SECOND REGULAR SESSION

REVISION

HOUSE BILL NO. 2078

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CLAYTON.

Read 1st time February 28, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4953L.01I

AN ACT

To repeal sections 141.265, 142.027, 313.335, 640.169, 640.170, 640.172, 640.175, 640.177, 640.179, 640.180, 640.182, 640.185, 640.195, 640.200, 640.203, 640.205, 640.207, 640.210, 640.212, 640.215 and 640.218, RSMo 2000, and section 217.440 as enacted by senate committee substitute for senate bill no. 430 of the eighty-ninth general assembly, first regular session, for the purpose of repealing expired provisions of law and sections made obsolete by expired provisions of law.

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

Section A. Sections 141.265, 142.027, 313.353, 640.169, 640.170, 640.172, 640.175, 640.177, 640.179, 640.180, 640.182, 640.185, 640.195, 640.200, 640.203, 640.205, 640.207, 640.210, 640.212, 640.215 and 640.218, RSMo 2000, and section 217.440 as enacted by senate committee substitute for senate bill no. 430 of the eighty-ninth general assembly, first regular session, are repealed as follows:

[141.265. 1. In order to provide for the orderly implementation of, and notwithstanding other provisions of sections 141.210 to 141.810, the periods of delinquency upon which proceedings to foreclose the tax lien as otherwise authorized by sections 141.210 to 141.810 shall be as follows:

(1) Proceedings commenced in 1983 shall be for enforcement of the tax lien on tax bills billed 1978 and 1979 and falling delinquent in the calendar years 1979 and 1980;

(2) Proceedings commenced in 1984 shall be for enforcement of the tax lien

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

of tax bills billed 1980 and 1981 and falling delinquent in the calendar years 1981 and 1982;

(3) Proceedings commenced after December 31, 1984, on bills billed in 1982 and thereafter shall be for the enforcement of the tax lien on tax bills as otherwise provided by sections 141.210 to 141.810.

2. Subsection 1 of this section shall terminate on December 31, 1984, but the termination shall not impair or invalidate any proceeding brought pursuant to sections 141.210 to 141.810, pending on that date.**]**

EXPLANATION: Subsection 1 of this section expired December 31, 1984. The remainder of the section is made obsolete.

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

(1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products;

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the American Society for Testing and Materials - specification number D-439.

2. Notwithstanding any other law to the contrary, the rate of the license tax imposed by section 142.020 on qualified fuel ethanol blends used in propelling motor vehicles upon the public highways of Missouri is two cents per gallon less than the rate of tax stated in section 142.025, until July 1, 1996.

3. The state highways and transportation department fund shall be reimbursed from the state general revenue fund in the amount not to exceed two cents per gallon for each gallon of ethanol blend motor fuel taxed at a rate of taxation which is a maximum of two cents below the tax imposed on all other motor fuel sold in this state for propelling motor vehicles on the public highways of this state. The department of transportation, by December first of each year, shall determine from the reports filed by distributors with the department of revenue the number of gallons of ethanol blended motor fuel sold in this state for propelling motor vehicles upon the highways of this state during the preceding fiscal year ending on June thirtieth of that year. The department of transportation shall certify the number of gallons so derived to the respective chairpersons of the senate appropriations committee and the house budget committee by the last day of December. The figures and exemption credits so certified shall be the amount of reimbursement to be appropriated annually to the state highways and transportation department fund from the state general revenue fund.**]**

EXPLANATION: This section expired June 30, 1996.

[217.440. The director may establish a program of restorative justice within the department's correctional centers and require that offenders offer acts and expressions of sincere remorse for the offense committed and its impact on the victim(s) and the community. Such program requirements may include, but are not limited to, community service work while incarcerated and participation in victim-oriented programs, as well as other restorative activities to be determined by the department. The provisions of this section shall terminate December 31, 2000.**]**

EXPLANATION: Two versions of this section were enacted in 1997. This section expired December 31, 2000. The second version did not contain an expiration date and still exists.

[313.353. Notwithstanding section 313.35 to the contrary, the commission as defined in section 313.205 may allow any state lottery prize winner who won the lottery, as defined in this chapter, before October 22, 1998, and who is currently receiving annual payments from annuities or securities, to elect to receive a single cash payment in lieu of the remaining annual payments. This section shall expire on December 31, 2000.**]**

EXPLANATION: This section expired December 31, 2000.

[640.169. Sections 640.170 to 640.218 shall terminate July 1, 1996. Moneys in the local government energy conservation loan fund and the industrial commercial energy conservation loan fund shall be transferred to the energy set-aside energy fund and the local government energy conservation loan fund and the industrial commercial energy conservation loan fund shall be abolished.**]**

EXPLANATION: This section becomes obsolete when sections 640.170 to 640.218 are repealed.

[640.170. As used in sections 640.170 to 640.185, the following terms mean:

(1) "Application cycle", the period of time each year, as determined by the department, that the department shall accept and receive applications from local governments seeking loans under the provisions of sections 640.170 to 640.185;

(2) "Building", any structure owned and operated by a local government that includes a heating or cooling system, or both;

(3) "Department", the department of natural resources;

(4) "Energy conservation loan account", an account to be established on the books of a local government for purposes of tracking information related to the receipt or expenditure of loan funds, and to be used to receive and remit energy cost savings for purposes of making semiannual payments to retire the loan;

(5) "Energy conservation project" or "project", the design, acquisition and installation of one or more energy conserving devices, measures or modifications to a building or facility to reduce energy consumption or to allow for the use of

alternative or energy resources;

(6) "Energy cost savings" or "savings", the value, in terms of dollars, that has or shall accrue from energy savings due to implementation of an energy conservation project;

(7) "Estimated simple payback", the estimated cost of a project divided by the estimated energy cost savings, usually expressed in terms of months or years;

(8) "Facility", any major energy using system owned and operated by a local government, whether or not housed in a building;

(9) "Fund", the local government energy conservation loan fund established in section 640.180;

(10) "Loan agreement", a document signed and agreed to by the governing body of the local government and the department that details all terms and requirements under which the loan was issued, and describes the terms under which the loan repayment shall be made;

(11) "Local government", any city, county or village, or any subdistrict of a zoological park and museum district as such subdistricts are defined in section 184.352, RSMo;

(12) "Payback score", a numeric value derived from the review of an application, calculated as prescribed by the department, which is used solely for purposes of ranking applications for the selection of loan recipients from within the balance of loan funds available;

(13) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project;

(14) "Repayment period", unless otherwise negotiated as required under section 640.177, the period in years required to repay a loan as determined by the projects' estimated simple payback and rounded to the next year in cases where the estimated simple payback is in a fraction of a year;

(15) "Technical assistance report", a specialized engineering report that identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one or more energy conservation measures;

(16) "Unobligated balance", that amount in the fund that has not been dedicated to any local government at the end of each state fiscal year.**]**

EXPLANATION: This section expired July 1, 1996.

[640.172. 1. At the direction of its governing body, a local government may submit an application for loan funds to the department of natural resources for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project in a local government owned and operated building or facility. The application shall be accompanied by a technical assistance report that shall be in such form and contain such information as prescribed by the department. This section shall not preclude any local government from joining in a cooperative project with any other local governments or with any state or federal agency or entity in an energy conservation project, providing all other requirements of sections 640.170 to 640.185 are met.

2. All applications shall be assigned a payback score derived from the application review performed by the department. Applications shall be selected for loans beginning with the lowest payback score and continuing in ascending numeric order to the highest payback score until all available loan funds have been obligated within any given application cycle. In no case shall a loan be made to finance an energy project with a payback score of less than six months or more than eight years. Applications may be approved for loans only in those instances where the local government has furnished the department information satisfactory to assure that the project cost will be recovered through energy cost savings during the repayment period of the loan. In no case shall a loan be made to a local government unless a majority of the members of the governing body vote to approve the loan agreement.**]**

EXPLANATION: This section expired July 1, 1996.

[640.175. Annually, at the conclusion of each state fiscal year, each local government which has received a loan pursuant to the provisions of sections 640.170 to 640.185 shall compute the actual energy cost savings resulting from the implementation of the energy conservation project financed by the loan. Energy cost savings shall be calculated in the manner prescribed by the department and reported to the department during the period of the loan.**]**

EXPLANATION: This section expired July 1, 1996.

[640.177. 1. Each local government to which a loan has been made under sections 640.170 to 640.185 shall repay such loan, with interest, in semiannual payments. The rate of interest shall be the rate required by the department of natural resources. The number, amounts and timing of the semiannual payments shall be as determined by the department.

2. Any local government which receives a loan through the provisions of sections 640.170 to 640.185 shall annually budget an amount which is at least sufficient to make the semiannual payments required under this section.

3. The local government shall not raise the funds needed to make the semiannual loan payment by the levy of additional taxes. The semiannual loan payments shall be derived solely from energy cost savings resulting from the implementation of the project. In the event that energy cost savings resulting from the project fail to equal or exceed the amount of the semiannual payment, the local government and the department shall renegotiate the repayment period in such a manner as to assure that the semiannual payment amount does not exceed the actual energy cost savings resulting from the project.

4. If a local government fails to remit a semiannual payment to the

department in accordance with this section within sixty days of the due date of such payment, the department of natural resources shall notify the director of the department of revenue to deduct such payment amount from the next regular apportionment of local sales tax distributions to that jurisdiction. Such amount shall then immediately be deposited in the fund.

5. All local governments having received loans pursuant to sections 640.170 to 640.185 shall remit the semiannual payments required by subsection 1 of this section to the department. The department shall immediately deposit such payments in the local government energy conservation loan fund.**]**

EXPLANATION: This section expired July 1, 1996.

[640.179. 1. A local government receiving a loan under the provisions of sections 640.170 to 640.185 shall establish on its books an energy conservation loan account which it shall maintain until such time as the loan obligation has been repaid. Information sufficient to indicate the receipt and expenditure of all funds authorized and allowed under the terms of the loan shall be entered in this account.

2. The local government shall maintain all internal records directly related to the loan and the project in such a way as to provide for proper auditing of the project.**]**

EXPLANATION: This section expired July 1, 1996.

[640.180. 1. The state treasurer shall establish, maintain, and administer a special trust fund to be administered by the department and to be known as the "Local Government Energy Conservation Loan Fund", which is hereby established. When appropriated by the general assembly, moneys from the fund shall be used to provide local governments with loans for the purpose of implementing energy conservation projects under the provisions of sections 640.170 to 640.185.

2. It is the intent of sections 640.170 to 640.185 to use oil overcharge moneys as the primary funding source for its implementation. Upon appropriation by the general assembly, that amount shall be deposited into the fund from the petroleum violation escrow fund. In addition, the department is authorized to receive and credit to the fund any federal funds, gifts, bequests, donations or any other moneys so designated, including general revenue appropriations. All money received pursuant to section 640.177, and all interest earned on and income generated from such moneys shall immediately be paid to and deposited in the local government energy conservation loan fund.

3. The full balance, or any portion thereof, of the fund shall be available to be issued and reissued for loans as authorized by sections 640.170 to 640.185. Following appropriation by the general assembly, the department may expend interest earned on the local government energy conservation loan fund, for the administration of the local government loan program contained in sections 640.170 to 640.185.

4. The commissioner of administration shall disburse such moneys at such times from the fund as are authorized by the department pursuant to section 640.172.

5. Except as otherwise provided in sections 640.170 to 640.185, the provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to the general revenue fund of the state shall not apply to funds in the local government energy conservation loan fund.**]**

EXPLANATION: This section expired July 1, 1996.

[640.182. 1. A loan made pursuant to sections 640.170 to 640.185 shall be used only for the purposes specified in an approved application. In the event the department determines that a loan has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the loan. If a local government fails to remit repayment to the department within sixty days of notification, collection shall be made through the provisions outlined in subsection 4 of section 640.177.

2. The department may, at its discretion, audit the expenditure of any loan made pursuant to sections 640.170 to 640.185 or the computation of any payment made pursuant to section 640.177.

3. The department shall promulgate such rules and regulations as are necessary for the administration of sections 640.170 to 640.185. No rule or portion of a rule promulgated under the authority of sections 640.170 to 640.185 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.**]**

EXPLANATION: This section expired July 1, 1996.

[640.185. 1. All moneys from sources other than state appropriations which are specified to be used for purposes identified under the provisions of sections 640.170 to 640.185 shall be handled in the same manner as moneys received through state appropriations unless otherwise required in agreements or regulations with the sources from which such moneys are obtained. The director of the department of natural resources shall certify that the use of all such moneys and any required agreements or regulations are consistent with sections 640.170 to 640.185, and all other state and federal laws governing such moneys, agreements and regulations.

2. Loan-making authority under sections 640.170 to 640.185 shall cease as of January 1, 1998.

3. All moneys remaining in the fund plus accrued interest and the proceeds from repayments of outstanding loans shall be disbursed in a manner consistent with the rules, regulations, statutes or federal court orders governing the original source of the moneys.

4. All authorizations under sections 640.170 to 640.185 shall expire on January 1, 2006.**]**

EXPLANATION: This section expired July 1, 1996.

[640.195. 1. It is the intention of the general assembly that sections 640.195 to 640.218 are to be implemented so that loan funds are provided to small businesses in order for such small businesses to implement energy conservation projects and reduce their overall energy costs and consumption.

2. As used in sections 640.195 to 640.218, the following terms mean:

(1) "Applications cycle", the period of time each year, as determined by the department, that the department shall accept and receive applications seeking loans under the provisions of sections 640.195 to 640.218;

(2) "Authority", the environmental improvement and energy resources authority;

(3) "Building", any occupied structure that is owned and operated by an applicant business and which includes a heating or cooling system, or both;

(4) "Department", the department of natural resources;

(5) "Energy conservation project" or "project", the design, acquisition and installation of one or more energy conserving devices, measures or modifications to a building or facility to reduce energy consumption, to increase energy efficiency or to allow for the use of alternative energy resources;

(6) "Energy cost savings" or "savings", the value in terms of dollars that has or shall accrue from energy savings due to implementation of an energy conservation project;

(7) "Estimated simple payback", the estimated cost of a project divided by the estimated energy cost savings;

(8) "Facility", any major energy-using system owned and operated by an applicant business, whether or not housed in a building;

(9) "Fund", the industrial/commercial energy conservation loan fund established in section 640.207;

(10) "Loan agreement", a document signed and agreed to by authorized officials or principals in the applicant business and the department that details all terms and requirements under which the loan was issued and describes the terms under which the loan repayment shall be made;

(11) "Payback score", a numeric value derived from the review of an application, calculated as prescribed by the department, which is used solely for purposes of ranking applications for the selection of loan recipients within the balance of loan funds available;

(12) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project;

(13) "Repayment period", unless otherwise renegotiated as required under section 640.203, the period in years required to repay a loan as determined by the project's estimated simple payback and rounded to the next year in cases where the estimated simple payback is in a fraction of a year;

(14) "Technical assistance report", a specialized engineering report that

identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one or more energy conservation measures;

(15) "Unobligated balance", that amount in the fund that has not been dedicated to energy conservation projects at the end of each state fiscal year.**]**

EXPLANATION: This section expired July 1, 1996.

[640.200. 1. An application for loan funds may be submitted to the department for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project in a facility owned and operated by the applicant. The application shall be accompanied by a technical assistance report. If the applicant pays more than ten percent of the loan for the technical assistance report, the loan shall be denied. The application and the technical assistance report shall be in such form and contain such information as prescribed by the department.

2. All applications shall be assigned a payback score derived from the application review performed by the department. Applications shall be selected for loans beginning with the lowest payback score until all available loan funds have been obligated within any given application cycle. In no case shall a loan be made to finance an energy project with a payback score of less than six months or more than five years. Applications may be approved for loans only in those instances where the applicant has furnished the department information satisfactory to assure that the project cost will be recovered through energy cost savings during the repayment period of the loan.

3. All applications for loans or permits shall be approved or disapproved within ninety days or stand approved as submitted.

4. The department shall not issue a loan for more than one hundred fifty thousand dollars for any one energy conservation project.**]**

EXPLANATION: This section expired July 1, 1996.

[640.203. 1. Each applicant to which a loan has been made under sections 640.195 to 640.218 shall repay such loan with interest in semiannual payments. The rate of interest shall be the rate required by the funding source. The amount and timing of the semiannual payments shall be as determined by the department.

2. In the event that energy cost savings resulting from the project fail to equal or exceed the amount of the semiannual payment, the applicant and the department shall renegotiate the repayment period in such a manner as to assure that the semiannual payment amount does not exceed the actual energy cost savings resulting from the project.

3. All businesses which have received loans pursuant to sections 640.195 to 640.218 shall remit the semiannual payments required by subsection 1 of this section to the department. The department shall immediately deposit such payments in the

industrial/commercial energy conservation loan fund.**]**

EXPLANATION: This section expired July 1, 1996.

[640.205. 1. A business receiving a loan under the provisions of sections 640.195 to 640.218 shall establish on its books an energy conservation loan account which the business shall maintain until such time as the loan obligation has been repaid. Information sufficient to indicate the receipt and expenditure of all funds authorized and allowed under the terms of the loan shall be entered in this account.

2. The business shall maintain all internal records directly related to the loan and the project in such a way as to provide for proper auditing of the project.**]**

EXPLANATION: This section expired July 1, 1996.

[640.207. 1. The state treasurer shall establish and maintain a special trust fund to be administered by the department and to be known as the "Industrial/Commercial Energy Conservation Loan Fund", from which Missouri industrial and commercial businesses may seek and obtain loans for the purpose of implementing energy conservation projects under the provisions of sections 640.195 to 640.218.

2. All moneys duly authorized and appropriated by the general assembly, all moneys received from federal funds, gifts, bequests, donations or any other moneys so designated, all moneys received pursuant to section 640.203, and all interest earned on and income generated from moneys in the fund shall immediately be paid to and deposited in the industrial/commercial energy conservation loan fund.

3. Moneys in the fund including moneys from repayments of loans by business recipients, as specified in section 640.203, shall be available to be reissued for loans as authorized in sections 640.195 to 640.218. After appropriation by the general assembly, the department may expend the interest earned on the industrial/commercial energy conservation loan fund for the administration of sections 640.195 to 640.218.

4. The commissioner of administration shall disburse such moneys from the fund at such times as are authorized by the department.

5. Except as otherwise provided in sections 640.195 to 640.218, the provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to the ordinary revenue funds of the state shall not apply to funds in the industrial/commercial energy conservation loan fund.**]**

EXPLANATION: This section expired July 1, 1996.

[640.210. 1. A loan made pursuant to sections 640.195 to 640.218 shall be used only for the purposes specified in an approved application. In the event the department determines that a loan has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the loan. If an applicant fails to remit repayment to the department within sixty days of notification, the director of the department shall request the attorney general to file suit in a court of competent jurisdiction to recover repayment plus interest accrued from the date of the department's initial request for repayment.

2. The department may, at its discretion, audit the expenditure of any loan made pursuant to sections 640.195 to 640.218 or the computation of any payment made pursuant to section 640.203.**]**

EXPLANATION: This section expired July 1, 1996.

[640.212. Under the provisions of sections 640.195 to 640.218, the department shall establish such procedures, policies and qualifications as may be necessary for the administration of sections 640.195 to 640.218.**]**

EXPLANATION: This section expired July 1, 1996.

[640.215. 1. All moneys from sources other than state appropriations which are specified to be used for purposes identified under the provisions of sections 640.195 to 640.218 shall be handled in the same manner as moneys received through state appropriations unless otherwise required in agreements or regulations with the sources from which such moneys are obtained. The department director shall certify that the use of all such moneys and any required agreements or regulations are consistent with the intent of sections 640.195 to 640.218 and all other state and federal laws governing such moneys, agreements and regulations.

2. The division of energy of the department of natural resources shall annually report to the appropriate standing committees of jurisdiction within the general assembly regarding the effectiveness of the industrial/commercial energy conservation loan program, the total number of participants and dollars committed, energy savings realized, and projected future participation.**]**

EXPLANATION: This section expired July 1, 1996.

[640.218. 1. The department may act jointly with the authority to make loans to Missouri industrial and commercial businesses out of the proceeds of revenue bonds issued by the authority, which loans shall be for energy conservation and improvements, energy efficiency and alternative energy resources.

2. Revenue bonds issued by the authority, the proceeds of which are to be lent pursuant to this section, shall be issued and administered in accordance with the terms and conditions established in sections 260.005 to 260.125, RSMo, after approval by the general assembly.**]**

EXPLANATION: This section expired July 1, 1996.