SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 948

AN ACT

To repeal sections 135.305, 135.686, 135.750, and 348.436, RSMo, and to enact in lieu thereof thirteen new sections relating to tax credits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 135.305, 135.686, 135.750, and 348.436, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 135.305, 135.686, 135.750, 135.755, 135.775, 348.436, 620.3500, 620.3505, 620.3510, 620.3515, 620.3520, 620.3525, and 620.3530, to read as follows:

135.305. A Missouri wood energy producer shall be eligible for a tax credit on taxes otherwise due under chapter 143, except sections 143.191 to 143.261, as a production incentive to produce processed wood products in a qualified wood-producing facility using Missouri forest product residue. The tax credit to the wood energy producer shall be five dollars per ton of processed material. The credit may be claimed for a period of five years and is to be a tax credit against the tax otherwise due. No new tax credits, provided for under sections 135.300 to 135.311, shall be authorized after June 30, **[**2020**]** 2027. In no event shall the aggregate amount of all tax credits allowed under sections 135.300 to 135.311 exceed six million dollars in any given fiscal year. There shall be no tax credits authorized under sections 135.300 to 135.311 unless an appropriation is made for such tax credits.

135.686. 1. This section shall be known and may be cited as the "Meat Processing Facility Investment Tax Credit Act".

2. As used in this section, the following terms mean:

(1) "Authority", the agricultural and small business development authority established in chapter 348;

(2) "Meat processing facility", any commercial plant, as defined under section 265.300, at which livestock are slaughtered or at which meat or meat products are processed for sale commercially and for human consumption;

(3) "Meat processing modernization or expansion", constructing, improving, or acquiring buildings or facilities, or acquiring equipment for meat processing including the following, if used exclusively for meat processing and if acquired and placed in service in this state during tax years beginning on or after January 1, 2017, but ending on or before December 31, **[**2021**]** 2027:

(a) Building construction including livestock handling, product intake, storage, and warehouse facilities;

(b) Building additions;

(c) Upgrades to utilities including water, electric, heat, refrigeration, freezing, and waste facilities;

(d) Livestock intake and storage equipment;

(e) Processing and manufacturing equipment including cutting equipment, mixers, grinders, sausage stuffers, meat smokers, curing equipment, cooking equipment, pipes, motors, pumps, and valves;

(f) Packaging and handling equipment including sealing, bagging, boxing, labeling, conveying, and product movement equipment;

(g) Warehouse equipment including storage and curing racks;

(h) Waste treatment and waste management equipment including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products;

(i) Computer software and hardware used for managing the claimant's meat processing operation including software and hardware related to logistics, inventory management, production plant controls, and temperature monitoring controls; and

(j) Construction or expansion of retail facilities or the purchase or upgrade of retail equipment for the commercial sale of meat products if the retail facility is located at the same location as the meat processing facility;

(4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265, or otherwise due under chapter 147;

(5) "Taxpayer", any individual or entity who:

(a) Is subject to the tax imposed under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265, or the tax imposed under chapter 147;

(b) In the case of an individual, is a resident of this state as verified by a 911 address or, in the absence of a 911 system, a physical address; and

(c) Owns a meat processing facility located in this state;

(6) "Used exclusively", used to the exclusion of all other uses except for use not exceeding five percent of total use.

3. For all tax years beginning on or after January 1, 2017, but ending on or before December 31, **[**2021**]** <u>2027</u>, a taxpayer shall be allowed a tax credit for meat processing modernization or expansion related to the taxpayer's meat

processing facility. The tax credit amount shall be equal to twenty-five percent of the amount the taxpayer paid in the tax year for meat processing modernization or expansion.

4. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed. No tax credit claimed under this section shall be refundable. The tax credit shall be claimed in the tax year in which the meat processing modernization or expansion expenses were paid, but any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year may be carried forward to any of the taxpayer's four subsequent tax years. The total amount of tax credits that any taxpayer may claim shall not exceed seventy-five thousand dollars per year. If two or more persons own and operate the meat processing facility, each person may claim a credit under this section in proportion to his or her ownership interest; except that, the aggregate amount of the credits claimed by all persons who own and operate the meat processing facility shall not exceed seventy-five thousand dollars per year. The amount of tax credits authorized in this section and section 135.679 in a calendar year shall not exceed two million dollars. Tax credits shall be issued on an as-received application basis until the calendar year limit is reached. Any credits not issued in any calendar year shall expire and shall not be issued in any subsequent year.

5. To claim the tax credit allowed under this section, the taxpayer shall submit to the authority an application for the tax credit on a form provided by the authority and any application fee imposed by the authority. The application shall be filed with the authority at the end of each calendar year in which a meat processing modernization or expansion project was completed and for which a tax

credit is claimed under this section. The application shall include any certified documentation, proof of meat processing modernization or expansion, and any other information required by the authority. All required information obtained by the authority shall be confidential and not disclosed except by court order, subpoena, or as otherwise provided by law. If the taxpayer and the meat processing modernization or expansion meet all criteria required by this section and approval is granted by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credit certificates issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit certificate shall have the same rights in the tax credit as the original taxpayer. If a tax credit certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit certificate and the value of the tax credit.

6. Any information provided under this section shall be confidential information, to be shared with no one except state and federal animal health officials, except as provided in subsection 5 of this section.

7. The authority shall promulgate rules establishing a process for verifying that a facility's modernization or expansion for which tax credits were allowed under this section has in fact expanded the facility's production within three years of the issuance of the tax credit and if not, the authority shall promulgate through rulemaking a process by which the taxpayer shall repay the authority an amount equal to that of the tax credit allowed.

8. The authority shall, at least annually, submit a report to the Missouri general assembly reviewing the costs and benefits of the program established under this section.

9. The authority may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

10. This section shall not be subject to the Missouri sunset act, sections 23.250 to 23.298.

135.750. 1. This act shall be referred to as the "Show Missouri Film and Digital Media Act".

2. As used in this section, the following terms mean:

(1) "Highly compensated individual", any individual who receives compensation in excess of [one million] two hundred fifty thousand dollars in connection with a single qualified film production project;

(2) "Qualified film production project", any film, video, commercial, or television production, as approved by the department of economic development and the office of the Missouri film commission, that features a statement or logo designated by the department of economic development in the credits of the film indicating that the project was filmed in Missouri and that is under thirty minutes in length with an expected in-state expenditure budget in excess of fifty

thousand dollars**[**,**]** or **[**that**]** is over thirty minutes in length with an expected in-state expenditure budget in excess of one hundred thousand dollars. Regardless of the production costs, "qualified film production project" shall not include any:

(a) News or current events programming;

(b) Talk show;

(c) Production produced primarily for industrial, corporate, or institutional purposes, and for internal use;

(d) Sports event or sports program;

(e) Gala presentation or awards show;

(f) Infomercial or any production that directly solicits funds;

(g) Political ad;

(h) Production that is considered obscene, as defined in section 573.010;

(3) "Qualifying <u>in-state</u> expenses", the sum of the total amount spent in this state for the following by a production company in connection with a qualified film production project:

(a) Goods and services leased or purchased by the production company. For goods with a purchase price of twenty-five thousand dollars or more, the amount included in qualifying <u>in-state</u> expenses shall be the purchase price less the fair market value of the goods at the time the production is completed;

(b) Compensation and wages paid by the production company <u>to Missouri residents</u> on which the production company remitted withholding payments to the department of revenue under chapter 143. For purposes of this section, compensation and wages shall not include any amounts paid to a highly compensated individual;

(4) "Qualifying out-of-state expenses", the sum of all compensation and wages paid by the production company to non-Missouri residents on which the production company remitted withholding payments to the department of revenue under chapter 143. For purposes of this section, compensation and wages shall not include any amounts paid to a highly compensated individual;

(5) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or otherwise due under chapter 148;

[(5)] (6) "Taxpayer", any individual, partnership, or corporation as described in section 143.441, 143.471, or section 148.370 that is subject to the tax imposed in chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in chapter 148 or any charitable organization which is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under chapter 143.

[2.] 3. (1) For all [taxable] tax years beginning on or after January 1, 1999, but ending on or before December 31, 2007, a taxpayer shall be granted a tax credit for up to fifty percent of the amount of investment in production or production-related activities in any film production project with an expected in-state expenditure budget in excess of three hundred thousand dollars.

(2) For all [taxable] tax years beginning on or after January 1, 2008, but ending on or before November 28, 2013, a taxpayer shall be allowed a tax credit for up to thirty-five percent of the amount of qualifying expenses in a qualified film production project.

(3) (a) For all tax years beginning on or after January 1, 2021, a taxpayer shall be allowed a tax credit equal to twenty-five percent of qualifying in-state expenses and ten percent of qualifying out-of-state expenses. An additional five percent may be earned for both qualifying in-state expenses and qualifying out-of-state expenses if at least fifty percent of the qualified film production project is filmed in Missouri. An additional five percent may be earned for both qualifying in-state expenses and qualifying out-of-state expenses if the department of economic development determines that the script of the qualified film production project positively markets a city or region of the state, the entire state, or a tourist attraction located in the state.

(b) The total dollar amount of tax credits authorized pursuant to paragraph (a) of this subsection shall be increased by ten percent for qualified film production projects located in a county of the second, third, or fourth class.

(c) Each film production company shall be limited to one qualified film production project per year. Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved by the office of the Missouri film commission and the department of economic development.

[3.**]** 4. Taxpayers shall apply for the film production tax credit by submitting an application to the department of economic development, on a form provided by the department. As part of the application, the expected in-state expenditures of the qualified film production project shall be documented. In addition, the application shall include an economic impact statement, showing the economic impact from the activities of the film production project. Such economic impact statement shall indicate the impact on the region of the state in which the film production or production-related activities are located and on the state as a whole.

[4.] 5. For all [taxable] tax years ending on or before December 31, 2007, tax credits certified pursuant to subsection [2] 3 of this section shall not exceed one million dollars per taxpayer per year, and shall not exceed a total for all tax credits certified of one million five hundred thousand dollars per year. For all [taxable] tax years beginning on or after January 1, 2008, tax credits certified under subsection 1 of this section shall not exceed a total for all tax credits certified of four million five hundred thousand dollars per year. Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

[5.] 6. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection [2] 3 of this section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax liabilities otherwise imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or chapter 148. Unused acquired credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

[6.] 7. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the [new] program authorized under this section shall automatically sunset [six years after November 28, 2007] on December 31, 2027, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset on December thirty-first, twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

135.755. 1. For the purposes of this section, the following terms shall mean:

(1) "Department", the Missouri department of revenue;

(2) "Higher ethanol blend", a fuel capable of being dispensed directly into motor vehicle fuel tanks for consumption that is comprised of at least fifteen percent but not more than eighty-five percent ethanol;

(3) "Retail dealer", a person that owns or operates a retail service station;

(4) "Retail service station", a location from which higher ethanol blend is sold to the general public and is dispensed directly into motor vehicle fuel tanks for consumption.

2. For all tax years beginning on or after January 1, 2022, a retail dealer that sells higher ethanol blend at such retail dealer's retail service station shall be allowed a tax credit to be taken against the retail dealer's state income tax liability. The amount of the credit shall equal five cents per gallon of higher ethanol blend sold by the retail dealer and dispensed through metered pumps at the retail dealer's retail service station during the tax year in which the tax credit is claimed. Tax credits authorized

pursuant to this section shall not be transferred, sold, or assigned. If the amount of the tax credit exceeds the taxpayer's state tax liability, the difference shall not be refundable, but may be carried forward to any of the five subsequent tax years. The total amount of tax credits authorized pursuant to this section for any given fiscal year shall not exceed four million dollars.

3. The tax credit allowed by this section shall be claimed by such taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143 after reduction for all other credits allowed thereon. The department may require any documentation it deems necessary to implement the provisions of this section.

4. Nothing in this section shall be construed to mandate the sale of higher ethanol blends in Missouri.

5. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

6. Pursuant to section 23.253 of the Missouri sunset act:

(1) The provisions of this section shall automatically sunset on December 31, 2027, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

135.775. 1. For the purposes of this section, the following terms shall mean:

(1) "Biodiesel blend", a blend of diesel fuel and biodiesel fuel between five percent and twenty percent for on-road and off-road diesel-fueled vehicle use. Biodiesel blend shall comply with the ASTM International specification D7467-19, or the most recent specifications;

(2) "Biodiesel fuel", a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural and other plant oils or animal fats and that meets the ASTM International specification D6751-19, or the most recent specification, for Biodiesel Fuel (B100) or (B99) Blend Stock for Distillate Fuels. Biodiesel produced from palm oil is not biodiesel fuel for the purposes of this section, unless the palm oil is contained within waste oil and grease collected within the United States;

(3) "Department", the Missouri department of revenue;

(4) "Retail dealer", a person that owns or operates a retail service station;

(5) "Retail service station", a location from which biodiesel blend is sold to the general public and is dispensed directly into motor vehicle fuel tanks for consumption.

2. For all tax years beginning on or after January 1, 2022, a retail dealer that sells a biodiesel blend at a retail service station shall be allowed a tax credit to be taken against the retail dealer's state income tax liability. The amount of the tax credit shall be as follows:

(1) Two cents per gallon of biodiesel blend of at least five percent but not more than ten percent sold by a retail dealer at a retail service station during the tax year for which the tax credit is claimed; or

(2) Five cents per gallon of biodiesel blend in excess of ten percent sold by a retail dealer at a retail service station during the tax year for which the tax credit is claimed.

Tax credits authorized pursuant to this section shall not be transferred, sold, or assigned. If the amount of the tax credit exceeds the taxpayer's state tax liability, the difference shall be refundable. The total amount of tax credits authorized pursuant to this section for any given fiscal year shall not exceed sixteen million dollars.

3. In the event the total amount of tax credits claimed under this section exceeds the amount of available tax credits, the tax credits shall be apportioned equally to all eligible retail dealers claiming the credit by April fifteenth of the fiscal year in which the tax credit is claimed.

4. The tax credit allowed by this section shall be claimed by such taxpayer at the time such taxpayer files a return and shall be applied against the income tax liability imposed by chapter 143 after reduction for all other credits allowed thereon. The department may require any documentation it deems necessary to implement the provisions of this section.

5. The department may work with the division of weights and measures within the department of agriculture to validate that the biodiesel blend a retail dealer claims for the tax credit authorized under this section contains a sufficient percentage of biodiesel fuel.

6. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

7. Nothing in this section shall be construed to mandate the sale of biodiesel blends in Missouri.

8. Pursuant to section 23.253 of the Missouri sunset act:

(1) The provisions of this section shall automatically sunset on December 31, 2027, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

348.436. The provisions of sections 348.430 to 348.436 shall expire December 31, [2021] 2027.

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

620.3505. 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) "Agribusiness", a business that produces or provides any goods or services produced in this state and that are normally used by farmers, ranchers, or producers and harvesters of aquatic products in their business operations, or to improve the welfare or livelihood of such persons, or is involved in the processing and marketing of agricultural products, farm supplies, and input suppliers, or is engaged in agribusiness as defined by the United States Department of Agriculture, or is engaged in manufacturing, health care, technology, transportation, or related services, or if not engaged in such industries, the department determines that such investment will be beneficial to the rural area and the economic growth of the state;

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

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

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

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

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

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

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

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

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

(b) Has its principal business operations in this state.

Any business which is classified as an eligible business at the time of the initial investment in such business by a rural fund shall remain classified as an eligible business and may receive follow-on investments from any rural fund, and such follow-on investments shall be qualified investments even though such business may not meet the definition of an eligible business at the time of such follow-on investments;

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

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

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

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

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

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

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

(15) "State tax liability", any liability incurred by any entity subject to the state income tax imposed under chapter 143, excluding withholding tax imposed under sections 143.191 to 143.265, or an insurance company paying an annual tax on its gross premium receipts, including retaliatory tax, or other financial institution paying taxes to the state or any political subdivision of the state under the provisions of chapter 148, or an express company which 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 capital investment eligible for credits authorized under the provisions of sections 620.3500 to 620.3530 shall apply to the department. The department shall begin accepting applications within ninety days of the effective date of sections 620.3500 to 620.3530. The application shall include:

(1) The amount of capital investment requested;

(2) A copy of the applicant's or an affiliate of the applicant's license as a rural business investment company under 7 U.S.C. Section 2009cc or as a small business investment company under 15 U.S.C. Section 681, and a certificate executed by an executive officer of the

applicant attesting that such license remains in effect and has not been revoked;

(3) Evidence that, as of the date the application is submitted, the applicant or affiliates of the applicant have invested:

(a) At least one hundred million dollars in nonpublic companies located in counties within the United States with a population of less than fifty thousand according to the 2010 decennial census of United States; and

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

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

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

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

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

(2) The revenue impact assessment submitted with the application does not demonstrate that the applicant's business plan will result in a positive fiscal impact on

this state over a ten-year period that exceeds the cumulative amount of tax credits that would be issued to the applicant if the application were approved; or

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

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

4. Upon approval of an application, the department shall certify the proposed equity investment as a capital investment eligible for credits under sections 620.3500 to 620.3530, subject to the limitations contained in section 620.3515. The department shall provide written notice of the certification to the applicant, which shall include the amount of the applicant's capital investment authority. The department shall certify capital investments in the order that the applications are received by the department. Applications received on the same day shall be deemed to have been received simultaneously. For applications that are complete and received on the same day, the department shall certify applications in proportionate percentages based upon the ratio of the amount of capital investment authority requested in an application to the total amount of capital investment authority requested in all applications.

620.3515. 1. The department shall certify capital investment authority under the provisions of sections 620.3500 to 620.3530 in amounts that would authorize not more than twenty-five million dollars in state tax credits to be claimed against state tax liability in any calendar year, excluding any credit amounts carried forward as provided under subsection 1 of section 620.3520. Within ninety days of the applicant receiving notice of certification, the rural fund shall issue the capital investment to, and receive cash in the amount of the certified amount from, a rural investor. At least ten percent of the rural investor's capital investment shall be composed of capital raised by the rural investor directly or indirectly from sources, including 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. The rural fund shall provide the department with evidence of the receipt of the cash investment within ninety-five days of the applicant receiving notice of certification.

2. If the rural fund does not receive the cash investment and issue the capital investment within such time period following receipt of the certification notice, the certification shall lapse and the rural fund shall not issue the capital investment without reapplying to the department for certification. Lapsed certifications shall revert to the department and shall be reissued pro rata to applicants whose capital investment allocations were reduced in accordance with the application process provided under subsection 4 of section 620.3510.

3. A rural fund, before making a qualified investment, may request from the department a written opinion as to whether the business in which it proposes to invest is an

eligible business. The department, not later than the fifteenth business day after the date of receipt of such request, shall notify the rural fund of its determination. If the department fails to notify the rural fund of its determination by the twentieth business day, the 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 shall have a vested right to a credit against such entity's state tax liability that may be utilized on each credit allowance date of such capital investment in an amount equal to the applicable percentage for such credit allowance date multiplied by the purchase price paid to the rural fund for the capital investment. The amount of the credit claimed by a rural investor shall not exceed the amount of such entity's state tax liability for the tax year for which the credit is claimed. Any amount of credit that a rural investor is prohibited from claiming in a taxable year as a result of this section may be carried forward for use in any of the five subsequent taxable years, and shall not be carried back to prior taxable years.

2. No credit claimed under the provisions of sections 620.3500 to 620.3530 shall be refundable. Credits earned by or allocated to a partnership, limited liability company, or S-corporation may be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders, and a rural fund shall notify the department of the names of the entities that are eligible to utilize credits pursuant to an allocation of credits or a change in allocation of credits, or due to a transfer of a capital investment upon such allocation,

change, or transfer. Such allocation shall not be considered a sale for the purposes of this section.

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

(1) The rural fund does not invest sixty percent of its capital investment authority in qualified investments in this state within two years of the credit allowance date, and one hundred percent of its capital investment authority in qualified investments in this state within three years of the credit allowance date, provided that at least seventy percent of such initial qualified investments shall be made in eligible businesses located in rural areas or eligible businesses that are also agribusinesses;

(2) The rural fund fails to maintain qualified investments equal to ninety percent of its capital investment authority from the third anniversary until the sixth anniversary of the credit allowance date, with seventy percent of such investments maintained in eligible businesses located in rural areas or eligible businesses that are also agribusinesses. For each year the rural fund fails to maintain such investments, the department may recapture an amount of such year's allowed credits equal to the percentage difference between ninety percent of a rural fund's capital investment authority and the actual amount of qualified investments maintained for such year. For the purposes of this subdivision, a qualified investment is considered maintained even if the qualified investment was sold or repaid so long as the rural fund reinvests an amount equal to the capital returned or recovered by the rural fund from the original investment, exclusive of any profits realized, in other qualified investments in this state within twelve months of the receipt of such capital.

Amounts received periodically by a rural fund shall be treated as continually invested in qualified investments if the amounts are reinvested in one or more qualified investments by the end of the following calendar year. A rural fund shall not be required to reinvest capital returned from qualified investments after the fifth anniversary of the credit allowance date, and such qualified investments shall be considered held continuously by the rural fund through the sixth anniversary of the credit allowance date;

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

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

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

4. Recaptured credits and the related capital investment authority shall revert to the department and

shall be reissued pro rata to applicants whose capital investment allocations were reduced in accordance with the application process provided under subsection 4 of section 620.3510.

5. No recapture shall occur until the rural fund has been given notice of noncompliance and afforded six months from the date of such notice to cure the noncompliance.

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

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

(2) Loan to or invest in a rural fund or member or affiliate of a rural fund, including, but not limited to, a holder of a capital investment issued by a rural fund, where the proceeds of such loan or investment are directly or indirectly used to fund or 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 fifteen business days after the second and third anniversary of the initial credit allowance date. The report following the second anniversary shall provide documentation as to the investment of sixty percent of the purchase price of such capital investment in qualified investments. The report following the third anniversary shall provide documentation as to the investment of one hundred percent of the purchase price of such capital investment in qualified investments. Unless previously reported pursuant to this subsection, such reports shall also include:

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

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

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

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

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

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

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

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

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

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

3. On or after the sixth anniversary of the credit allowance date, a rural fund may apply to the department to exit the program and no longer be subject to regulation under the provisions of sections 620.3500 to 620.3530. The department shall respond to the exit application within fifteen days of receipt. In evaluating the exit application, the fact that no credits have been recaptured and that the rural fund has not received a notice of

recapture that has not been cured pursuant to subsection 5 of section 620.3520 shall be sufficient evidence to prove that the rural fund is eligible for exit. The department shall not unreasonably deny an exit application submitted under this subsection. If the exit application is denied, the notice shall include the reasons for such determination.

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