

FIRST REGULAR SESSION

SENATE BILL NO. 699

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time March 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2579S.011

AN ACT

To repeal sections 30.750, 30.753, 30.756, 30.758, 30.760, and 30.765, RSMo, and to enact in lieu thereof six new sections relating to linked deposit loans for alternative energy sources, with penalty provisions.

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Section A. Sections 30.750, 30.753, 30.756, 30.758, 30.760, and 30.765, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 30.750, 30.753, 30.756, 30.758, 30.760, and 30.765, to read as follows: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 operation**", a business enterprise operating in the state engaged in the production of energy sources other than fossil fuels, including but not limited to solar, hydroelectric, and wind;

(3) "Eligible beginning farmer",

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

a. Is a Missouri resident;

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

c. Is at least eighteen years old; and

d. In the preceding five years has not owned, either directly or indirectly, farm land greater than fifty percent of the average size farm in the county where the proposed farm operation is located or farm land with an appraised value greater than four hundred fifty thousand dollars.

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

18 A farmer who qualifies as an eligible farmer under this provision may utilize the
19 proceeds of a linked deposit loan to purchase agricultural land, farm buildings,
20 new and used farm equipment, livestock and working capital;

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

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

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

29 [(3)] (4) "Eligible facility borrower", a borrower qualified under section
30 30.860 to apply for a reduced-rate loan under sections 30.750 to 30.767;

31 [(4)] (5) "Eligible farming operation", any person engaged in farming in
32 an authorized farm corporation, family farm, or family farm corporation as
33 defined in section 350.010, RSMo, that has all of the following characteristics:

34 (a) Is headquartered in this state;

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

37 (c) Employs less than ten employees;

38 (d) Is organized for profit;

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

45 [(5)] (6) "Eligible higher education institution", any approved public or
46 private institution as defined in section 173.205, RSMo;

47 [(6)] (7) "Eligible job enhancement business", a new, existing, or
48 expanding firm operating in Missouri, or as a condition of accepting the linked
49 deposit, will locate a facility or office in Missouri associated with said linked
50 deposit, which employs ten or more employees in Missouri on a yearly average
51 and which, as nearly as possible, is able to establish or retain at least one job in
52 Missouri for each fifty thousand dollars received from a linked deposit loan;

53 [(7)] (8) "Eligible lending institution", a financial institution that is

54 eligible to make commercial or agricultural or student loans or discount or
55 purchase such loans, is a public depository of state funds or obtains its funds
56 through the issuance of obligations, either directly or through a related entity,
57 eligible for the placement of state funds under the provisions of section 15, article
58 IV, Constitution of Missouri, and agrees to participate in the linked deposit
59 program;

60 [(8)] (9) "Eligible livestock operation", any person engaged in production
61 of livestock or poultry in an authorized farm corporation, family farm, or family
62 farm corporation as defined in section 350.010, RSMo;

63 [(9)] (10) "Eligible marketing enterprise", a business enterprise operating
64 in this state which is in the process of marketing its goods, products or services
65 within or outside of this state or overseas, which marketing is designed to
66 increase manufacturing, transportation, mining, communications, or other
67 enterprises in this state, which has proposed its marketing plan and strategy to
68 the department of economic development and which plan and strategy has been
69 approved by the department for purposes of eligibility pursuant to sections 30.750
70 to 30.767. Such business enterprise shall conform to the characteristics of
71 paragraphs (a), (b) and (d) of subdivision (4) of this section and also employ less
72 than twenty-five employees;

73 [(10)] (11) "Eligible multitenant development enterprise", a new
74 enterprise that develops multitenant space for targeted industries as determined
75 by the department of economic development and approved by the department for
76 the purposes of eligibility pursuant to sections 30.750 to 30.767;

77 [(11)] (12) "Eligible residential property developer", an individual who
78 purchases and develops a residential structure of either two or four units, if such
79 residential property developer uses and agrees to continue to use, for at least the
80 five years immediately following the date of issuance of the linked deposit loan,
81 one of the units as his principal residence or if such person's principal residence
82 is located within one-half mile from the developed structure and such person
83 agrees to maintain the principal residence within one-half mile of the developed
84 structure for at least the five years immediately following the date of issuance of
85 the linked deposit loan;

86 [(12)] (13) "Eligible residential property owner", a person, firm or
87 corporation who purchases, develops or rehabilitates a multifamily residential
88 structure;

89 [(13)] (14) "Eligible small business", a person engaged in an activity with

90 the purpose of obtaining, directly or indirectly, a gain, benefit or advantage and
91 which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision
92 (4) of this section, and also employs less than twenty-five employees;

93 [(14)] **(15)** "Eligible student borrower", any person attending, or the
94 parent of a dependent undergraduate attending, an eligible higher education
95 institution in Missouri who may or may not qualify for need-based student
96 financial aid calculated by the federal analysis called Congressional Methodology
97 Formula pursuant to 20 U.S.C. 1078, as amended (the Higher Education
98 Amendments of 1986);

99 [(15)] **(16)** "Eligible water supply system", a water system which serves
100 fewer than fifty thousand persons and which is owned and operated by:

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

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

104 (c) A water corporation;

105 and which is certified by the department of natural resources in accordance with
106 its rules and regulations to have suffered a significant decrease in its capacity to
107 meet its service needs as a result of drought;

108 [(16)] **(17)** "Farming", using or cultivating land for the production of
109 agricultural crops, livestock or livestock products, forest products, poultry or
110 poultry products, milk or dairy products, or fruit or other horticultural products;

111 [(17)] **(18)** "Linked deposit", a certificate of deposit, or in the case of
112 production credit associations, the subscription or purchase outright of obligations
113 described in section 15, article IV, Constitution of Missouri, placed by the state
114 treasurer with an eligible lending institution at rates otherwise provided by law
115 in section 30.758, provided the institution agrees to lend the value of such
116 deposit, according to the deposit agreement provided in sections 30.750 to 30.767,
117 to eligible small businesses, **eligible alternative energy operations**, farming
118 operations, eligible job enhancement businesses, eligible marketing enterprises,
119 eligible residential property developers, eligible residential property owners,
120 eligible agribusinesses, eligible beginning farmers, eligible livestock operations,
121 eligible student borrowers, eligible facility borrowers, or eligible water supply
122 systems at below the present borrowing rate applicable to each small business,
123 farming operation, eligible job enhancement business, eligible marketing
124 enterprise, eligible residential property developer, eligible residential property
125 owner, eligible agribusiness, eligible beginning farmer, eligible livestock

126 operation, eligible student borrower, or supply system at the time of the deposit
127 of state funds in the institution;

128 [(18)] (19) "Market rate", the interest rate tied to federal government
129 securities and more specifically described in subsection 4 of section 30.260;

130 [(19)] (20) "Water corporation", as such term is defined in section
131 386.020, RSMo;

132 [(20)] (21) "Water system", as such term is defined in section 386.020,
133 RSMo.

30.753. 1. The state treasurer may invest in linked deposits; however, the
2 total amount so deposited at any one time shall not exceed, in the aggregate,
3 seven hundred twenty million dollars. No more than three hundred thirty million
4 dollars of the aggregate deposit shall be used for linked deposits to eligible
5 farming operations, **eligible alternative energy operations**, eligible
6 agribusinesses, eligible beginning farmers, eligible livestock operations, and
7 eligible facility borrowers, no more than one hundred ten million of the aggregate
8 deposit shall be used for linked deposits to small businesses, no more than twenty
9 million dollars shall be used for linked deposits to eligible multitenant
10 development enterprises, and no more than twenty million dollars of the
11 aggregate deposit shall be used for linked deposits to eligible residential property
12 developers and eligible residential property owners, no more than two hundred
13 twenty million dollars of the aggregate deposit shall be used for linked deposits
14 to eligible job enhancement businesses and no more than twenty million dollars
15 of the aggregate deposit shall be used for linked deposit loans to eligible water
16 systems. Linked deposit loans may be made to eligible student borrowers from
17 the aggregate deposit. If demand for a particular type of linked deposit exceeds
18 the initial allocation, and funds initially allocated to another type are available
19 and not in demand, the state treasurer may commingle allocations among the
20 types of linked deposits.

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

30.756. 1. An eligible lending institution that desires to receive a linked

2 deposit shall accept and review applications for linked deposit loans from eligible
3 multitenant enterprises, eligible farming operations, **eligible alternative**
4 **energy operations**, eligible small businesses, eligible job enhancement
5 businesses, eligible marketing enterprises, eligible agribusinesses, eligible
6 beginning farmers, eligible livestock operations, eligible residential property
7 developers, eligible residential property owners, eligible student borrowers,
8 eligible facility borrowers, and eligible water supply systems. An eligible
9 residential property owner shall certify on his or her loan application that the
10 reduced rate loan will be used exclusively to purchase, develop or rehabilitate a
11 multifamily residential property. The lending institution shall apply all usual
12 lending standards to determine the credit worthiness of each eligible multitenant
13 enterprise, eligible farming operation, **eligible alternative energy operation**,
14 eligible small business, eligible job enhancement business, eligible marketing
15 enterprise, eligible residential property developer, eligible residential property
16 owner, eligible agribusiness, eligible beginning farmer, eligible livestock
17 operation, eligible student borrower, eligible facility borrower, or eligible water
18 supply system. No linked deposit loan made to any eligible farming operation,
19 **eligible alternative energy operation**, eligible livestock operation, eligible
20 agribusiness or eligible small business shall exceed a dollar limit determined by
21 the state treasurer in the state treasurer's best judgment, except as otherwise
22 limited. Any link deposit loan made to an eligible facility borrower shall be in
23 accordance with the loan amount and loan term requirements in section 30.860.

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

36 3. In considering which eligible farming operations should receive reduced
37 rate loans, the eligible lending institution shall give priority to those farming

38 operations which have suffered reduced yields due to drought or other natural
39 disasters and for which the receipt of a reduced rate loan will make a significant
40 contribution to the continued operation of the recipient farming operation.

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

56 5. The eligible lending institution shall be responsible for determining if
57 a student borrower is an eligible student borrower. A student borrower shall be
58 eligible for an initial or renewal reduced rate loan only if, at the time of the
59 application for the loan, the student is a citizen or permanent resident of the
60 United States, a resident of the state of Missouri as defined by the coordinating
61 board for higher education, is enrolled or has been accepted for enrollment in an
62 eligible higher education institution, and establishes that the student has
63 financial need. In considering which eligible student borrowers may receive
64 reduced rate loans, the eligible lending institution may give priority to those
65 eligible student borrowers whose income, or whose family income, if the eligible
66 student borrower is a dependent, is such that the eligible student borrower does
67 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
69 institution shall require the eligible student borrower to document that the
70 student has applied for and has obtained all need-based student financial aid for
71 which the student is eligible prior to application for a reduced rate loan pursuant
72 to this section. In no case shall the combination of all financial aid awarded to
73 any student in any particular enrollment period exceed the total cost of

74 attendance at the institution in which the student is enrolled. No eligible lending
75 institution shall charge any additional fees, including but not limited to an
76 origination, service or insurance fee on any loan agreement under the provisions
77 of sections 30.750 to 30.765.

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

91 7. Beginning August 28, 2005, in considering which eligible multitenant
92 enterprise, eligible farming operation, **eligible alternative energy operation**,
93 eligible small business, eligible job enhancement business, eligible marketing
94 enterprise, eligible residential property developer, eligible residential property
95 owner, eligible agribusiness, eligible beginning farmer, eligible livestock
96 operation, eligible student borrower, eligible facility borrower, or eligible water
97 supply system should receive reduced-rate loans, the eligible lending institution
98 shall give priority to an eligible multitenant enterprise, eligible farming
99 operation, **eligible alternative energy operation**, eligible small business,
100 eligible job enhancement business, eligible marketing enterprise, eligible
101 residential property developer, eligible residential property owner, eligible
102 agribusiness, eligible beginning farmer, eligible livestock operation, eligible
103 student borrower, eligible facility borrower, or eligible water supply system that
104 has not previously received a reduced-rate loan through the linked deposit
105 program. However, nothing shall prohibit an eligible lending institution from
106 making a reduced-rate loan to any entity that previously has received such a
107 loan, if such entity otherwise qualifies for such a reduced-rate loan.

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

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

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

23 4. The eligible lending institution shall enter into a deposit agreement
24 with the state treasurer, which shall include requirements necessary to carry out
25 the purposes of sections 30.750 to 30.767. The deposit agreement shall specify
26 the length of time for which the lending institution will lend funds upon receiving
27 a linked deposit, and the original deposit plus renewals shall not exceed five
28 years, except as otherwise provided in this chapter. The agreement shall also
29 include provisions for the linked deposit of a linked deposit for an eligible facility
30 borrower, eligible multitenant enterprise, eligible farming operation, **eligible**
31 **alternative energy operation**, small business, eligible marketing enterprise,
32 eligible residential property developer, eligible residential property owner, eligible
33 agribusiness, eligible beginning farmer, eligible livestock operation, eligible
34 student borrower or job enhancement business. Interest shall be paid at the
35 times determined by the state treasurer.

36 5. The period of time for which such linked deposit is placed with an
37 eligible lending institution shall be neither longer nor shorter than the period of
38 time for which the linked deposit is used to provide loans at reduced interest

39 rates. The agreement shall further provide that the state shall receive market
40 interest rates on any linked deposit or any portion thereof for any period of time
41 for which there is no corresponding linked deposit loan outstanding to an eligible
42 multitenant enterprise, eligible farming operation, **eligible alternative energy**
43 **operation**, eligible small business, eligible job enhancement business, eligible
44 marketing enterprise, eligible residential property developer, eligible residential
45 property owner, eligible agribusiness, eligible beginning farmer, eligible livestock
46 operation, eligible student borrower, eligible facility borrower, or eligible water
47 supply system, except as otherwise provided in this subsection. Within thirty
48 days after the annual anniversary date of the linked deposit, the eligible lending
49 institution shall repay the state treasurer any linked deposit principal received
50 from borrowers in the previous yearly period and thereafter repay such principal
51 within thirty days of the yearly anniversary date calculated separately for each
52 linked deposit loan, and repaid at the linked deposit rate. Such principal
53 payment shall be accelerated when more than thirty percent of the linked deposit
54 loan is repaid within a single monthly period. Any principal received and not
55 repaid, up to the point of the thirty percent or more payment, shall be repaid
56 within thirty days of that payment at the linked deposit rate. Finally, when the
57 linked deposit is tied to a revolving line of credit agreement between the banking
58 institution and its borrower, the full amount of the line of credit shall be excluded
59 from the repayment provisions of this subsection.

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

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

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

 30.765. The state and the state treasurer are not liable to any eligible
2 lending institution in any manner for payment of the principal or interest on the
3 loan to an eligible multitenant enterprise, eligible farm operation, **eligible**
4 **alternative energy operation**, eligible small business, eligible job
5 enhancement business, eligible marketing enterprise, eligible residential property
6 developer, eligible residential property owner, eligible agribusiness, eligible

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

Unofficial ✓

Bill

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