

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 978 & 1028
95TH GENERAL ASSEMBLY

1693L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 135.403, 256.620, 360.106, 386.756, 414.530, 414.560, 414.570, and 644.570, RSMo, and to enact in lieu thereof twenty-six new sections relating to the environment, with a penalty provision.

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

Section A. Sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 135.403, 256.620, 360.106, 386.756, 414.530, 414.560, 414.570, and 644.570, RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 135.403, 135.663, 256.620, 360.106, 386.756, 393.1122, 414.530, 414.560, 414.570, 640.300, 640.305, 640.310, 640.315, 640.320, 640.325, 640.330, 640.335, 640.340, 640.345, and 644.570, to read as follows:

30.750. As used in sections 30.750 to 30.767, the following terms mean:

- (1) "Eligible agribusiness", a person engaged in the processing or adding of value to agricultural products produced in Missouri;
- (2) "**Eligible alternative energy consumer**", **an individual who wishes to borrow moneys for the purchase, installation, or construction of facilities or equipment related to the production of fuel or power primarily for their own use from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass;**
- (3) "Eligible alternative energy operation", a business enterprise engaged in the production [and sale] of fuel or power from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass. Such business enterprise shall conform to the characteristics of paragraphs (a), (b), and (d) of subdivision [(5)] **(6)** of this section;
- [(3)] **(4)** "Eligible beginning farmer",

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

14 (a) For any beginning farmer who seeks to participate in the linked deposit program
15 alone, a farmer who:

16 a. Is a Missouri resident;

17 b. Wishes to borrow for a farm operation located in Missouri;

18 c. Is at least eighteen years old; and

19 d. In the preceding five years has not owned, either directly or indirectly, farm land
20 greater than fifty percent of the average size farm in the county where the proposed farm
21 operation is located or farm land with an appraised value greater than four hundred fifty thousand
22 dollars. A farmer who qualifies as an eligible farmer under this provision may utilize the
23 proceeds of a linked deposit loan to purchase agricultural land, farm buildings, new and used
24 farm equipment, livestock and working capital;

25 (b) For any beginning farmer who is participating in both the linked deposit program and
26 the beginning farmer loan program administered by the Missouri agriculture and small business
27 development authority, a farmer who:

28 a. Qualifies under the definition of a beginning farmer utilized for eligibility for federal
29 tax-exempt financing, including the limitations on the use of loan proceeds; and

30 b. Meets all other requirements established by the Missouri agriculture and small
31 business development authority;

32 [(4)] (5) "Eligible facility borrower", a borrower qualified under section 30.860 to apply
33 for a reduced-rate loan under sections 30.750 to 30.767;

34 [(5)] (6) "Eligible farming operation", any person engaged in farming in an authorized
35 farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo,
36 that has all of the following characteristics:

37 (a) Is headquartered in this state;

38 (b) Maintains offices, operating facilities, or farming operations and transacts business
39 in this state;

40 (c) Employs less than ten employees;

41 (d) Is organized for profit;

42 [(e) Possesses not more than sixty percent equity, where "percent equity" is defined as
43 total assets minus total liabilities divided by total assets, except that an otherwise eligible
44 farming operation applying for a loan for the purpose of installing or improving a waste
45 management practice in order to comply with environmental protection regulations shall be
46 exempt from this eligibility requirement;]

47 (7) "Eligible governmental entity", any political subdivision of the state or any
48 public higher education institution in the state seeking to finance capital improvements,
49 capital outlay, or other significant programs through an eligible lending institution;

50 [(6)] (8) "Eligible higher education institution", any approved public or private
51 institution as defined in section 173.205, RSMo;

52 [(7)] (9) "Eligible job enhancement business", a new, existing, or expanding firm
53 operating in Missouri, or as a condition of accepting the linked deposit, will locate a facility or
54 office in Missouri associated with said linked deposit, which employs ten or more employees in
55 Missouri on a yearly average and which, as nearly as possible, is able to establish or retain at
56 least one job in Missouri for each fifty thousand dollars received from a linked deposit loan
57 **except when the applicant can demonstrate significant costs for equipment, capital outlay,
58 or capital improvements associated with the physical expansion, renovation, or
59 modernization of a facility or equipment. In such cases, the maximum amount of the
60 linked deposit shall not exceed fifty thousand dollars per job created or retained plus the
61 initial cost of the physical expansion, renovation or capital outlay;**

62 [(8)] (10) "Eligible lending institution", a financial institution that is eligible to make
63 commercial or agricultural or student loans or discount or purchase such loans, is a public
64 depository of state funds or obtains its funds through the issuance of obligations, either directly
65 or through a related entity, eligible for the placement of state funds under the provisions of
66 section 15, article IV, Constitution of Missouri, and agrees to participate in the linked deposit
67 program;

68 [(9)] (11) "Eligible livestock operation", any person engaged in production of livestock
69 or poultry in an authorized farm corporation, family farm, or family farm corporation as defined
70 in section 350.010, RSMo;

71 [(10)] (12) "Eligible locally owned business", any person seeking to establish a new firm,
72 partnership, cooperative company, or corporation that shall retain at least fifty-one percent
73 ownership by residents in a county in which the business is headquartered, that consists of the
74 following characteristics:

75 (a) The county has a median population of twelve thousand five hundred or less; and

76 (b) The median income of residents in the county are equal to or less than the state
77 median income; or

78 (c) The unemployment rate of the county is equal to or greater than the state's
79 unemployment rate;

80 [(11)] (13) "Eligible marketing enterprise", a business enterprise operating in this state
81 which is in the process of marketing its goods, products or services within or outside of this state
82 or overseas, which marketing is designed to increase manufacturing, transportation, mining,
83 communications, or other enterprises in this state, which has proposed its marketing plan and
84 strategy to the department of economic development and which plan and strategy has been
85 approved by the department for purposes of eligibility pursuant to sections 30.750 to 30.767.

86 Such business enterprise shall conform to the characteristics of paragraphs (a), (b) and (d) of
87 subdivision [(5)] **(6)** of this section and also employ less than twenty-five employees;

88 [(12)] **(14)** "Eligible multitenant development enterprise", a new enterprise that develops
89 multitenant space for targeted industries as determined by the department of economic
90 development and approved by the department for the purposes of eligibility pursuant to sections
91 30.750 to 30.767;

92 [(13)] **(15)** "Eligible residential property developer", an individual who purchases and
93 develops a residential structure of either two or four units, if such residential property developer
94 uses and agrees to continue to use, for at least the five years immediately following the date of
95 issuance of the linked deposit loan, one of the units as his principal residence or if such person's
96 principal residence is located within one-half mile from the developed structure and such person
97 agrees to maintain the principal residence within one-half mile of the developed structure for at
98 least the five years immediately following the date of issuance of the linked deposit loan;

99 [(14)] **(16)** "Eligible residential property owner", a person, firm or corporation who
100 purchases, develops or rehabilitates a multifamily residential structure;

101 [(15)] **(17)** "Eligible small business", a person engaged in an activity with the purpose
102 of obtaining, directly or indirectly, a gain, benefit or advantage and which conforms to the
103 characteristics of paragraphs (a), (b) and (d) of subdivision [(5)] **(6)** of this section, and also
104 employs less than [twenty-five] **one hundred** employees;

105 [(16)] **(18)** "Eligible student borrower", any person attending, or the parent of a
106 dependent undergraduate attending, an eligible higher education institution in Missouri who may
107 or may not qualify for need-based student financial aid calculated by the federal analysis called
108 Congressional Methodology Formula pursuant to 20 U.S.C. 1078, as amended (the Higher
109 Education Amendments of 1986);

110 [(17)] **(19)** "Eligible water supply system", a water system which serves fewer than fifty
111 thousand persons and which is owned and operated by:

112 (a) A public water supply district established pursuant to chapter 247, RSMo; or

113 (b) A municipality or other political subdivision; or

114 (c) A water corporation; and which is certified by the department of natural resources
115 in accordance with its rules and regulations to have suffered a significant decrease in its capacity
116 to meet its service needs as a result of drought;

117 [(18)] **(20)** "Farming", using or cultivating land for the production of agricultural crops,
118 livestock or livestock products, forest products, poultry or poultry products, milk or dairy
119 products, or fruit or other horticultural products;

120 [(19)] **(21)** "Linked deposit", a certificate of deposit, or in the case of production credit
121 associations, the subscription or purchase outright of obligations described in section 15, article

122 IV, Constitution of Missouri, placed by the state treasurer with an eligible lending institution at
123 rates otherwise provided by law in section 30.758, provided the institution agrees to lend the
124 value of such deposit, according to the deposit agreement provided in sections 30.750 to 30.767,
125 to **eligible multitenant development enterprises**, eligible small businesses, eligible alternative
126 energy operations, **eligible alternative energy consumers**, eligible locally owned businesses,
127 farming operations, eligible job enhancement businesses, eligible marketing enterprises, eligible
128 residential property developers, eligible residential property owners, **eligible governmental**
129 **entities**, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible
130 student borrowers, eligible facility borrowers, or eligible water supply systems at below the
131 present borrowing rate applicable to each **multitenant development enterprise**, small business,
132 **alternative energy operation, alternative energy consumer**, farming operation, eligible job
133 enhancement business, eligible marketing enterprise, eligible residential property developer,
134 eligible residential property owner, **eligible governmental entity**, eligible agribusiness, eligible
135 beginning farmer, eligible livestock operation, eligible student borrower, or supply system at the
136 time of the deposit of state funds in the institution;

137 [(20)] **(22)** "Market rate", the interest rate tied to federal government securities and more
138 specifically described in subsection 4 of section 30.260;

139 [(21)] **(23)** "Professional forester", any individual who holds a bachelor of science degree
140 in forestry from a regionally accredited college or university with a minimum of two years of
141 professional forest management experience;

142 [(22)] **(24)** "Qualified biomass", any agriculture-derived organic material or any
143 wood-derived organic material harvested in accordance with a site-specific forest management
144 plan focused on long-term forest sustainability developed by a professional forester and
145 qualified, in consultation with the conservation commission, by the agriculture and small
146 business development authority;

147 [(23)] **(25)** "Water corporation", as such term is defined in section 386.020, RSMo;

148 [(24)] **(26)** "Water system", as such term is defined in section 386.020, RSMo.

30.753. 1. The state treasurer may invest in linked deposits; however, the total amount
2 so deposited at any one time shall not exceed, in the aggregate, seven hundred twenty million
3 dollars. No more than three hundred thirty million dollars of the aggregate deposit shall be used
4 for linked deposits to eligible farming operations, eligible locally owned businesses, eligible
5 agribusinesses, eligible beginning farmers, eligible livestock operations, and eligible facility
6 borrowers, no more than one hundred ten million of the aggregate deposit shall be used for
7 linked deposits to small businesses, no more than twenty million dollars shall be used for linked
8 deposits to eligible multitenant development enterprises, and no more than twenty million dollars
9 of the aggregate deposit shall be used for linked deposits to eligible residential property

10 developers and eligible residential property owners, no more than two hundred twenty million
11 dollars of the aggregate deposit shall be used for linked deposits to eligible job enhancement
12 businesses and no more than twenty million dollars of the aggregate deposit shall be used for
13 linked deposit loans to eligible water systems. Linked deposit loans may be made to eligible
14 student borrowers [and] , eligible alternative energy operations, **eligible alternative energy**
15 **consumers, and eligible governmental entities** from the aggregate deposit. If demand for a
16 particular type of linked deposit exceeds the initial allocation, and funds initially allocated to
17 another type are available and not in demand, the state treasurer may commingle allocations
18 among the types of linked deposits.

19 2. The minimum deposit to be made by the state treasurer to an eligible lending
20 institution for eligible job enhancement business loans shall be ninety thousand dollars. Linked
21 deposit loans for eligible job enhancement businesses may be made for the purposes of assisting
22 with relocation expenses, working capital, interim construction, inventory, site development,
23 machinery and equipment, or other expenses necessary to create or retain jobs in the recipient
24 firm.

30.756. 1. An eligible lending institution that desires to receive a linked deposit shall
2 accept and review applications for linked deposit loans from eligible multitenant enterprises,
3 eligible farming operations, **eligible alternative energy consumers**, eligible alternative energy
4 operations, eligible locally owned businesses, eligible small businesses, eligible job enhancement
5 businesses, eligible marketing enterprises, eligible agribusinesses, eligible beginning farmers,
6 eligible livestock operations, eligible residential property developers, eligible residential property
7 owners, **eligible governmental entities**, eligible student borrowers, eligible facility borrowers,
8 and eligible water supply systems. An eligible residential property owner shall certify on his or
9 her loan application that the reduced rate loan will be used exclusively to purchase, develop or
10 rehabilitate a multifamily residential property. The lending institution shall apply all usual
11 lending standards to determine the creditworthiness of each eligible multitenant enterprise,
12 eligible farming operation, eligible alternative energy operation, **eligible alternative energy**
13 **consumer**, eligible locally owned business, eligible small business, eligible job enhancement
14 business, eligible marketing enterprise, eligible residential property developer, eligible residential
15 property owner, **eligible governmental entities**, eligible agribusiness, eligible beginning farmer,
16 eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water
17 supply system. No linked deposit loan made to any **eligible multitenant development**
18 **enterprise**, eligible farming operation, eligible alternative energy operation, **eligible alternative**
19 **energy consumer**, eligible locally owned business, eligible livestock operation, eligible
20 agribusiness **eligible beginning farmer, eligible job enhancement business, eligible**
21 **marketing enterprise, eligible residential property developer, eligible residential property**

22 **owner, eligible governmental entity, eligible student borrower, eligible water supply**
23 **system,** or eligible small business shall exceed a dollar limit determined by the state treasurer
24 in the state treasurer's best judgment, except as otherwise limited. Any link deposit loan made
25 to an eligible facility borrower shall be in accordance with the loan amount and loan term
26 requirements in section 30.860.

27 2. An eligible farming operation, small business or job enhancement business shall
28 certify on its loan application that the reduced rate loan will be used exclusively for necessary
29 production expenses or the expenses listed in subsection 2 of section 30.753 or the refinancing
30 of an existing loan for production expenses or the expenses listed in subsection 2 of section
31 30.753 of an eligible farming operation, small business or job enhancement business. Whoever
32 knowingly makes a false statement concerning such application is guilty of a class A
33 misdemeanor. An eligible water supply system shall certify on its loan application that the
34 reduced rate loan shall be used exclusively to pay the costs of upgrading or repairing an existing
35 water system, constructing a new water system, or making other capital improvements to a water
36 system which are necessary to improve the service capacity of the system.

37 3. In considering which eligible farming operations should receive reduced-rate loans,
38 the eligible lending institution shall give priority to those farming operations which have suffered
39 reduced yields due to drought or other natural disasters and for which the receipt of a
40 reduced-rate loan will make a significant contribution to the continued operation of the recipient
41 farming operation.

42 4. The eligible financial institution shall forward to the state treasurer a linked deposit
43 loan package, in the form and manner as prescribed by the state treasurer. The package shall
44 include such information as required by the state treasurer, including the amount of each loan
45 requested. The institution shall certify that each applicant is an **eligible multitenant**
46 **development enterprise,** eligible farming operation, eligible alternative energy operation,
47 **eligible alternative energy consumer,** eligible locally owned business, eligible small business,
48 eligible job enhancement business, eligible marketing enterprise, eligible residential property
49 developer, eligible residential property owner, **eligible governmental entity,** eligible
50 agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower,
51 eligible facility borrower, or eligible water supply system, and shall, for each **eligible**
52 **multitenant development enterprise,** eligible farming operation, **eligible alternative energy**
53 **operation, eligible alternative energy consumer, eligible** small business, eligible job
54 enhancement business, eligible marketing enterprise, eligible residential property developer,
55 eligible residential property owner, **eligible governmental entity,** eligible agribusiness, eligible
56 beginning farmer, eligible livestock operation, eligible student borrower, eligible facility
57 borrower, or eligible water supply system, certify the present borrowing rate applicable.

58 5. The eligible lending institution shall be responsible for determining if a student
59 borrower is an eligible student borrower. A student borrower shall be eligible for an initial or
60 renewal reduced-rate loan only if, at the time of the application for the loan, the student is a
61 citizen or permanent resident of the United States, a resident of the state of Missouri as defined
62 by the coordinating board for higher education, is enrolled or has been accepted for enrollment
63 in an eligible higher education institution, and establishes that the student has financial need.
64 In considering which eligible student borrowers may receive reduced-rate loans, the eligible
65 lending institution may give priority to those eligible student borrowers whose income, or whose
66 family income, if the eligible student borrower is a dependent, is such that the eligible student
67 borrower does not qualify for need-based student financial aid pursuant to 20 U.S.C. 1078, as
68 amended (the Higher Education Amendments of 1986). The eligible lending institution shall
69 require the eligible student borrower to document that the student has applied for and has
70 obtained all need-based student financial aid for which the student is eligible prior to application
71 for a reduced-rate loan pursuant to this section. In no case shall the combination of all financial
72 aid awarded to any student in any particular enrollment period exceed the total cost of attendance
73 at the institution in which the student is enrolled. No eligible lending institution shall charge any
74 additional fees, including but not limited to an origination, service or insurance fee on any loan
75 agreement under the provisions of sections 30.750 to 30.765.

76 6. The eligible lending institution making an initial loan to an eligible student borrower
77 may make a renewal loan or loans to the student. The total of such reduced-rate loans from
78 eligible lending institutions made pursuant to this section to any individual student shall not
79 exceed the cumulative totals established by 20 U.S.C. 1078, as amended. An eligible student
80 borrower shall certify on his or her loan application that the reduced rate loan shall be used
81 exclusively to pay the costs of tuition, incidental fees, books and academic supplies, room and
82 board and other fees directly related to enrollment in an eligible higher education institution. The
83 eligible lending institution shall make the loan payable to the eligible student borrower and the
84 eligible higher education institution as co-payees. The method of repayment of the loan shall be
85 the same as for repayment of loans made pursuant to sections 173.095 to 173.186, RSMo.

86 7. Beginning August 28, 2005, in considering which eligible multitenant **development**
87 enterprise, eligible farming operation, eligible alternative energy operation, **eligible alternative**
88 **energy consumer**, eligible locally owned business, eligible small business, eligible job
89 enhancement business, eligible marketing enterprise, eligible residential property developer,
90 eligible residential property owner, **eligible governmental entity**, eligible agribusiness, eligible
91 beginning farmer, eligible livestock operation, eligible student borrower, eligible facility
92 borrower, or eligible water supply system should receive reduced-rate loans, the eligible lending
93 institution shall give priority to an eligible multitenant enterprise, eligible farming operation,

94 eligible alternative energy operation, **eligible alternative energy consumer**, eligible locally
95 owned business, eligible small business, eligible job enhancement business, eligible marketing
96 enterprise, eligible residential property developer, eligible residential property owner, **eligible**
97 **governmental entity**, eligible agribusiness, eligible beginning farmer, eligible livestock
98 operation, eligible student borrower, eligible facility borrower, or eligible water supply system
99 that has not previously received a reduced-rate loan through the linked deposit program.
100 However, nothing shall prohibit an eligible lending institution from making a reduced-rate loan
101 to any entity that previously has received such a loan, if such entity otherwise qualifies for such
102 a reduced-rate loan.

30.758. 1. The state treasurer may accept or reject a linked deposit loan package or any
2 portion thereof.

3 2. The state treasurer shall make a good faith effort to ensure that the linked deposits are
4 placed with eligible lending institutions to make linked deposit loans to minority- or
5 female-owned eligible multitenant enterprises, eligible farming operations, eligible alternative
6 energy operations, **eligible alternative energy consumers**, eligible locally owned businesses,
7 eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises,
8 eligible residential property developers, eligible residential property owners, **eligible**
9 **governmental entities**, eligible agribusinesses, eligible beginning farmers, eligible livestock
10 operations, eligible student borrowers, eligible facility borrowers, or eligible water supply
11 systems. Results of such effort shall be included in the linked deposit review committee's annual
12 report to the governor.

13 3. Upon acceptance of the linked deposit loan package or any portion thereof, the state
14 treasurer may place linked deposits with the eligible lending institution as follows: when market
15 rates are five percent or above, the state treasurer shall reduce the market rate by up to three
16 percentage points to obtain the linked deposit rate; when market rates are less than five percent,
17 the state treasurer shall reduce the market rate by up to sixty percent to obtain the linked deposit
18 rate, provided that the linked deposit rate is not below one percent. All linked deposit rates are
19 determined and calculated by the state treasurer. When necessary, the treasurer may place linked
20 deposits prior to acceptance of a linked deposit loan package.

21 4. The eligible lending institution shall enter into a deposit agreement with the state
22 treasurer, which shall include requirements necessary to carry out the purposes of sections 30.750
23 to 30.767. The deposit agreement shall specify the length of time for which the lending
24 institution will lend funds upon receiving a linked deposit, and the original deposit plus renewals
25 shall not exceed five years, except as otherwise provided in this chapter. The agreement shall
26 also include provisions for the linked deposit of a linked deposit for an eligible facility borrower,
27 eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation,

28 **eligible alternative energy consumer**, eligible locally owned business, eligible small business,
29 eligible marketing enterprise, eligible residential property developer, eligible residential property
30 owner, **eligible governmental entity**, eligible agribusiness, eligible beginning farmer, eligible
31 livestock operation, eligible student borrower or job enhancement business. Interest shall be paid
32 at the times determined by the state treasurer.

33 5. The period of time for which such linked deposit is placed with an eligible lending
34 institution shall be neither longer nor shorter than the period of time for which the linked deposit
35 is used to provide loans at reduced interest rates. The agreement shall further provide that the
36 state shall receive market interest rates on any linked deposit or any portion thereof for any
37 period of time for which there is no corresponding linked deposit loan outstanding to an eligible
38 multitenant enterprise, eligible farming operation, eligible alternative energy operation, **eligible**
39 **alternative energy consumer**, eligible locally owned business, eligible small business, eligible
40 job enhancement business, eligible marketing enterprise, eligible residential property developer,
41 eligible residential property owner, **eligible governmental entity**, eligible agribusiness, eligible
42 beginning farmer, eligible livestock operation, eligible student borrower, eligible facility
43 borrower, or eligible water supply system, except as otherwise provided in this subsection.
44 Within thirty days after the annual anniversary date of the linked deposit, the eligible lending
45 institution shall repay the state treasurer any linked deposit principal received from borrowers
46 in the previous yearly period and thereafter repay such principal within thirty days of the yearly
47 anniversary date calculated separately for each linked deposit loan, and repaid at the linked
48 deposit rate. Such principal payment shall be accelerated when more than thirty percent of the
49 linked deposit loan is repaid within a single monthly period. Any principal received and not
50 repaid, up to the point of the thirty percent or more payment, shall be repaid within thirty days
51 of that payment at the linked deposit rate. Finally, when the linked deposit is tied to a revolving
52 line of credit agreement between the banking institution and its borrower, the full amount of the
53 line of credit shall be excluded from the repayment provisions of this subsection.

30.760. 1. Upon the placement of a linked deposit with an eligible lending institution,
2 such institution is required to lend such funds to each approved eligible multitenant enterprise,
3 eligible farm operation, eligible alternative energy operation, **eligible alternative energy**
4 **consumer**, eligible locally owned business, eligible small business, eligible job enhancement
5 business, eligible marketing enterprise, eligible residential property developer, eligible residential
6 property owner, **eligible governmental entity**, eligible agribusiness, eligible beginning farmer,
7 eligible livestock operation, eligible student borrower, eligible facility borrower, or eligible water
8 supply system listed in the linked deposit loan package required by section 30.756 and in
9 accordance with the deposit agreement required by section 30.758. The loan shall be at a fixed
10 rate of interest reduced by the amount established under subsection 3 of section 30.758 to each

11 eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation,
12 **eligible alternative energy consumer**, eligible locally owned business, eligible small business,
13 eligible job enhancement business, eligible marketing enterprise, eligible residential property
14 developer, eligible residential property owner, **eligible governmental entity**, eligible
15 agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower,
16 eligible facility borrower, or eligible water supply system as determined pursuant to rules and
17 regulations promulgated by the state treasurer under the provisions of chapter 536, RSMo,
18 including emergency rules issued pursuant to section 536.025, RSMo. In addition, the loan
19 agreement shall specify that the eligible multitenant enterprise, eligible farming operation,
20 eligible alternative energy operation, **eligible alternative energy consumer**, eligible locally
21 owned business, eligible small business, eligible job enhancement business, eligible marketing
22 enterprise, eligible residential property developer, eligible residential property owner, **eligible**
23 **governmental entity**, eligible agribusiness, eligible beginning farmer, eligible livestock
24 operation, eligible student borrower, eligible facility borrower, or eligible water supply system
25 shall use the proceeds as required by sections 30.750 to 30.765, and that in the event the loan
26 recipient does not use the proceeds in the manner prescribed by sections 30.750 to 30.765, the
27 remaining proceeds shall be immediately returned to the lending institution and that any proceeds
28 used by the loan recipient shall be repaid to the lending institution as soon as practicable. All
29 records and documents pertaining to the programs established by sections 30.750 to 30.765 shall
30 be segregated by the lending institution for ease of identification and examination. A
31 certification of compliance with this section in the form and manner as prescribed by the state
32 treasurer shall be required of the eligible lending institution. Any lender or lending officer of an
33 eligible lending institution who knowingly violates the provisions of sections 30.750 to 30.765
34 is guilty of a class A misdemeanor.

35 2. The state treasurer shall take any and all steps necessary to implement the linked
36 deposit program and monitor compliance of eligible multitenant enterprises, eligible lending
37 institutions, eligible farming operations, eligible alternative energy operations, **eligible**
38 **alternative energy consumers**, eligible locally owned businesses, eligible small businesses,
39 eligible job enhancement businesses, eligible marketing enterprises, eligible residential property
40 developers, eligible residential property owners, **eligible governmental entities**, eligible
41 agribusinesses, eligible beginning farmers, eligible livestock operations, eligible facility
42 borrowers, or eligible water supply systems.

30.765. The state and the state treasurer are not liable to any eligible lending institution
2 in any manner for payment of the principal or interest on the loan to an eligible multitenant
3 enterprise, eligible farm operation, eligible alternative energy operation, **eligible alternative**
4 **energy consumer**, eligible locally owned business, eligible small business, eligible job

5 enhancement business, eligible marketing enterprise, eligible residential property developer,
6 eligible residential property owner, **eligible governmental entity**, eligible agribusiness, eligible
7 beginning farmer, eligible livestock operation, eligible student borrower, eligible facility
8 borrower, or eligible water supply system. Any delay in payments or default on the part of an
9 eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation,
10 **eligible alternative energy consumer**, eligible locally owned business, eligible small business,
11 eligible job enhancement business, eligible marketing enterprise, eligible residential property
12 developer, eligible residential property owner, **eligible governmental entity**, eligible
13 agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower,
14 eligible facility borrower, or eligible water supply system does not in any manner affect the
15 deposit agreement between the eligible lending institution and the state treasurer.

135.403. 1. Any investor who makes a qualified investment in a Missouri small business
2 shall be entitled to receive a tax credit equal to forty percent of the amount of the investment or,
3 in the case of a qualified investment in a Missouri small business in a distressed community as
4 defined by section 135.530, a credit equal to sixty percent of the amount of the investment, and
5 any investor who makes a qualified investment in a community bank or a community
6 development corporation shall be entitled to receive a tax credit equal to fifty percent of the
7 amount of the investment if the investment is made in a community bank or community
8 development corporation for direct investment. The total amount of tax credits available for
9 qualified investments in Missouri small businesses shall not exceed [thirteen] **thirty** million
10 dollars **and at least twenty million dollars of the amount authorized by this section and**
11 **certified by the department of economic development shall be for Missouri small businesses**
12 **involved in the manufacture of alternative power generation equipment** and at least four
13 million dollars of the amount authorized by this section and certified by the department of
14 economic development shall be for investment in Missouri small businesses in distressed
15 communities. Authorization for all or any part of this four-million-dollar amount shall in no way
16 restrict the eligibility of Missouri small businesses in distressed communities, as defined in
17 section 135.530, for the remaining amounts authorized within this section. No more than twenty
18 percent of the tax credits available each year for investments in community banks or community
19 development corporations for direct investment shall be certified for any one project, as defined
20 in section 135.400. The tax credit shall be evidenced by a tax credit certificate in accordance
21 with the provisions of sections 135.400 to 135.430 and may be used to satisfy the state tax
22 liability of the owner of the certificate that becomes due in the tax year in which the qualified
23 investment is made, or in any of the ten tax years thereafter. When the qualified small business
24 is in a distressed community, as defined in section 135.530, the tax credit may also be used to
25 satisfy the state tax liability of the owner of the certificate that was due during each of the

26 previous three years in addition to the year in which the investment is made and any of the ten
27 years thereafter. No investor may receive a tax credit pursuant to sections 135.400 to 135.430
28 unless that person presents a tax credit certificate to the department of revenue for payment of
29 such state tax liability. The department of revenue shall grant tax credits in the same order as
30 established by subsection 1 of section 32.115, RSMo. Subject to the provisions of sections
31 135.400 to 135.430, certificates of tax credit issued in accordance with these sections may be
32 transferred, sold or assigned by notarized endorsement thereof which names the transferee.

33 2. Five hundred thousand dollars in tax credits shall be available annually from the total
34 amount of tax credits authorized by section 32.110, RSMo, and subdivision (4) of subsection 2
35 of section 32.115, RSMo, as a result of investments in community banks or community
36 development corporations. Aggregate investments eligible for tax credits in any one Missouri
37 small business shall not be more than one million dollars. Aggregate investments eligible for
38 tax credits in any one Missouri small business shall not be less than five thousand dollars as of
39 the date of issuance of the first tax credit certificate for investment in that business.

40 3. This section and section 620.1039, RSMo, shall become effective January 1, 2001.

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

2 (1) "Builder", any individual, partnership, corporation, or other entity engaged in
3 the construction or remodeling of a residential home;

4 (2) "Eligible costs", expenditures by builders or owners for new construction of or
5 remodeling improvements to any single-family detached home or a multi-family attached
6 home constructed or improved on or after January 1, 2010, in accordance with green build
7 standards;

8 (3) "Green build standards", the Silver or Gold levels of the green home building
9 guidelines of the National Association of Home Builders (NAHB), or the Bronze, Silver,
10 Gold, or Emerald levels of the green home building standards of the National Association
11 of Home Builders (NAHB), or the Certified, Silver, Gold, or Platinum levels of the
12 Leadership in Energy and Environmental Design for homes certification levels (LEED-H);

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

15 (5) "Taxpayer", any individual, builder, or entity subject to the tax imposed in
16 chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265,
17 RSMo.

18 2. For all taxable years beginning on or after January 1, 2010, a taxpayer shall be
19 allowed a tax credit for eligible costs incurred on single-family detached homes or multi-
20 family attached homes as follows:

21 **(1) Forty-five cents per square foot of such home, if such home meets at least the**
22 **NAHB Silver level of the guidelines, or the NAHB Bronze level or LEED-H Certified level**
23 **of green build standards;**

24 **(2) Sixty-five cents per square foot of such home, if such home meets at least the**
25 **NAHB Gold level of the guidelines, or the NAHB Silver level or LEED-H Silver level of**
26 **green build standards;**

27 **(3) Ninety cents per square foot of such home, if such home meets at least the**
28 **NAHB Gold level or LEED-H Gold level of green build standards;**

29 **(4) One dollar and fifteen cents per square foot of such home, if such home meets**
30 **at least the NAHB Emerald level or LEED-H Platinum level of green build standards.**

31 **3. The amount of the tax credit issued shall not exceed the amount of the taxpayer's**
32 **state tax liability for the tax year for which the credit is claimed. If the amount of the tax**
33 **credit issued exceeds the amount of the taxpayer's state tax liability for the tax year for**
34 **which the credit is claimed, the difference shall not be refundable but may be carried back**
35 **to any of the taxpayer's previous taxable years, or carried forward to any of the taxpayer's**
36 **subsequent taxable years. Any tax credit granted under this section may be transferred,**
37 **sold, or assigned. The aggregate amount of tax credits that may be issued under this**
38 **section in any one fiscal year shall not exceed two million dollars. The tax credits issued**
39 **under this section shall be issued on a first-come, first-served filing basis.**

40 **4. No tax credit shall be issued under this section for eligible costs incurred unless**
41 **such new constructions or remodeling improvements are verified to comply with NAHB**
42 **Model Green Home Building Guidelines or Standards or are certified under LEED-H**
43 **levels. To have new construction or remodeling improvements verified or certified under**
44 **this subsection, a taxpayer shall contract with a program-certified third-party verifier to**
45 **visually inspect and document the claimed performance level as required under the NAHB**
46 **or LEED-H programs. The verifier shall submit all final inspection and documentation**
47 **forms to the program organization of record for final review. Once the performance level**
48 **certificate has been issued by the program organization of record, the taxpayer shall**
49 **submit a copy of such certificate to the department of revenue at the same time the**
50 **taxpayer claims a tax credit under this section. If such taxpayer is a builder and the**
51 **project is a new construction residence, such taxpayer shall also submit a certificate of**
52 **occupancy, a certificate of temporary occupancy, or a closing or settlement statement for**
53 **the property at the same time the taxpayer claims a tax credit under this section.**

54 **5. The department of revenue may promulgate rules to implement the provisions**
55 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010,**
56 **RSMo, that is created under the authority delegated in this section shall become effective**

57 **only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,**
58 **if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
59 **nonseverable and if any of the powers vested with the general assembly pursuant to**
60 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**
61 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
62 **rule proposed or adopted after August 28, 2009, shall be invalid and void.**

63 **6. Under section 23.253, RSMo, of the Missouri Sunset Act:**

64 **(1) The provisions of the new program authorized under this section shall**
65 **automatically sunset on December thirty-first five years after the effective date of this**
66 **section unless reauthorized by an act of the general assembly; and**

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

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

256.620. **1. Except as provided in section 256.615, operational wells in existence on**
2 **September 28, 1985, shall not be required to conform to the provisions of sections 256.600 to**
3 **256.640, or any rules or regulations adopted pursuant thereto unless such wells or pump**
4 **installations for such wells are determined to present a threat to groundwater.**

5 **2. Any water system that serves a charitable or benevolent organization, if the total**
6 **volume of water drawn from such wells does not exceed fifteen thousand gallons per**
7 **calendar month, shall be exempt from all rules relating to well construction except any**
8 **rules applying to domestic wells and rules that require proof of the quantity of water**
9 **drawn from such wells, unless such wells or pump installations for such wells are**
10 **determined to present a threat to groundwater.**

360.106. **1. As used in this section and sections 360.111 to 360.118, the following terms**
2 **mean:**

3 **(1) "Funding agreement", any loan agreement, financing agreement or other agreement**
4 **between the authority and a participating district under this section, providing for the use of**
5 **proceeds of, security for, and the repayment of, school district bonds, and shall include a**
6 **complete waiver by the participating district of all powers, rights and privileges conferred upon**
7 **the participating district to institute any action authorized by any act of the Congress of the**
8 **United States relating to bankruptcy on the part of the participating district;**

9 **(2) "Participating district", with respect to a particular issue of bonds, notes or other**
10 **financial obligations, any school district and any public community college in this state which**
11 **voluntarily enters into a funding agreement with the authority pursuant to this section;**

12 (3) "School district bonds", any bonds, notes or other obligations issued by the authority
13 for the purpose of making loans to, purchasing the bonds or notes of or otherwise by agreement
14 using or providing for the use of the proceeds of the obligations by a participating district under
15 this section and all related costs of issuance of the obligations including, but not limited to, all
16 costs, charges, fees and expenses of underwriters, financial advisors, attorneys, consultants,
17 accountants and of the authority.

18 2. In addition to other powers granted to the authority by sections 360.010 to 360.140,
19 the authority shall have the power to issue school district bonds or notes for the purpose of
20 making loans to, or purchasing the bonds, notes or other financial instruments of:

21 (1) Any school district or any public community college in this state for the use of the
22 various funds of such school district or public community college for any lawful purpose; and

23 (2) Any school district in this state with respect to obligations issued by such school
24 district pursuant to sections 164.121 to 164.301, RSMo, or otherwise by law.

25 3. In connection with the issuance of school district bonds pursuant to the powers
26 granted in this section, the authority shall have all powers as set forth elsewhere in sections
27 360.010 to 360.140, and the provisions of sections 360.010 to 360.140 shall be applicable to the
28 issuance of school district bonds to the extent that they are not inconsistent with the provisions
29 of this section.

30 4. School district bonds issued pursuant to this section may be secured by a pledge of
31 payments made to the authority by the participating district, by the bonds or notes of the
32 participating district, or by a pooling of such payments, bonds or notes of two or more of such
33 participating districts or as otherwise set forth in the funding agreements.

34 5. The authority may invest any funds held pursuant to powers granted under this section,
35 which are not required for immediate disbursement, in any investment approved by the authority
36 and specified in the trust indenture or resolution pursuant to which such bonds or notes are issued
37 without regard to any limitation otherwise imposed by section 360.120 or otherwise by law;
38 provided, however, that each participating district shall receive the earnings, or a credit for such
39 earnings, to the extent any such amounts invested are attributable to a particular participating
40 district.

41 6. (1) In connection with school district bonds, upon certification by the authority to the
42 commissioner of education and the state treasurer that the funding agreement provides for
43 consent by a participating district for direct deposit of its state payments to the trustee, the state
44 treasurer shall transfer, but only out of funds described in this section, directly to the trustee for
45 such school district bonds, the amounts needed to pay the principal and interest when due on the
46 school district bonds attributable to a particular participating district. Such transfers for any
47 school district bonds attributable to a particular participating district shall only be made out of,

48 and to the extent of, the state payments and distributions from all funds to be made by the state
49 to such participating district pursuant to sections 163.011 to 163.195, RSMo. Any such transfer
50 by the state on behalf of a participating district shall discharge the state's obligation to make such
51 state payments to such participating district to the extent of such transfer;

52 (2) A participating district shall withdraw amounts from any of its funds established
53 pursuant to section 165.011, RSMo, to the extent such amounts could have been used to make
54 the payments made on its behalf by the state treasurer as provided in subdivision (1) of this
55 subsection. Notwithstanding any provisions of section 108.180, RSMo, to the contrary, such
56 amounts shall be deposited into the participating district's funds as provided by law in lieu of the
57 state payments transferred to the trustee under the funding agreement;

58 (3) The authority shall from time to time develop guidelines containing certain criteria
59 with respect to participating school districts and with respect to the issuance of school district
60 bonds;

61 (4) Transfers made under this subsection pursuant to a school district's participation in
62 a funding agreement under this section shall be made at no cost to the school district.

63 7. The authority shall provide for the payment of costs of issuance, costs of credit
64 enhancement and any other costs or fees related to the issuance of any school district bonds other
65 than reserve funds, out of the proceeds thereof or out of amounts distributed annually to the
66 authority pursuant to sections 160.534 and 164.303, RSMo. The authority shall annually submit
67 a request for funding of such costs to the commissioner of education in such form and at such
68 time as he may request. A copy of such request shall be forwarded to the commissioner of
69 administration. The authority shall provide for the payment of costs pursuant to this subsection
70 only for bonds issued for the purpose of financing construction or renovation projects approved
71 by voters after January 1, 1995, or refinancing construction or renovation projects or for
72 refinance of lease purchase obligations with general obligation bonds.

73 8. Any refunding or refinancing of existing bonds of a school district under this section
74 shall have a net present value savings of at least one and one-half percent of the par amount of
75 the refunded bonds.

76 9. The commissioner of education shall serve as an ex officio, nonvoting, advisory
77 member of the authority solely with regard to the exercise of powers granted pursuant to this
78 section.

79 10. Nothing in this section or sections 360.111 to 360.118 shall be construed to relieve
80 a school district or public community college of its obligation to levy a debt service levy or
81 capital projects levy sufficient to retire any obligation of the district or college as otherwise
82 provided by law.

83 11. Any professional services provided in connection with the sale of such bonds
84 pursuant to this section, including, but not limited to, underwriters, bond counsel, underwriters'
85 counsel, trustee and financial advisors, shall be obtained through competitive bidding. The
86 initial bid for professional services shall be for a period of not longer than two years, and
87 thereafter such bids shall be awarded for a period not longer than one year.

88 12. The authority shall review the cost effectiveness of the program established under
89 this section and sections 360.111 to 360.118 and shall, on or before the fifteenth of August of
90 each year, provide a report to the general assembly which shall contain a report on the program,
91 the authority's findings and a recommendation of whether this section should be repealed,
92 strengthened or otherwise amended.

93 **13. Any public school district contemplating new construction or renovation of any**
94 **public school building shall certify a cost analysis of building to LEED certification or**
95 **equivalent certification verses the long-term cost of ownership and operation of a new or**
96 **renovated building without LEED certification or equivalent certification. The school**
97 **district shall include reasons in their certification for their recommendation to build or not**
98 **to build to LEED certification or equivalent certification, taking into account the**
99 **differences in the cost analysis. For purposes of this section, "LEED certification" shall**
100 **mean any certification issued by the United States Green Building Council under the**
101 **Leadership in Energy and Environmental Design Green Building Rating System.**

102 **14. Notwithstanding any other law, no funding of any type shall be provided to a**
103 **public school district under the provisions of this section for new construction or**
104 **renovation of any public school building unless the requirements of subsection 13 of this**
105 **section are satisfied.**

386.756. 1. Except by an affiliate, a utility may not engage in HVAC services, unless
2 otherwise provided in subsection [7 or] 8 or 9 of this section.

3 2. No affiliate or utility contractor may use any vehicles, service tools, instruments,
4 employees, or any other utility assets, the cost of which are recoverable in the regulated rates for
5 utility service, to engage in HVAC services unless the utility is compensated for the use of such
6 assets at cost to the utility.

7 3. A utility may not use or allow any affiliate or utility contractor to use the name of such
8 utility to engage in HVAC services unless the utility, affiliate or utility contractor discloses, in
9 plain view and in bold type on the same page as the name is used on all advertisements or in
10 plain audible language during all solicitations of such services, a disclaimer that states the
11 services provided are not regulated by the public service commission.

12 4. A utility may not engage in or assist any affiliate or utility contractor in engaging in
13 HVAC services in a manner which subsidizes the activities of such utility, affiliate or utility

14 contractor to the extent of changing the rates or charges for the utility's regulated services above
15 or below the rates or charges that would be in effect if the utility were not engaged in or assisting
16 any affiliate or utility contractor in engaging in such activities.

17 5. Any affiliates or utility contractors engaged in HVAC services shall maintain
18 accounts, books and records separate and distinct from the utility.

19 6. The provisions of this section shall apply to any affiliate or utility contractor engaged
20 in HVAC services that is owned, controlled or under common control with a utility providing
21 regulated utility service in this state or any other state.

22 7. A utility engaging in HVAC services in this state five years prior to August 28, 1998,
23 may continue providing, to existing as well as new customers, the same type of services as those
24 provided by the utility five years prior to August 28, 1998. The provisions of this section only
25 apply to the area of service which the utility was actually supplying service to on a regular basis
26 prior to August 28, 1993. The provisions of this section shall not apply to any subsequently
27 expanded areas of service made by a utility through either existing affiliates or subsidiaries or
28 through affiliates or subsidiaries purchased after August 28, 1993, unless such services were
29 being provided in the expanded area prior to August 28, 1993.

30 8. The provisions of this section shall not be construed to prohibit a utility from
31 providing emergency service, providing any service required by law or providing a program
32 pursuant to an existing tariff, rule or order of the public service commission.

33 9. A utility that violates any provision of this section is guilty of a civil offense and may
34 be subject to a civil penalty of up to twelve thousand five hundred dollars for each violation. The
35 attorney general may enforce the provisions of this section pursuant to any powers granted to him
36 or her pursuant to any relevant provisions provided by Missouri statutes or the Missouri
37 Constitution.

38 10. Any utility claiming an exemption as provided in subsection 7 of this section shall
39 comply with all applicable state and local laws, ordinances or regulations relating to the
40 installation or maintenance of HVAC systems including all permit requirements. A continuing
41 pattern of failure to comply with said requirements shall provide the basis for a finding by any
42 court of competent jurisdiction or the public service commission that the utility has waived its
43 claim of exemption pursuant to subsection 7 of this section.

44 **11. Every utility in this state shall comply with all local permit and code**
45 **requirements.**

393.1122. 1. There is hereby established as a governmental instrumentality of the
2 **state of Missouri the "Missouri Alternative Energy Loan Authority", which shall constitute**
3 **a body corporate and politic.**

4 **2. The authority shall ensure all applicants including local governments,**
5 **municipalities, cooperatives, utilities, and owners of residential, commercial, and**
6 **agricultural property receive a low-interest loan for the purpose of financing renewable**
7 **energy producing products or facilities or qualifying energy efficient and energy**
8 **conserving appliances and products in this state. The authority shall develop a method for**
9 **such applicants to apply to the authority for loans and approve disbursements of the loans.**
10 **Loan applications shall be considered as according to efficiency and size of the project with**
11 **priority given to larger and more efficient proposed renewable energy and energy**
12 **efficiency projects. Priorities only apply to new projects and not for existing projects.**

13 **3. As used in this section, the following terms mean:**

14 **(1) "Alternative energy", sources, including but not limited to, energy from wind,**
15 **solar, thermal, photovoltaic cells and panels, animal waste and by products, dedicated**
16 **crops grown for energy production, plant-based residues, fuel cells using hydrogen**
17 **produced by a renewable energy source, and other alternative sources of energy as defined**
18 **by rule by the department;**

19 **(2) "Applicant", any local government, municipality, cooperative, utility, and**
20 **owner of residential, commercial, and agricultural property, which submits an application**
21 **for loans on financial assistance to the authority;**

22 **(3) "Authority", the Missouri renewable energy loan authority;**

23 **(4) "Commission", the Missouri public service commission;**

24 **(5) "Department", the Missouri department of natural resources;**

25 **(6) "Energy efficiency project", any project that reduces the energy use of an entity**
26 **and results in a reduced cost over the life cycle of the project.**

27 **4. The authority shall consist of seven members appointed by the governor by and**
28 **with the advice and consent of the senate. Not more than three members shall be of the**
29 **same political party. All members shall be residents of this state. In making appointments**
30 **to the authority, the governor shall take into consideration nominees recommended to him**
31 **for appointment by the department. The members of the authority first appointed by the**
32 **governor shall be appointed to serve for terms of one, two, and three years, the term of**
33 **each member to be designated by the governor. The successor of each member shall be**
34 **appointed for a term of three years or until their successors have been appointed, but any**
35 **person appointed to fill a vacancy shall be appointed to serve only for the unexpired term.**
36 **Any member shall be eligible for reappointment. The authority shall elect one of its**
37 **members as chairman and another as vice chairman and shall appoint a secretary and a**
38 **treasurer, which offices may be combined, and who need not be members of the authority.**
39 **Five members of the authority shall constitute a quorum for the purpose of conducting**

40 **business and exercising the powers of the authority. Action may be taken by the authority**
41 **upon the affirmative vote of at least three of its members. Each member of the authority**
42 **shall not be entitled to compensation except for their reasonable and necessary expenses**
43 **actually incurred in discharging their duties under the provisions of this section. Any**
44 **member of the authority may be removed by the governor for misfeasance, malfeasance,**
45 **willful neglect of duty, or other cause after notice and a public hearing unless the notice or**
46 **hearing shall be expressly waived in writing.**

47 **5. There is hereby established in the state treasury a fund to be known as the**
48 **"Missouri Alternative Energy Loan Authority Fund", which shall consist of moneys**
49 **appropriated annually by the general assembly, which includes a one-time start-up amount**
50 **of fourteen million dollars to establish such fund. In addition the fund may include any**
51 **gifts, contributions, grants, or bequests received from federal, state, private, or other**
52 **sources. The fund shall be administered by the authority. Upon appropriation, money in**
53 **the fund shall be used solely to provide low-interest loans for renewable energy projects**
54 **and energy efficiency and related expenses. If any amount is used for purposes not**
55 **otherwise provided in this section, two hundred percent of the loan amount shall be repaid**
56 **and deposited into the fund created under this section. Notwithstanding the provisions of**
57 **section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the**
58 **credit of the general revenue fund at the end of the biennium. Interest and moneys earned**
59 **on the fund shall be credited to the fund. The state treasurer shall invest moneys in the**
60 **fund in the same manner as other funds are invested. Interest and moneys earned on such**
61 **investment shall be credited to the fund.**

62 **6. The authority shall have the following powers, together with all powers**
63 **incidental thereto or necessary for the performance thereof:**

- 64 **(1) To have perpetual succession as a body politic and corporate;**
65 **(2) To adopt bylaws for the regulation of its affairs and the conduct of its business;**
66 **(3) To sue and be sued and to prosecute and defend, at law or in equity, in any**
67 **court having jurisdiction of the subject matter and of the parties;**
68 **(4) To have and to use a corporate seal and to alter the same at pleasure;**
69 **(5) To maintain an office at such place or places in the state of Missouri as it may**
70 **designate;**
71 **(6) To accept appropriations, gifts, grants, bequests, and devises and to utilize or**
72 **dispose of the same to carry out its purpose;**
73 **(7) To make and execute contracts, releases, compromises, and other instruments**
74 **necessary or convenient for the exercise of its powers, or to carry out its purpose;**

75 **(8) To collect reasonable fees and charges in connection with making and servicing**
76 **its loans, notes, bonds, obligations, commitments, and other evidences of indebtedness, and**
77 **in connection with providing technical, consultative and project assistant services. Such**
78 **fees and charges shall be used to pay the costs of the authority;**

79 **(9) To acquire, hold and dispose of personal property for its purposes;**

80 **(10) To enter into agreements or other transactions with any federal or state**
81 **agency, any person and any domestic or foreign partnership, corporation, association or**
82 **organization.**

83 **7. The authority may from time to time issue renewal notes. Renewal notes may**
84 **be sold at public or private sale and the proceeds applied to the purchase, redemption, or**
85 **payment of the notes to be refunded.**

86 **8. (1) The authority may set interest rates between one percent and two points**
87 **below the prime interest rates.**

88 **(2) The ratio of loan to project cost and the amortization period of loans made by**
89 **the authority shall be determined in accordance with regulations promulgated by the**
90 **authority.**

91 **9. The renewable energy loan authority is assigned to the department. The**
92 **authority shall annually file with the director of the department a report of its previous**
93 **year's income, expenditures and bonds or other forms of indebtedness issued and**
94 **outstanding.**

414.530. 1. The director shall conduct a referendum as soon as possible among
2 producers and Missouri retail marketers of propane to authorize the creation of the "Missouri
3 Propane Education and Research Council" and the levying of an assessment on odorized
4 propane. Upon approval of those persons representing two-thirds of the total gallonage of
5 odorized propane voted in the retail marketer class and two-thirds of all propane voted in the
6 producer class, meaning propane sold or produced in the previous calendar year or other
7 representative period, the director shall issue an order establishing the council and call for
8 nominations to the council from qualified industry organizations. All persons voting in the
9 referendum shall certify to the director the number of gallons represented by their vote.

10 2. [On the director's own initiative,] Upon petition of the council or of producers and
11 marketers representing thirty-five percent of the gallons in each class, the director shall hold a
12 referendum to determine whether the industry favors termination or suspension of the order. The
13 termination or suspension shall not take effect unless it is approved by those persons representing
14 more than one-half of the total gallonage of odorized propane in the marketer class and one-half
15 of all propane in the producer class.

16 3. The director may require such reports or documentation as is necessary to document
17 the referendum process [and the nomination process for members of the council] and shall
18 protect the confidentiality of all such documentation provided by industry members. Information
19 regarding propane produced or marketed by persons voting shall be a closed record.

 414.560. 1. Upon issuance of an order by the director establishing the Missouri propane
2 education and research council, the director shall select all members of the council from a list
3 of nominees submitted by qualified industry organizations. **Subsequent appointments shall**
4 **be selected by the council following a public nomination process.** Vacancies in unfinished
5 terms of council members may be filled by the council[, subject to approval of the director].

6 2. In making nominations and appointments to the council, the qualified industry
7 organizations [and the director] shall give due regard to selecting a council that is representative
8 of the industry, and the geographic regions of the state.

9 3. The council shall consist of fifteen members, with nine members representing retail
10 marketers of propane; three members representing wholesalers or resellers of propane; two
11 members representing manufacturers and distributors of gas use equipment, wholesalers or
12 resellers, or transporters; and one public member. Other than the public member, council
13 members shall be full-time employees or owners of businesses in the industry.

14 4. Council members shall receive no compensation for their services, but shall be
15 reimbursed for reasonable expenses incurred in the performance of their duties.

16 5. Council members shall serve terms of three years; except that of the initial members
17 appointed, five shall be appointed for terms of one year, five shall be appointed for terms of two
18 years and five shall be appointed for terms of three years. Members may be appointed to a
19 maximum of two consecutive full terms. Members filling unexpired terms will not have any
20 partial term of service count against the two-term limitation. Former members of the council
21 may be reappointed to the council if they have not been members for a period of one year.

22 6. The council shall select from among its members a chairman and other officers as
23 necessary, establish committees and subcommittees of the council, and adopt rules and bylaws
24 for the conduct of business. The council may establish advisory committees of persons other
25 than council members.

26 7. The council may employ a president to serve as chief executive officer and such other
27 employees as it deems necessary. The council may enter into contracts with, use facilities and
28 equipment of, or employ personnel of a qualified industry organization in carrying out its
29 responsibilities under sections 414.500 to 414.590. It shall determine the compensation and
30 duties of each, and protect the handling of council funds through fidelity bonds.

31 8. At **least thirty days prior** to the beginning of each fiscal period, the council shall
32 prepare and submit [to the director] **for public comment** a budget plan including the probable

33 costs of all programs, projects and contracts and a recommended rate of assessment sufficient
34 to cover such costs. [The director shall approve or recommend changes to the budget after an
35 opportunity for public comment.] **The council shall approve or modify the budget following**
36 **the public comment period.**

37 9. The council shall develop programs and projects and enter into contracts or
38 agreements for implementing the policy of sections 414.500 to 414.590, including programs of
39 research, development, education, and marketing, and for the payment of the costs thereof with
40 funds collected pursuant to sections 414.500 to 414.590. The council shall coordinate its
41 activities with industry trade associations to provide efficient delivery of services and to avoid
42 unnecessary duplication of activities.

43 10. The council shall keep minutes, books, **and** records that clearly reflect all of the acts
44 and transactions of the council and regularly report such information to the director[, along with
45 such other information as the director may require]. The books of the council shall be audited
46 by a certified public accountant at least once each fiscal year and at such other times as the
47 council may designate. Copies of such audit shall be provided to the director, all members of
48 the council, all qualified industry organizations, and to other members of the industry upon
49 request. [The director shall receive notice of meetings and may require reports on the activities
50 of the council, as well as reports on compliance, violations and complaints regarding the
51 implementation of sections 414.500 to 414.590.]

52 11. From assessments collected, the council shall annually reimburse the director for
53 costs incurred in holding the referendum establishing the council[, making appointments to the
54 council,] and other expenses directly related to the council.

414.570. 1. The council shall set the initial assessment at no greater than one-tenth of
2 one cent per gallon. Thereafter, annual assessments shall be sufficient to cover the costs of the
3 plans and programs developed by the council and approved [by the director] **following public**
4 **comment**. The assessment shall not be greater than one-half cent per gallon of odorized
5 propane. The assessment may not be raised by more than one-tenth of one cent per gallon
6 annually.

7 2. The owner of propane immediately prior to odorization in this state or the owner at
8 the time of import into this state of odorized propane shall be responsible for the payment of the
9 assessment on the volume of propane at the time of import or odorization, whichever is later.
10 Assessments shall be remitted to the council on a monthly basis by the twenty-fifth of the month
11 following the month of collection. Nonodorized propane shall not be subject to assessment until
12 odorized.

13 3. The [director] **council** may [by regulation, with the concurrence of the council,]
14 establish an alternative means [for the council] to collect the assessment if another means is

15 found to be more efficient and effective. The [director] **council** may [by regulation] establish
16 a late payment charge and rate of interest **not to exceed the legal rate for judgments** to be
17 imposed on any person who fails to remit to the council any amount due under sections 414.500
18 to 414.590.

19 4. Pending disbursement pursuant to a program, plan or project, the council may invest
20 funds collected through assessments and any other funds received by the council only in
21 obligations of the United States or any agency thereof, in general obligations of any state or any
22 political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank
23 that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal
24 and interest by the United States.

25 [5. The National Propane Education and Research Council, in conjunction with the
26 United States Secretary of Energy may, by regulation, establish a program coordinating the
27 operation of its council with the council established in section 414.530. This may include an
28 assessment rebate, if adopted, of an amount up to twenty-five percent of the National Propane
29 Education and Research Council assessment collected on Missouri distributed odorized propane
30 as presented and described in section nine of the federal Propane Education and Research Act
31 of 1992. Should the National Propane Education and Research Council, as part of the federal
32 Propane Education and Research Act of 1992, establish such an assessment rebate on fees
33 collected by such council, then all funds from such federal assessment rebate shall be the
34 property of the Missouri council as established by section 414.530, and the use of such funds
35 shall be determined by the Missouri council for the purposes as intended and presented in
36 sections 414.500 to 414.590.]

**640.300. Nothing in sections 640.300 to 640.340 shall be interpreted to impede or
2 excuse the disclosure of normal regulatory reporting requirements for environmental
3 compliance.**

640.305. As used in sections 640.300 to 640.340, the following terms shall mean:

2 **(1) "Compliance management system" or "environmental management system",**
3 **a regulated entity's documented systematic efforts, appropriate to the size and nature of**
4 **its business, to prevent, detect, and correct noncompliance through all of the following:**

5 **(a) Compliance policies, standards, and procedures that identify how employees**
6 **and agents are to meet the requirements of laws, regulations, permits, enforceable**
7 **agreements, and other sources of authority for environmental requirements;**

8 **(b) Assignment of overall responsibility for overseeing compliance with policies,**
9 **standards, and procedures, and assignment of specific responsibility for assuring**
10 **compliance at each facility or operation;**

11 (c) Mechanisms for systematically assuring that compliance policies, standards, and
12 procedures are being carried out, including monitoring and auditing systems reasonably
13 designed to detect and correct noncompliance, periodic evaluation of the overall
14 performance of the compliance management system, or environmental management
15 system, and a means for employees or agents to report noncompliance of environmental
16 requirements without fear of retaliation;

17 (d) Efforts to communicate effectively the regulated entity's standards and
18 procedures to all employees and other agents;

19 (e) Appropriate incentives to managers and employees to perform in accordance
20 with the compliance policies, standards, and procedures, including consistent enforcement
21 through appropriate disciplinary mechanisms; and

22 (f) Procedures for the prompt and appropriate correction of any noncompliance,
23 and any necessary modifications to the regulated entity's compliance management system
24 or environmental management system to prevent future noncompliance;

25 (2) "Department", the department of natural resources;

26 (3) "Environmental audit", a systematic, documented, periodic, and objective
27 review by regulated entities of facility operations and practices related to meeting
28 environmental requirements;

29 (4) "Environmental audit report", the documented analysis, conclusions, and
30 recommendations resulting from an environmental audit, but not including data obtained
31 in or testimonial evidence concerning such audit;

32 (5) "Regulated entity", any entity, including a federal, state, or municipal
33 department or facility, which is regulated under federal or state environmental laws.

640.310. If a regulated entity satisfies all of the conditions of section 640.330,
2 neither the department nor the attorney general may seek penalties, other than the
3 recovery of the economic benefits gained through noncompliance with environmental
4 requirements, for noncompliance of state, federal, or local laws, regulations, permits, or
5 orders relating to environmental requirements discovered and disclosed by the entity. If
6 a regulated entity satisfies all of the conditions of section 640.330, except for the periodic
7 routine assessment through an environmental audit or compliance management system,
8 the department may recover as penalties the economic benefits gained through
9 noncompliance, and reduce any other penalties up to seventy-five percent for
10 noncompliance of state or federal laws, regulations, permits, or orders relating to
11 environmental requirements discovered and disclosed by the entity.

640.315. If a regulated entity establishes that it satisfies subdivisions (1) to (9) of
2 section 640.330, the department shall not recommend to the attorney general or other

3 prosecuting authority that criminal charges be brought against the disclosing entity, as
4 long as the department determines that the noncompliance is not part of a pattern or
5 practice that demonstrates or involves:

6 (1) A prevalent management philosophy or practice that conceals or condones
7 environmental noncompliance; or

8 (2) High-level corporate officials' or managers' conscious involvement in, or willful
9 blindness to, noncompliance of federal environmental law.

640.320. Regardless of whether the department recommends the regulated entity
2 for criminal prosecution, the department may recommend for prosecution the criminal acts
3 of individual managers or employees under existing policies guiding the exercise of
4 enforcement discretion.

640.325. The department, the attorney general, and any prosecuting attorney shall
2 not request or use an environmental audit report to initiate a civil or criminal investigation
3 of an entity, including but not limited to the use of such report in routine inspections. If
4 the department has an independent reason to believe that noncompliance has occurred, the
5 department may seek any information relevant to identifying noncompliance or
6 determining liability or extent of harm.

640.330. In order to receive the benefits of sections 640.310 to 640.325, owners and
2 operators of facilities regulated under state, federal, regional, or local laws, ordinances,
3 regulations, permits, or orders shall comply with the following:

4 (1) The noncompliance was discovered through:

5 (a) An environmental audit; or

6 (b) A compliance management system, reflecting the regulated entity's due
7 diligence in preventing, detecting, and correcting noncompliance. The regulated entity
8 shall provide accurate and complete documentation to the department as to how its
9 compliance management system meets the criteria or due diligence and how the regulated
10 entity discovered the noncompliance through its compliance management system. The
11 department may require the registered entity to make available to the public a description
12 of its compliance management system;

13 (2) The noncompliance was discovered voluntarily and not through a legally
14 mandated monitoring or sampling requirement prescribed by statute, regulation, permit,
15 judicial, or administrative order, or consent agreement. For example, sections 640.310 to
16 640.325, do not apply to:

17 (a) Emissions noncompliance detected through a continuous emissions monitor, or
18 alternative monitor established in a permit, regulation, order, or other instrument, in
19 which any such monitoring is required;

20 **(b) Noncompliance of National Pollutant Discharge Elimination System discharge**
21 **limits detected through required sampling or monitoring; and**

22 **(c) Noncompliance discovered through a compliance audit required to be**
23 **performed by the terms of a consent order or settlement agreement, unless the audit is a**
24 **component of agreement terms to implement a comprehensive environmental management**
25 **system;**

26 **(3) The regulated entity fully discloses the specific noncompliance in writing to the**
27 **department within twenty-one days, or such shorter time period as may be required by**
28 **law, after the entity discovers that the noncompliance has, or may have, occurred. The**
29 **time at which the entity discovers that a noncompliance has, or may have, occurred begins**
30 **when any officer, director, employee, or agent of the facility has an objectively reasonable**
31 **basis for believing that a noncompliance has, or may have, occurred;**

32 **(4) The regulated entity discovers and discloses the potential noncompliance to the**
33 **department prior to:**

34 **(a) The commencement of a federal, state, or local department inspection or**
35 **investigation, or the issuance by such department of an information request to the**
36 **registered entity, in which the department determines that the facility did not know that**
37 **it was under civil investigation, and the department determines that the entity is otherwise**
38 **acting in good faith, in which case the department is authorized to reduce or waive civil**
39 **penalties in accordance with section 640.310;**

40 **(b) Notice of a citizen suit;**

41 **(c) The filing of a complaint by a third party;**

42 **(d) The reporting of the noncompliance to the department or other governmental**
43 **agency by a whistle-blower employee and not be authorized to speak on behalf of the**
44 **regulated entity; or**

45 **(e) Imminent discovery of the noncompliance by a regulatory department or**
46 **agency;**

47 **(5) The regulated entity shall correct the noncompliance within sixty calendar days**
48 **from the date of discovery, or such shorter time period as may be required by law,**
49 **certifying in writing that the noncompliance has occurred and taking appropriate**
50 **measures as determined by the department to remedy any environmental or human harm**
51 **due to the noncompliance. The department retains the authority to order an entity to**
52 **correct a noncompliance within a specific time period shorter than sixty days whenever**
53 **correction in such shorter time period is necessary to protect public health and the**
54 **environment. If more than sixty days is needed to correct the noncompliance, the regulated**
55 **entity shall so request additional time from the department in writing prior to the**

56 expiration of the sixty-day period. The Missouri department of natural resources will
57 approve or deny the request before the expiration of the sixty-day period. If the
58 department approves additional time, the department may require a regulated entity to
59 enter into a publicly available written agreement, administrative consent order, or judicial
60 consent decree as a condition for obtaining relief under sections 640.310 to 640.325, in
61 particular where compliance or remedial measures are complex or a lengthy schedule for
62 attaining and maintaining compliance or remediating harm is required;

63 (6) The regulated entity shall agree in writing or other appropriate order to take
64 steps acceptable to the director to prevent a recurrence of the noncompliance, including
65 improvements to its environmental auditing or compliance management system;

66 (7) The specific noncompliance, or a closely related noncompliance, has not
67 occurred within the previous three years at the same facility and has not occurred within
68 the past five years as part of a pattern at multiple facilities owned or operated by the same
69 entity. For the purposes of this section, noncompliance includes:

70 (a) Failure to comply with any federal, state, or local environmental law identified
71 in a judicial or administrative order, consent agreement or order, complaint, or notice of
72 noncompliance, conviction, or plea agreement; or

73 (b) Any act or omission for which the regulated entity has previously received
74 penalty mitigation from the department or another state or local department;

75 (8) The noncompliance is not one which:

76 (a) Resulted in actual harm, or may have presented an imminent and substantial
77 endangerment, to human health or the environment; or

78 (b) Violates the specific terms of any judicial or administrative order or consent
79 agreement; and

80 (9) The regulated entity cooperates as requested by the department and provides
81 such information as is necessary and requested by the department to determine
82 applicability of sections 640.310 to 640.325.

2 640.335. The department shall make available to the public the terms and
3 conditions of and supporting documentation demonstrating any compliance agreement
4 reached under sections 640.310 to 640.325, including the nature of the noncompliance, the
5 remedy, and the schedule for returning to compliance.

2 640.340. Nothing in sections 640.300 to 640.335 shall prevent a private party from
3 bringing a cause of action, where otherwise permitted under the law, against an entity
4 whose noncompliance with any relevant environmental law has caused damage to such
5 private party.

640.345. The department shall not disclose from any audit report information relating to scientific and technological innovations in which the owner has a proprietary interest of any information which is otherwise protected from disclosure by law.

644.570. 1. The board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state [the sum of twenty million dollars] for the purposes of financing and constructing storm water control plans, studies and projects as set out in this chapter. The department shall allocate these funds through grants or loans to municipalities, public sewer districts, sewer districts established pursuant to article VI, section 30(a) of the Missouri Constitution, public water districts, or any combination of the same located in a county of the first classification or in any city not within a county or by any county of the first classification.

2. [Grants awarded under this section shall be no more than fifty percent of the cost of the plan, study or project.

3.] Grants or loans allocated under this section shall be initially offered to eligible recipients in counties of the first classification and in a city not within a county in an amount equal to the percentage ratio that the population of the recipient county or city bears to the total population of all counties of the first classification and cities not within a county as determined by the last decennial census.

[4.] 3. Grants or loans offered to a city or county under subsection [3] 2 of this section shall be further allocated and initially offered to eligible recipients in any city with a population of at least twenty-five thousand inhabitants located in a county of the first classification in an amount equal to the percentage ratio that the recipient's population bears to the total population of the county.

5. After the initial offer of grants or loans has been made to eligible recipients under subsections [3] 2 and [4] 3 of this section, any remaining funds may be reallocated to recipients of the initial offer who have eligible projects for such funds until no such funds remain. The reallocation of funds shall be made to eligible recipients with remaining eligible projects in an amount equal to the percentage ratio that the population of the eligible recipient bears to the total population of all other eligible recipients with remaining eligible projects under this subsection.

6. Other provisions of this section notwithstanding, in those cities or counties served by a sewer district established pursuant to article VI, section 30(a) of the Constitution of the state of Missouri, any grants or loans awarded shall be disbursed directly to such district.

7. Repayments of storm water loans and any interest payments on such loans shall be deposited in the "Storm Water Loan Revolving Fund", which is hereby created. The fund shall be used for the purposes of financing and constructing storm water control plans, studies, and projects. The state treasurer shall be custodian of the fund and may approve disbursements from

34 the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in
35 the fund shall be used solely for the administration of this section. Any moneys remaining in the
36 fund at the end of the biennium shall not revert to the credit of the general revenue fund. The
37 state treasurer shall invest moneys in the fund in the same manner as other funds are invested.
38 Any interest and moneys earned on such investments shall be credited to the fund.

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