

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 959
102ND GENERAL ASSEMBLY

2071H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 620, RSMo, by adding thereto seven new sections relating to rural access to capital 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 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 Access to Capital 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) **"Affiliate capital", capital raised by the rural investor directly or indirectly**
9 **from sources, including leverage source, directors, members, employees, officers, and**
10 **affiliates of the rural investor, other than the amount invested by the allocatee claiming**
11 **the tax credits in exchange for such allocation of tax credits;**

12 (3) **"Agribusiness", a business that produces or provides any goods or services**
13 **produced in this state normally used by farmers, ranchers, or producers and harvesters**
14 **of aquatic products in their business operations, or to improve the welfare or livelihood**
15 **of such persons, or is involved in the processing and marketing of agricultural products,**

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.

16 farm supplies, and input suppliers, or is engaged in agribusiness as defined by the
17 United States Department of Agriculture, or if not engaged in such industries, the
18 department determines that such investment will be beneficial to the rural area and the
19 economic growth of the state;

20 (4) "Applicable percentage", zero percent for the initial credit allowance date
21 and the second credit allowance date and fifteen percent for the next four credit
22 allowance dates;

23 (5) "Base employment", the total number of qualified employees receiving
24 taxable wages from the eligible business in the tax year preceding the date of the initial
25 capital investment;

26 (6) "Base payroll", the total amount of taxable wages paid by the eligible
27 business to qualified employees in the tax year preceding the date of the initial capital
28 investment;

29 (7) "Base revenue", the total net revenue earned by the eligible business in the
30 tax year preceding the date of the initial capital investment;

31 (8) "Base taxable sales", the taxable sales of the eligible business in the tax year
32 preceding the date of the initial investment;

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

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

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

40 (c) Is designated by the rural fund as a capital investment under sections
41 620.3500 to 620.3530 and is certified by the department under the provisions of section
42 620.3510. This shall include any capital investment that does not meet the provisions of
43 subdivision (1) of subsection 1 of section 620.3510 if such investment was a capital
44 investment in the hands of a prior holder;

45 (10) "Credit allowance date", the anniversary of the initial credit allowance
46 date;

47 (11) "Department", the Missouri department of economic development;

48 (12) "Eligible business", a business defined as and subject to the following:

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

50 a. Has fewer than two hundred fifty employees;

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

52 c. Is engaged in North American Industry Classification System (NAICS) Sector
53 11, 21, 22, 31-33, 48-49, 62, or 811 or if not engaged in such industries, the department
54 determines that such investment will be beneficial to the rural area and economic
55 growth of the state; and

56 (b) Any business that is classified as an eligible business at the time of the initial
57 investment in such business by a rural fund shall remain classified as an eligible
58 business and may receive follow-on investments from any rural fund, and such follow-
59 on investments shall be qualified investments even though such business may not meet
60 subparagraph a. of paragraph (a) of this subdivision at the time of such follow-on
61 investments;

62 (13) "Initial credit allowance date", the date on which the department certifies a
63 rural fund's capital investment;

64 (14) "Leverage source", third-party capital raised as debt from a depository
65 institution;

66 (15) "Maintained job", the number of qualified employees at the eligible
67 business at or below base employment;

68 (16) "Maintained payroll", the total taxable wages paid by the eligible business
69 to qualified employees at or below base payroll;

70 (17) "Maintained revenue", the total revenue earned by the eligible business at
71 or below base revenue;

72 (18) "Maintained taxable sales", the total taxable sales of the eligible business at
73 or below base taxable sales;

74 (19) "New jobs", the number of qualified employees at the eligible business less
75 the eligible business's base employment;

76 (20) "New payroll", the amount of taxable wages paid to qualified employees at
77 the eligible business less the eligible business's base payroll;

78 (21) "New revenue", the total revenue earned by the eligible business less the
79 eligible business's base revenue;

80 (22) "New taxable sales", the total taxable sales of the eligible business less the
81 eligible business's base taxable sales;

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

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

92 (25) "Qualified employee", an employee of an eligible business who is scheduled
93 to work an average of at least thirty-five hours per week for a twelve-month period or
94 meets the customary practices accepted by that industry as full time;

95 (26) "Qualified investment", any investment in an eligible business or any loan
96 to an eligible business with a stated maturity date of at least one year after the date of
97 issuance, excluding revolving lines of credit and senior secured debt unless the chief
98 executive or similar officer of the eligible business certifies that the eligible business
99 sought and was denied similar financing from a depository institution, by a rural fund,
100 provided that, with respect to any one eligible business, the maximum amount of
101 investments made in such business by one or more rural funds, on a collective basis with
102 all of the business's affiliates, with the proceeds of capital investments shall be the
103 greater of twenty percent of the rural fund's capital investment authority or six million
104 five hundred thousand dollars, exclusive of investments made with repaid or redeemed
105 investments or interest or profits realized thereon;

106 (27) "Rural area", any area of this state that is set out in the United States
107 Department of Agriculture census places map as published by the United States
108 Department of Agriculture with a census place population of fewer than fifty thousand
109 inhabitants;

110 (28) "Rural fund", an entity certified by the department under the provisions of
111 section 620.3510;

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

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

115 (31) "State sharing ratio", the ratio equal to the sum of the actual and projected
116 direct and indirect state and local tax benefits following a rural fund's qualified
117 investments in eligible businesses including, but not limited to, the state and local tax
118 benefits from new jobs, maintained jobs, new payroll, maintained payroll, new revenue,
119 maintained revenue, new taxable sales, and maintained taxable sales, which direct and
120 indirect state and local tax benefits shall be determined using a nationally recognized
121 dynamic economic forecasting model, divided by the amount of tax credits earned by the
122 rural investor of such rural fund. The economic forecasting model used at the beginning
123 of the program shall be the same model used for the remainder of the program and shall
124 project state and local tax benefits for a minimum of ten years;

125 **(32) "State tax liability", any liability incurred by any entity subject to the state**
126 **income tax imposed under chapter 143, excluding withholding tax imposed under**
127 **sections 143.191 to 143.265, or an insurance company paying an annual tax on its gross**
128 **premium receipts, including retaliatory tax, or other financial institution paying taxes to**
129 **the state or any political subdivision of the state under the provisions of chapter 148, or**
130 **an express company that pays an annual tax on its gross receipts in this state;**

131 **(33) "Taxable sales", taxable sales as reported to the Missouri department of**
132 **revenue, calculated as set forth in sections 144.010 to 144.525;**

133 **(34) "Third party capital", the difference between the rural fund's capital**
134 **investment and the sum of the amount invested by the allocatee claiming the tax credits**
135 **and the affiliate capital.**

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 2020 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 the same dynamic economic forecasting model used to calculate the state**
22 **sharing ratio that analyzes the applicant's business plan in yearly increments over the**
23 **ten years following the date the application is submitted to the department. Such plan**
24 **shall include an estimate of the number of new jobs and maintained jobs, the new**
25 **payroll and maintained payroll, the new revenue and maintained revenue, and the new**

26 taxable sales and maintained taxable sales in this state as a result of the applicant's
27 qualified investments; and

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

30 2. Within sixty days after the receipt of a completed application, the department
31 shall grant or deny the application in full or in part. The department shall deny the
32 application if:

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

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

39 (3) The department has already approved the maximum amount of capital
40 investment authority under section 620.3515.

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

49 4. Upon approval of an application, the department shall certify the proposed
50 equity investment as a capital investment eligible for credits under sections 620.3500 to
51 620.3530, subject to the limitations contained in section 620.3515. The department shall
52 provide written notice of the certification to the applicant, which shall include the
53 amount of the applicant's capital investment authority. The department shall certify
54 capital investments in the order that the applications are received by the department.
55 Applications received on the same day shall be deemed to have been received
56 simultaneously. For applications that are complete and received on the same day, the
57 department shall certify applications in proportionate percentages based upon the ratio
58 of the amount of capital investment authority requested in an application to the total
59 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 sixteen million dollars in state tax credits to be claimed against state tax liability in

4 any calendar year, excluding any credit amounts carried forward as provided under
5 subsection 1 of section 620.3520. Within ninety days of the applicant receiving notice of
6 certification, the rural fund shall issue the capital investment to, and receive cash in the
7 amount of the certified amount from, a rural investor. At least ten percent of the rural
8 investor's capital investment shall be composed of affiliate capital. The rural fund shall
9 provide the department with evidence of the receipt of the cash investment within
10 ninety-five days of the applicant receiving notice of certification. Such evidence shall
11 include details of the third-party capital raised, including from any leverage source.

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

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

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

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

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

620.3530. 1. Rural funds shall submit a report to the department within the first
2 **fifteen business days after the second and third credit allowance date. The report**
3 **following the second credit allowance date shall provide documentation as to the**
4 **investment of sixty percent of the purchase price of such capital investment in qualified**
5 **investments. The report following the third credit allowance date shall provide**
6 **documentation as to the investment of one hundred percent of the purchase price of**
7 **such capital investment in qualified equity investments. For all subsequent years, rural**

8 funds shall submit an annual report to the department within ninety days of the
9 beginning of the calendar year during the compliance period. Unless previously
10 reported pursuant to this subsection, such reports shall also include:

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

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

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

17 (4) The total number of new jobs, maintained jobs, new payroll, maintained
18 payroll, new revenue, and maintained revenue by each eligible business receiving a
19 qualified investment from a rural fund;

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

21 2. The program authorized under sections 620.3500 to 620.3530 shall be
22 considered a business recruitment tax credit under subdivision (4) of subsection 2 of
23 section 135.800, and any rural fund approved under this program shall be subject to the
24 provisions of sections 135.800 to 135.830.

25 3. On or after the sixth anniversary of the credit allowance date, a rural fund
26 may apply to the department to exit the program and no longer be subject to regulation
27 under the provisions of sections 620.3500 to 620.3530. Such request shall be on a form
28 developed by the department to be completed by the rural fund. The department shall
29 respond to the exit application within thirty days of receipt of the completed form. In
30 evaluating the exit application, the fact that no credits have been recaptured and that
31 the rural fund has not received a notice of recapture that has not been cured under
32 subsection 4 of section 620.3520 shall be sufficient evidence to prove that the rural fund
33 is eligible for exit. The department shall not unreasonably deny, delay, or withhold its
34 determination of an exit application submitted under this subsection. If the exit
35 application is denied, the notice shall include the reasons for such determination.

36 4. Upon exit from the program in accordance with subsection 3 of this section, in
37 the event the state sharing ratio is less than one-to-one, the state shall receive a share of
38 distributions made with respect to the capital investment raised by the rural fund equal
39 to one minus the state sharing ratio multiplied by the amount of tax credits earned by
40 the rural investor of such rural fund, provided the rural fund may make distributions to
41 make payments on the leverage source in an amount not to exceed principal and interest
42 owed on the leverage source. The maximum amount of distributions the state shall be
43 entitled to receive shall not exceed an amount equal to ten percent of the tax credits

44 earned by such rural investor and the state shall receive no distributions if the state
45 sharing ratio exceeds one-to-one.

46 **5. Pursuant to section 23.253 of the Missouri sunset act:**

47 **(1) The provisions of the new program authorized under sections 620.3500 to**
48 **620.3530 shall automatically sunset on August 28, 2029, unless reauthorized by an act of**
49 **the general assembly;**

50 **(2) If such program is reauthorized, the program authorized under sections**
51 **620.3500 to 620.3530 shall automatically sunset six years after the effective date of the**
52 **reauthorization of sections 620.3500 to 620.3530;**

53 **(3) Sections 620.3500 to 620.3530 shall terminate on September first of the**
54 **calendar year immediately following the calendar year in which the program authorized**
55 **under sections 620.3500 to 620.3530 is sunset; and**

56 **(4) Nothing in this subsection shall preclude a rural fund that has received**
57 **certified capital investment authority from the department prior to the expiration of**
58 **sections 620.3500 to 620.3530 from issuing the capital investment pursuant to that**
59 **authority in accordance with sections 620.3500 to 620.3530.**

60 **6. The department may adopt such rules, statements of policy, procedures,**
61 **forms, and guidelines as may be necessary to carry out the provisions of sections**
62 **620.3500 to 620.3530. Any rule or portion of a rule, as that term is defined in section**
63 **536.010, that is created under the authority delegated in this section shall become**
64 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
65 **if applicable, section 536.028. This section and chapter 536 are nonseverable and if any**
66 **of the powers vested with the general assembly pursuant to chapter 536 to review, to**
67 **delay the effective date, or to disapprove and annul a rule are subsequently held**
68 **unconstitutional, then the grant of rulemaking authority and any rule proposed or**
69 **adopted after August 28, 2023, shall be invalid and void.**

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