

SECOND REGULAR SESSION

HOUSE BILL NO. 2170

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GREGORY.

4292H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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 be known as sections 620.3500, 620.3505, 620.3510, 620.3515, 620.3520, 620.3525, and 620.3530, to read as follows:

620.3500. Sections 620.3500 to 620.3530 shall be known and may be cited as the "Missouri Rural Access to Capital Act".

620.3505. 1. As used in sections 620.3500 to 620.3530, the following terms shall mean:

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

(2) "Affiliate capital", capital raised by a rural investor directly or indirectly from sources, including leverage sources, directors, members, employees, officers, and affiliates of the rural investor, other than the amount invested by the allocatee claiming the tax credits in exchange for such allocation of tax credits;

(3) "Agribusiness", a business that produces or provides any goods or services produced in this state that are normally used by farmers, ranchers, or producers and harvesters of aquatic products in their business operations, or to improve the welfare or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

15 livelihood of such persons; or is involved in the processing and marketing of agricultural
16 products, farm supplies, and input suppliers; or is engaged in agribusiness as defined by
17 the 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 an 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 an 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 an eligible business in the
30 tax year preceding the date of the initial capital investment;

31 (8) "Base taxable sales", the taxable sales of an 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 that, at the time of the initial qualified
49 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)
53 Sector 11, 21, 22, 31-33, 48-49, 62, or 811, or if not engaged in such industries, the
54 department determines that such investment will be beneficial to the rural area and
55 economic growth of the state.

56

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

62 (13) "Full-time employee", an employee of an eligible business who is scheduled
63 to work an average of at least thirty-five hours per week for a twelve-month period;

64 (14) "Initial credit allowance date", the date on which the department certifies a
65 rural fund's capital investment;

66 (15) "Leverage source", third-party capital raised as debt from a depository
67 institution;

68 (16) "Maintained job", the number of qualified employees at an eligible business
69 at or below base employment;

70 (17) "Maintained payroll", the total taxable wages paid by an eligible business to
71 qualified employees at or below base payroll;

72 (18) "Maintained revenue", the total revenue earned by an eligible business at or
73 below base revenue;

74 (19) "Maintained taxable sales", the total taxable sales of an eligible business at
75 or below base taxable sales;

76 (20) "New jobs", the number of qualified employees at an eligible business less
77 the eligible business's base employment;

78 (21) "New payroll", the amount of taxable wages paid to qualified employees at
79 an eligible business less the eligible business's base payroll;

80 (22) "New revenue", the total revenue earned by an eligible business less the
81 eligible business's base revenue;

82 (23) "New taxable sales", the total taxable sales of an eligible business less the
83 eligible business's base taxable sales;

84 (24) "Principal business operations", the location where at least sixty percent of
85 a business's employees work or where employees who are paid at least sixty percent of
86 such business's payroll work. A business that has agreed to relocate employees using the
87 proceeds of a qualified investment to establish its principal business operations in a new
88 location shall be deemed to have its principal business operations in such new location if

89 it satisfies the requirements of this subdivision no later than one hundred eighty days
90 after receiving a qualified investment;

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

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

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

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

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

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

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

117 (32) "State sharing ratio", the ratio determined by taking the sum of the actual
118 and projected direct and indirect state and local tax revenue projected over a period of
119 at least ten subsequent years, as shown on the most recent revenue impact assessment
120 submitted by the rural fund as required in subdivision (5) of subsection 1 of section
121 620.3530, divided by the amount of tax credit equity contributed by the investors of the
122 rural investor in exchange for the tax credits authorized under sections 620.3500 to
123 620.3530;

124 (33) "State tax liability", any liability incurred by any entity subject to the state
125 income tax imposed under chapter 143, excluding withholding tax imposed under

126 sections 143.191 to 143.265, or an insurance company paying an annual tax on its gross
127 premium receipts, including retaliatory tax, or other financial institution paying taxes to
128 the state or any political subdivision of the state under the provisions of chapter 148, or
129 an express company that pays an annual tax on its gross receipts in this state;

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

132 (35) "Third-party capital", the difference between the rural fund's capital
133 investment and the sum of the amount invested by the allocatee claiming the tax credits
134 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 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 engaged by the applicant, using a dynamic economic forecasting model that
22 analyzes the applicant's business plan in yearly increments over the ten years following
23 the date the application is submitted to the department. Such plan shall include an
24 estimate of the new and maintained jobs, new and maintained payroll, new and
25 maintained revenue, and new and maintained taxable sales in this state as a result of the
26 applicant's qualified investments; and

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

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

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

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

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

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

48 **4. Upon approval of an application, the department shall certify the proposed**
49 **equity investment as a capital investment eligible for credits under sections 620.3500 to**
50 **620.3530, subject to the limitations contained in section 620.3515. The department shall**
51 **provide written notice of the certification to the applicant, which shall include the**
52 **amount of the applicant's capital investment authority. The department shall certify**
53 **capital investments in the order that the applications are received by the department.**
54 **Applications received on the same day shall be deemed to have been received**
55 **simultaneously. For applications that are complete and received on the same day, the**
56 **department shall certify applications in proportionate percentages based upon the ratio**
57 **of the amount of capital investment authority requested in an application to the total**
58 **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 a 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 but 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) A rural fund does not invest sixty percent of its capital investment authority
25 in qualified investments in this state within two years of the credit allowance date, and
26 one hundred percent of its capital investment authority in qualified investments in this
27 state within three years of the credit allowance date, provided that at least seventy
28 percent of such initial qualified investments shall be made in eligible businesses located
29 in rural areas or eligible businesses that are also agribusinesses. In no event shall more
30 than thirty percent of such initial qualified investments be made in eligible businesses
31 located outside of a rural area;

32 (2) A 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) A 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,
57 provided a rural fund shall be permitted to make distributions in amounts necessary for
58 the principal and interest payments due to the leverage source; or

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

62

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

69 4. No recapture shall occur until a rural fund has been given notice of
70 noncompliance and afforded six months from the date of such notice to cure the
71 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 investments. For all subsequent years, rural funds
8 shall submit an annual report to the department within ninety days of the beginning of
9 the calendar year during the compliance period. Unless previously reported pursuant to
10 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) A revenue impact assessment projecting state and local tax revenue actually**
21 **generated and projected to be generated from a rural fund's qualified investments,**
22 **prepared by a nationally recognized, third-party, independent firm engaged by the rural**
23 **fund, using a dynamic forecasting model that projects the direct and indirect state and**
24 **local tax revenue for a period of not less than ten years; and**

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

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

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

42 **4. Upon exit from the program in accordance with subsection 3 of this section, in**
43 **the event the state sharing ratio is less than one, the state shall receive a share of**
44 **distributions made with respect to the capital investment raised by the rural fund equal**
45 **to one minus the state sharing ratio multiplied by the amount of tax credit equity**
46 **contributed by the investors of the rural investor in exchange for the tax credits**
47 **authorized under sections 620.3500 to 620.3530, provided that the rural fund may make**

48 **distributions to make payments on the leverage source in an amount not to exceed**
49 **principal and interest owed on the leverage source. A rural fund shall be credited**
50 **against any amounts due to the state pursuant to this subsection an amount equal to the**
51 **sum of any tax credits recaptured under subsection 3 of section 620.3520 plus any**
52 **unreturned principal of a qualified investment that the rural fund reasonably**
53 **determines is not likely to be repaid.**

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

55 **(1) The program authorized under sections 620.3500 to 620.3530 shall expire on**
56 **August 28, 2029, unless reauthorized by the general assembly;**

57 **(2) Sections 620.3500 to 620.3530 shall terminate on September first of the**
58 **calendar year immediately following the calendar year in which the program authorized**
59 **under sections 620.3500 to 620.3530 is sunset; and**

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

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

67 **6. 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, 2024, shall be invalid and void.**

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