approval of an application, the department  
65 shall certify the proposed equity investment as a capital  
66 investment eligible for credits under sections 620.3500 to  
67 620.3530, subject to the limitations contained in section  
68 620.3515. The department shall provide written notice of  
69 the certification to the applicant, which shall include the  
70 amount of the applicant's capital investment authority. The  
71 department shall certify capital investments in the order  
72 that the applications are received by the department.  
73 Applications received on the same day shall be deemed to  
74 have been received simultaneously. For applications that  
75 are complete and received on the same day, the department

76 shall certify applications in proportionate percentages  
77 based upon the ratio of the amount of capital investment  
78 authority requested in an application to the total amount of  
79 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 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 directly or  
14 indirectly from sources, including directors, members,  
15 employees, officers, and affiliates of the rural investor,  
16 other than the amount invested by the allocatee claiming the  
17 tax credits in exchange for such allocation of tax credits.  
18 The rural fund shall provide the department with evidence of  
19 the receipt of the cash investment within ninety-five days  
20 of the applicant 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 subsection 4 of section 620.3510.

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.

16 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  
30 taxpayer 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, provided that at least seventy  
38 percent of such initial qualified investments shall be made  
39 in eligible businesses located in rural areas;

40 (2) The rural fund fails to maintain qualified  
41 investments equal to ninety percent of its capital  
42 investment authority from the third anniversary until the  
43 sixth anniversary of the credit allowance date, with seventy  
44 percent of such investments maintained in eligible  
45 businesses located in rural areas. For each year the rural  
46 fund fails to maintain such investments, the department may  
47 recapture an amount of such year's allowed credits equal to  
48 the percentage difference between ninety percent of a rural  
49 fund's capital investment authority and the actual amount of  
50 qualified investments maintained for such year. For the  
51 purposes of this subdivision, a qualified investment is  
52 considered maintained even if the qualified investment was

53 sold or repaid so long as the rural fund reinvests an amount  
54 equal to the capital returned or recovered by the rural fund  
55 from the original investment, exclusive of any profits  
56 realized, in other qualified investments in this state  
57 within twelve months of the receipt of such capital.  
58 Amounts received periodically by a rural fund shall be  
59 treated as continually invested in qualified investments if  
60 the amounts are reinvested in one or more qualified  
61 investments by the end of the following calendar year. A  
62 rural fund shall not be required to reinvest capital  
63 returned from qualified investments after the fifth  
64 anniversary of the credit allowance date, and such qualified  
65 investments shall be considered held continuously by the  
66 rural fund through the sixth anniversary of the credit  
67 allowance date;

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

76 (4) The rural fund violates the provisions of section  
77 620.3525, in which case the department may recapture an  
78 amount equal to the amount of a rural fund's capital  
79 investment authority found to be in violation of such  
80 provisions.

81 For the purposes of meeting and maintaining the objectives  
82 established for investment in subdivisions (1) and (2) of  
83 this subsection, a rural fund's qualified investments shall

84 be multiplied by a factor of one and a quarter in counties  
85 with less than thirty thousand in population and more than  
86 thirteen thousand in population and shall be multiplied by a  
87 factor of one and a half in counties with a population of  
88 thirteen thousand or less.

89 4. Recaptured credits and the related capital  
90 investment authority shall revert to the department and  
91 shall be reissued pro rata to applicants whose capital  
92 investment allocations were reduced in accordance with the  
93 application process provided under subsection 4 of section  
94 620.3510.

95 5. No recapture shall occur until the rural fund has  
96 been given notice of noncompliance and afforded six months  
97 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 anniversary of the initial credit allowance  
4 date. The report following the second anniversary shall

5 provide documentation as to the investment of sixty percent  
6 of the purchase price of such capital investment in  
7 qualified investments. The report following the third  
8 anniversary shall provide documentation as to the investment  
9 of one hundred percent of the purchase price of such capital  
10 investment in qualified investments. Unless previously  
11 reported pursuant to this subsection, such reports shall  
12 also include:

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

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

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

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

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

25 (6) Such other information as required by the  
26 department.

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

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

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

36           (3) Such other information as required by the  
37 department.

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

52           4. The department shall not accept any new  
53 applications for tax credits pursuant to sections 620.3500  
54 to 620.3530 after December 31, 2031.

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