

FIRST REGULAR SESSION

HOUSE BILL NO. 959

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GREGORY.

2071H.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 if not engaged in such

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.

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

16 (3) "Applicable percentage", zero percent for the initial and the second credit
17 allowance dates and fifteen percent for the next four credit allowance dates;

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

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

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

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

30 (5) "Credit allowance date", the anniversary of the initial credit allowance date;

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

32 (7) "Eligible business", a business defined as and subject to the following:

33 (a) A business that, at the time of the initial qualified investment in the business:

34 a. Has fewer than two hundred fifty employees;

35 b. Has its principal business operations in this state; and

36 c. Does not knowingly employ any individual who is unlawfully present in this
37 country; and

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

44 (8) "Initial credit allowance date", the date on which the department certifies a
45 rural fund's capital investment;

46 (9) "Principal business operations", the location where at least sixty percent of a
47 business's employees work or where employees who are paid at least sixty percent of
48 such business's payroll work. A business that has agreed to relocate employees using the
49 proceeds of a qualified investment to establish its principal business operations in a new
50 location shall be deemed to have its principal business operations in such new location if

51 it satisfied the requirements of this subdivision no later than one hundred eighty days
52 after receiving a qualified investment;

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

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

67 (12) "Rural area", any area of this state that is set out in the United States
68 Department of Agriculture census places map as published by the United States
69 Department of Agriculture with a census place population of fewer than fifty thousand
70 inhabitants;

71 (13) "Rural fund", an entity certified by the department under the provisions of
72 section 620.3510;

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

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

76 (16) "State tax liability", any liability incurred by any entity subject to the state
77 income tax imposed under chapter 143, excluding withholding tax imposed under
78 sections 143.191 to 143.265, or an insurance company paying an annual tax on its gross
79 premium receipts, including retaliatory tax, or other financial institution paying taxes to
80 the state or any political subdivision of the state under the provisions of chapter 148, or
81 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 fewer than fifty thousand**
16 **inhabitants according to the 2010 decennial census of the 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 sixty 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**
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. Any lapsed certification not reissued within the same
21 calendar year as the lapsed certification was issued shall not be reissued.

22 3. A rural fund, before making a qualified investment, may request from the
23 department a written opinion as to whether the business in which it proposes to invest is
24 an eligible business. Such request shall be on a form developed by the department to be

25 completed by the eligible business and the rural fund. If the department fails to notify
26 the rural fund of its determination by the twentieth business day following its receipt of
27 the completed form and all information reasonably necessary to form its opinion, the
28 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 issued by the department against such entity's state
3 tax liability that may be utilized on each credit allowance date of such capital investment
4 in an amount equal to the applicable percentage for such credit allowance date
5 multiplied by the purchase price paid to the rural fund for the capital investment. The
6 amount of the credit claimed by a rural investor shall not exceed the amount of such
7 entity's state tax liability for the tax year for which the credit is claimed. Any amount of
8 credit that a rural investor is prohibited from claiming in a tax year as a result of this
9 section may be carried forward for use in any of the five subsequent tax years and shall
10 not be carried back to prior tax years. A rural investor claiming a credit under the
11 provisions of sections 620.3500 to 620.3530 shall not incur any additional tax that may
12 arise as a result of claiming such credit.

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

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

24 (1) The rural fund does not invest sixty percent of its capital investment
25 authority in qualified investments in this state within two years of the credit allowance
26 date, and one hundred percent of its capital investment authority in qualified
27 investments in this state within three years of the credit allowance date, provided that
28 at least seventy percent of such initial qualified investments shall be made in eligible
29 businesses located in rural areas or eligible businesses that are also agribusinesses. In
30 no event shall more than thirty percent of such initial qualified investments be made in
31 eligible businesses located outside of a rural area;

32 (2) The rural fund fails to maintain qualified investments equal to ninety percent
33 of its capital investment authority from the third until the sixth credit allowance date,

34 with seventy percent of such investments maintained in eligible businesses located in
35 rural areas or eligible businesses that are also agribusinesses, provided that, in no event
36 shall more than thirty percent of such qualified investments be made in eligible
37 businesses located outside of a rural area. For each year the rural fund fails to maintain
38 such investments, the department may recapture an amount of such year's allowed
39 credits equal to the percentage difference between ninety percent of a rural fund's
40 capital investment authority and the actual amount of qualified investments maintained
41 for such year. For the purposes of this subdivision, a qualified investment is considered
42 maintained even if the qualified investment was sold or repaid so long as the rural fund
43 reinvests an amount equal to the capital returned or recovered by the rural fund from
44 the original investment, exclusive of any profits realized, in other qualified investments
45 in this state within twelve months of the receipt of such capital. Amounts received
46 periodically by a rural fund shall be treated as continually invested in qualified
47 investments if the amounts are reinvested in one or more qualified investments by the
48 end of the following calendar year. A rural fund shall not be required to reinvest capital
49 returned from qualified investments after the fifth credit allowance date, and such
50 qualified investments shall be considered held continuously by the rural fund through
51 the sixth credit allowance date;

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

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

60 4. For the purposes of meeting and maintaining the objectives established for
61 investment in subdivisions (1) and (2) of subsection 3 of this section, a rural fund's
62 qualified investments shall be multiplied by a factor of one and a quarter in counties
63 with fewer than thirty thousand inhabitants in population and more than thirteen
64 thousand inhabitants in population and shall be multiplied by a factor of one and one-
65 half in counties with a population of thirteen thousand inhabitants or fewer, according
66 to the most recent decennial census.

67 5. No recapture shall occur until the rural fund has been given notice of
68 noncompliance and afforded six months from the date of such notice to cure the
69 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 credit allowance date. The report**
14 **following the second credit allowance date shall provide documentation as to the**
15 **investment of sixty percent of the purchase price of such capital investment in qualified**
16 **investments. The report following the third credit allowance date shall provide**
17 **documentation as to the investment of one hundred percent of the purchase price of**
18 **such capital investment in qualified investments. Unless previously reported under this**
19 **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 new payroll; 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 credit allowance date, a rural fund may apply to the**
33 **department to exit the program and no longer be subject to regulation under the**
34 **provisions of sections 620.3500 to 620.3530. Such request shall be on a form developed**
35 **by the department to be completed by the rural fund. The department shall respond to**
36 **the exit application within thirty days of receipt of the completed form. In evaluating**
37 **the exit application, the fact that no credits have been recaptured and that the rural**
38 **fund has not received a notice of recapture that has not been cured under subsection 5 of**
39 **section 620.3520 shall be sufficient evidence to prove that the rural fund is eligible for**
40 **exit. The department shall not unreasonably deny, delay, or withhold its determination**
41 **of an exit application submitted under this subsection. If the exit application is denied,**
42 **the notice shall include the reasons for such determination.**

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

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

49 **(2) If at least sixty percent but less than eighty percent of the projected jobs in**
50 **the rural fund's approved business plan are achieved, the rural fund shall pay the state**
51 **a penalty payment of cash in an amount equal to ten percent of the total tax credits**
52 **distributed to the rural fund; or**

53 **(3) If at least eighty percent but less than one hundred percent of the projected**
54 **jobs in the rural fund's approved business plan are achieved, the rural fund shall pay**
55 **the state a penalty payment of cash in an amount equal to five percent of the total tax**
56 **credits distributed to the rural fund.**

57 **6. Under section 23.253 of the Missouri sunset act:**

58 **(1) The provisions of the new program authorized under sections 620.3500 to**
59 **620.3530 shall automatically sunset six years after the effective date of sections 620.3500**
60 **to 620.3530 unless reauthorized by an act of the general assembly; and**

61 **(2) If such program is reauthorized, the program authorized under sections**
62 **620.3500 to 620.3530 shall automatically sunset six years after the effective date of the**
63 **reauthorization of sections 620.3500 to 620.3530; and**

64 **(3) Sections 620.3500 to 620.3530 shall terminate on September first of the**
65 **calendar year immediately following the calendar year in which the program authorized**
66 **under sections 620.3500 to 620.3530 is sunset.**

67 **7. The department may adopt such rules, statements of policy, procedures,**
68 **forms, and guidelines as may be necessary to carry out the provisions of sections**
69 **620.3500 to 620.3530. Any rule or portion of a rule, as that term is defined in section**
70 **536.010, that is created under the authority delegated in this section shall become**
71 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
72 **if applicable, section 536.028. This section and chapter 536 are nonseverable and if any**
73 **of the powers vested with the general assembly pursuant to chapter 536 to review, to**
74 **delay the effective date, or to disapprove and annul a rule are subsequently held**
75 **unconstitutional, then the grant of rulemaking authority and any rule proposed or**
76 **adopted after August 28, 2023, shall be invalid and void.**

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