

SECOND REGULAR SESSION

SENATE BILL NO. 1117

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SMITH.

Read 1st time February 11, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

3110S.06I

AN ACT

To repeal sections 8.800, 8.810, 8.812, 8.815, 8.837, 64.170, 67.280, and 143.121, RSMo, and to enact in lieu thereof eighteen new sections relating to environmentally sustainable buildings.

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

Section A. Sections 8.800, 8.810, 8.812, 8.815, 8.837, 64.170, 67.280, and
2 143.121, RSMo, are repealed and eighteen new sections enacted in lieu thereof,
3 to be known as sections 8.295, 8.305, 8.309, 8.800, 8.810, 8.812, 8.815, 8.837,
4 8.852, 64.170, 67.280, 135.032, 143.121, 144.526, 161.360, 386.850, 640.153, and
5 640.157, to read as follows:

**8.295. Up to ten percent of the amount appropriated each year
2 from the Facilities Maintenance Reserve Fund created in Article IV,
3 Section 27(b) of the Missouri Constitution shall be expended on
4 maintenance, repair, or renovation projects that are otherwise
5 allowable under the constitution but that are also considered energy
6 projects with a two year payback or less.**

**8.305. Any appliance purchased with state monies or a portion
2 of state monies shall be an appliance that has earned the Energy Star
3 under the Energy Star program co-sponsored by the United States
4 Department of Energy and the Environmental Protection Agency. For
5 purposes of this section, the term "appliance" shall have the same
6 meaning as in section 144.526, RSMo.**

**8.309. 1. The division of facilities management, design and
2 construction shall ensure that regular maintenance is conducted on all
3 lighting, heating, ventilation, and air conditioning systems used within**

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

4 any state building. Such maintenance shall include, but not be limited
5 to, lubricating, balancing, aligning, vacuuming, cleaning, and checking
6 seals to ensure the optimum operation and energy efficiency of any
7 such system.

8 2. The office of administration shall have the authority to
9 promulgate rules necessary to administer this section. Any rule or
10 portion of a rule, as that term is defined in section 536.010, RSMo, that
11 is created under the authority delegated in this section shall become
12 effective only if it complies with and is subject to all of the provisions
13 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
14 section and chapter 536, RSMo, are nonseverable and if any of the
15 powers vested with the general assembly pursuant to chapter 536,
16 RSMo, to review, to delay the effective date, or to disapprove and annul
17 a rule are subsequently held unconstitutional, then the grant of
18 rulemaking authority and any rule proposed or adopted after August
19 28, 2008, shall be invalid and void.

8.800. As used in sections 8.800 to 8.825, the following terms mean:

- 2 (1) "Builder", the prime contractor that hires and coordinates building
3 subcontractors or if there is no prime contractor, the contractor that completes
4 more than fifty percent of the total construction work performed on the
5 building. Construction work includes, but is not limited to, foundation, framing,
6 wiring, plumbing and finishing work;
- 7 (2) "Department", the department of natural resources;
- 8 (3) "Designer", the architect, engineer, landscape architect, builder,
9 interior designer or other person who performs the actual design work or is under
10 the direct supervision and responsibility of the person who performs the actual
11 design work;
- 12 (4) "District heating and cooling systems", heat pump systems which use
13 waste heat from factories, sewage treatment plants, municipal solid waste
14 incineration, lighting and other heat sources in office buildings or which use
15 ambient thermal energy from sources including temperature differences in rivers
16 to provide regional heating or cooling;
- 17 (5) "Division", the division of design and construction;
- 18 (6) "Energy efficiency", the increased productivity or effectiveness of
19 energy resources use, the reduction of energy consumption, or the use of
20 renewable energy sources;

21 (7) "Gray water", all domestic wastewater from a state building except
22 wastewater from urinals, toilets, laboratory sinks, and garbage disposals;

23 (8) "Life cycle costs", the costs associated with the initial construction or
24 renovation and the proposed energy consumption, operation and maintenance
25 costs over the useful life of a state building or over the first twenty-five years
26 after the construction or renovation is completed;

27 (9) "Public building", a building owned or operated by a governmental
28 subdivision of the state, including, but not limited to, a city, county or school
29 district;

30 (10) "Renewable energy source", a source of thermal, mechanical or
31 electrical energy produced from solar, wind, low-head hydropower, biomass,
32 hydrogen or geothermal sources, but not from the incineration of hazardous
33 waste, municipal solid waste or sludge from sewage treatment facilities;

34 (11) "State agency", a department, commission, authority, office, college
35 or university of this state;

36 (12) "State building", a building owned by this state or an agency of this
37 state;

38 **(13) "Substantial renovation" or "substantially renovated",**
39 **modifications that will affect at least fifty percent of the square footage**
40 **of the building or modifications that will cost at least fifty percent of**
41 **the building's fair market value.**

8.810. 1. In addition to all other requirements imposed by law, the
2 director of the division shall require, for construction of a state building or
3 substantial renovation of an existing state building when major energy systems
4 are involved, that a design professional submit an analysis which meets the
5 design program's space and use requirements and reflects the lowest life cycle
6 cost possible in light of existing commercially available technology. The analysis,
7 using existing commercially available technology, shall include, but shall not be
8 limited to, designs which use renewable energy sources, earth-sheltered
9 construction, systems to recover and use waste heat, thermal storage heat pump
10 systems, ambient thermal energy, district heating and cooling systems, devices
11 to reduce water consumption, and plumbing systems to recover gray water for
12 appropriate reuse.

13 2. The director of the division shall not let a contract after January 1,
14 1996, for construction of a state building or substantial renovation of an existing
15 state building when major energy systems are involved before completing an

16 evaluation of the design documents and construction documents based upon life
17 cycle cost factors and the minimum energy efficiency standard established in
18 subsection 1 of section 8.812.

19 **3. Any design documents submitted to the division under this**
20 **section shall, in addition to any other requirements under law, include**
21 **a projection of the energy savings that will result from the design**
22 **features that are employed in order to comply with the minimum**
23 **energy efficiency standard established in subsection 1 of section 8.812.**

8.812. 1. By January 1, [1995] **2009**, the department[, in consultation
2 with the division and the voluntary working group created in subsection 1 of
3 section 8.815,] shall establish, by rule, a minimum energy efficiency standard for
4 construction of a state building, substantial renovation of a state building when
5 major energy systems are involved or a building which the state or state agency
6 considers for acquisition or lease. Such standard shall be at least as stringent as
7 the [American Society of Heating, Refrigerating and Air Conditioning Engineers
8 (ASHRAE) Standard 90] **International Energy Conservation Code 2006**,
9 latest revision.

10 2. All design which is initiated on or after July 1, [1995] **2009**, for
11 construction of a state building or substantial renovation of a state building when
12 major energy systems are involved or any building which the state or state agency
13 considers for acquisition or lease after July 1, [1995] **2009**, shall meet applicable
14 provisions of the minimum energy efficiency standard.

15 **3. The commissioner of the office of administration may exempt**
16 **any building from the requirements of subsection 2 of this section:**

17 **(1) When compliance with the minimum energy efficiency**
18 **standard may compromise the safety of the building or any of its**
19 **occupants; or**

20 **(2) When the cost of compliance is expected to exceed the**
21 **projected energy cost savings gained.**

8.815. The department and the division shall establish a voluntary
2 working group of persons and interest groups with expertise in energy efficiency,
3 including, but not limited to, such persons as electrical engineers, mechanical
4 engineers, builders, architects, landscape architects, **interior designers**,
5 nonprofit organizations, **persons affiliated with gas or electric utilities**, and
6 persons with expertise in solar and renewable energy forms. The voluntary
7 working group shall advise the department on the development of the energy

8 efficiency standard and shall assist the department in implementation of the
9 standard by recommending, reviewing and coordinating education programs for
10 designers, builders, businesses and other interested persons to facilitate
11 incorporation of the standard into existing practices.

8.837. 1. By ~~[July 1, 1994]~~ **January 1, 2009**, the department shall
2 establish, by rule, a minimum energy efficiency standard for new and
3 substantially renovated state buildings which shall be at least as stringent as the
4 ~~[American Society of Heating, Refrigerating and Air Conditioning Engineers~~
5 ~~(ASHRAE) Standard 90.01-1989, as revised, and shall be at least as stringent as~~
6 any statewide energy efficiency standard required pursuant to the Energy Policy
7 Act of 1992 (Public Law 102-486)] **International Energy Conservation Code**
8 **2006, latest revision.**

9 2. All new or substantially renovated state buildings for which design of
10 such construction or renovation is initiated on or after July 1, ~~[1994]~~ **2009**, shall
11 meet applicable provisions of the minimum energy efficiency standard.

8.852. On or after July 1, 2016, at least ten percent of
2 **the electricity used by a state building shall come from a renewable**
3 **energy source or sources. On and after July 1, 2026, at least twenty**
4 **percent of the electricity used by a state building shall come from a**
5 **renewable energy source or sources.**

64.170. 1. For the purpose of promoting the public safety, health and
2 general welfare, to protect life and property and to prevent the construction of fire
3 hazardous buildings, the county commission in all counties of the first [and],
4 second, **and third** classification, as provided by law, is for this purpose
5 empowered, subject to the provisions of subsections 3 and 4 of this section, to
6 adopt by order or ordinance regulations to control the construction,
7 reconstruction, alteration or repair of any building or structure and any electrical
8 wiring or electrical installation, plumbing or drain laying therein, and provide for
9 the issuance of building permits and adopt regulations licensing persons, firms
10 or corporations other than federal, state or local governments, public utilities and
11 their contractors engaged in the business of electrical wiring or installations and
12 provide for the inspection thereof and establish a schedule of permit, license and
13 inspection fees and appoint a building commission to prepare the regulations, as
14 herein provided.

15 2. For the purpose of promoting the public safety, health and general
16 welfare, to protect life and property, the county commission in a county of the

17 first classification having a population of more than one hundred sixty thousand
 18 but less than two hundred thousand, as provided by law, is for this purpose
 19 empowered to adopt by order or ordinance regulations to control the construction,
 20 reconstruction, alteration or repair of any building or structure, and provide for
 21 the issuance of building permits and adopt regulations licensing contractors,
 22 firms or corporations other than federal, state or local governments, public
 23 utilities and their contractors engaged in the business of plumbing or drain laying
 24 and provide for the inspection thereof and establish a schedule of permit, license
 25 and inspection fee and appoint a building commission to prepare the regulations,
 26 as herein provided.

27 3. Any county which has not adopted a building code prior to August 28,
 28 2001, pursuant to sections 64.170 to 64.200, shall not have the authority to adopt
 29 a building code pursuant to such sections unless the authority is approved by
 30 voters, subject to the provisions of subsection 4 of this section.

31 The ballot of submission for authority pursuant to this subsection shall be in
 32 substantially the following form:

33 "Shall (insert name of county) have authority to create, adopt
 34 and impose a county building code?"

35 Yes No

36 4. The proposal of the authority to adopt a building code shall be voted on
 37 only by voters in the area affected by the proposed code, such that a code
 38 affecting a county shall not be voted upon by citizens of any incorporated
 39 territory.

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

- 2 (1) "Community", any county, fire protection district or municipality;
- 3 (2) "County", any county in the state;
- 4 (3) "Fire protection district", any fire protection district in the state;
- 5 (4) "Municipality", any incorporated city, town or village;
- 6 (5) "Technical code", any published compilation of rules prepared by
 7 various technical trade associations, federal agencies, this state or any agency
 8 thereof, but shall be limited to: regulations concerning the construction of
 9 buildings and continued occupancy thereof; mechanical, plumbing and electrical
 10 construction; **energy efficiency**; and fire prevention.

11 2. Any community, if the community otherwise has the power under the
 12 law to adopt such an ordinance, may adopt or repeal an ordinance which
 13 incorporates by reference the provisions of any code or portions of any code, or

14 any amendment thereof, property identified as to date and source, without setting
15 forth the provisions of such code in full. At least three copies of such code,
16 portion or amendment which is incorporated or adopted by reference, shall be
17 filed in the office of the clerk of the community and there kept available for public
18 use, inspection, and examination. The filing requirements herein prescribed shall
19 not be deemed to be complied with unless the required copies of such codes,
20 portion, or amendment or public record are filed with the clerk of such community
21 for a period of ninety days prior to the adoption of the ordinance which
22 incorporates such code, portion, or amendment by reference.

23 3. Any ordinance adopting a code, portion, or amendment by reference
24 shall state the penalty for violating such code, portion, or amendment, or any
25 provisions thereof separately, and no part of any such penalty shall be
26 incorporated by reference.

27 4. Any energy efficiency code adopted under this section by a
28 county or municipality shall be at least as stringent as the
29 International Energy Conservation Code 2006, latest revision.

135.032. 1. This section shall be known and may be cited as the
2 "Green Building Tax Credit".

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

4 (1) "Applicant", a taxpayer who is either the owner or contract
5 purchaser of a building, and is applying for a green building tax credit
6 for such building;

7 (2) "Base building", all areas of a building not intended for
8 occupancy by a tenant or owner, including, but not limited to, the
9 structural components of the building, exterior walls, floors, windows,
10 roofs, foundations, chimneys and stacks, parking areas, mechanical
11 rooms and mechanical systems, and owner-controlled and/or operated
12 service spaces, sidewalks, main lobby, shafts and vertical
13 transportation mechanisms, stairways, and corridors;

14 (3) "Commissioning", the process of verifying and ensuring that
15 the entire building and the systems within are designed, constructed,
16 functionally tested, and calibrated to operate as intended;

17 (4) "Credit allowance year", the year as stated on the preliminary
18 credit certificate by the director;

19 (5) "Department", the department of natural resources;

20 (6) "Director", the director of the department of natural

21 resources;

22 (7) "Economic development area", an economic development area
23 as defined under section 99.805, RSMo;

24 (8) "Eligible building", a building located within the state, which
25 is:

26 (a) A residential multi-family building with at least four
27 habitable stories that contain at least ten thousand square feet of
28 interior space;

29 (b) One or more residential multi-family buildings with at least
30 four habitable stories that are part of a single or phased construction
31 project that contains, in the aggregate, at least twenty thousand square
32 feet of interior space, provided that, in any single phase of such
33 project, at least ten thousand square feet of interior space is under
34 construction or rehabilitation;

35 (c) A residential, single-family, detached dwelling;

36 (d) A building used for commercial or industrial purposes; or

37 (e) Any combination of buildings described in paragraphs (a) to
38 (d) of this subdivision;

39 (9) "Energy and Atmosphere Credit Number One", the credit
40 awarded by the Leadership in Energy and Environmental Design
41 (LEED) Green Building Rating System, which requires increased energy
42 performance above the standard as defined in the most current version
43 of the LEED-NC or LEED-EB rating system;

44 (10) "Energy and Atmosphere Credit Number Three", the credit
45 awarded by the LEED Green Building Rating System, which requires
46 additional commissioning above the fundamental commissioning
47 prerequisite as defined in the most current version
48 of the LEED-NC or LEED-EB Rating system;

49 (11) "Gold rating", the rating in compliance with, or exceeding,
50 the second highest rating awarded by the USGBC LEED certification
51 process;

52 (12) "Green base building", a base building that meets all
53 requirements in the most current version of the U.S. Green Building
54 Council's Leadership in Energy and Environmental Design Rating
55 System for Core and Shell or that meets the most current requirements

56 for at least a three globes rating under Green Globes;

57 (13) "Green building" or "high-performance building", a building
58 that is designed to achieve integrated systems design and construction
59 so as to significantly reduce or eliminate the negative impact of the
60 built environment on the following:

61 (a) Site conservation and sustainable planning;

62 (b) Water conservation and efficiency;

63 (c) Energy efficiency and renewable energy;

64 (d) Conservation of materials and resources; and

65 (e) Indoor environmental quality and human health;

66 (14) "Green Globes", an environmental assessment and rating tool
67 for green buildings developed by the Green Building Initiative;

68 (15) "Green tenant space", a tenant space as defined under
69 subdivision (24) of this section that meets all requirements in the most
70 current version of the U.S. Green Building Council's Leadership in
71 Energy and Environmental Design Rating System for Commercial
72 Interiors or that meets the most current requirements for at least a
73 three globes rating under Green Globes;

74 (16) "Green whole building", a whole building that meets all
75 requirements in the most current version of the U.S. Green Building
76 Council's Leadership in Energy and Environmental Design Rating
77 System for New Building Construction and Major Renovations LEED-
78 NC, as amended from time to time, or that meets all requirements in the
79 most current version of the U.S. Green Building Council's Leadership
80 in Energy and Environmental Design Rating System for Existing
81 Buildings, or that meets the most current requirements for at least a
82 three globes rating under Green Globes:

83 (17) "LEED-CI" or "LEED Green Building Rating System Version
84 LEED-CI", the most current Leadership in Energy and Environmental
85 Design Green Building Rating System guidelines developed and the
86 United States Green Building Council for commercial interiors:

87 (18) "LEED-CS" or "LEED Green Building Rating System Version
88 LEED-CS", the most current Leadership in Energy and Environmental

89 Design Green Building Rating System guidelines developed and
90 adopted by the United States Green Building Council for the core and
91 shell of buildings otherwise known as the base building;

92 (19) "LEED-EB" or "LEED Green Building Rating System Version
93 LEED-EB", the most current Leadership in Energy and Environmental
94 Design Green Building Rating System guidelines developed and
95 adopted by the United States Green Building Council for existing
96 buildings;

97 (20) "LEED-NC" or "LEED Green Building Rating System Version
98 LEED-NC", the most current Leadership in Energy and Environmental
99 Design Green Building Rating System developed and adopted by the
100 United States Green Building Council for new buildings and major
101 renovations;

102 (21) "Platinum rating", the rating in compliance with, or
103 exceeding, the highest Rating awarded by the USGBC LEED
104 certification process;

105 (22) "Silver rating", the rating in compliance with, or exceeding,
106 the third highest rating awarded by the USGBC LEED certification
107 process;

108 (23) "State tax liability", in the case of a business taxpayer, any
109 liability incurred by such taxpayer pursuant to the provisions of
110 chapters 143, 147, 148, and 153, RSMo, excluding sections 143.191 to
111 143.265, RSMo, and related provisions, and in the case of an individual
112 taxpayer, any liability incurred by such taxpayer pursuant to the
113 provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265,
114 RSMo, and related provisions;

115 (24) "Tenant space", the portion of a building intended for
116 occupancy by a tenant or occupying owner;

117 (25) "United States Green Building Council" or "USGBC", the
118 specific council which measures and evaluates the energy and
119 environmental performance of a building according to its own
120 Leadership in Energy and Environmental Design Rating system;

121 (26) "Whole building", the entire building, as comprised of the

122 **base building and tenant space.**

123 **3. (1) The green building tax credit shall be available to an**
124 **applicant for:**

125 **(a) Either the construction of a green building or the**
126 **rehabilitation of a building, which is not a green building, into a green**
127 **building;**

128 **(b) The construction or rehabilitation of a base building which**
129 **is not a green base building, into a green base building; or**

130 **(c) The construction or rehabilitation of a tenant space which is**
131 **not green tenant space, into green tenant space.**

132 **(2) An applicant may apply for a green building tax credit**
133 **provided that the facility subject to the green building tax credit is**
134 **located within the state and the applicant will be the owner or contract**
135 **purchaser of the facility at the time of erection, construction,**
136 **installation, or acquisition of the proposed facility.**

137 **(3) If a credit is allowed to a building owner pursuant to this**
138 **section with respect to property, and such property or an interest**
139 **therein is sold, the credit for the period after the sale, which would**
140 **have been allowable under this section to the prior owner, shall be**
141 **allowable to the new owner. Credit for the year of sale shall be**
142 **allocated between the parties on the basis of the number of days during**
143 **such year that the property or interest was held by each.**

144 **(4) In the case of allowance of credit under this section to a**
145 **successor owner as provided in subdivision (3) of this subsection, the**
146 **director shall have the authority to reveal to the successor owner any**
147 **information, with respect to the credit of the prior owner, which is the**
148 **basis for the denial in whole or in part of the credit claimed by such**
149 **successor owner.**

150 **4. An applicant shall be eligible for a green building tax credit**
151 **against a state tax liability provided such applicant complies with the**
152 **requirements of subsection 5 of this section and provided that the**
153 **building meets the requirements of an eligible building as set forth in**
154 **subdivision (8) of subsection 2 of this section. The amount of credit**

155 shall be determined pursuant to subsection 7 of this section, but the
156 total amount of tax credits issued to a single applicant under this
157 section shall not exceed fifty thousand dollars per tax year.

158 (1) The credit amount shall be the sum of the following credit
159 components, whichever are applicable:

160 (a) The green whole-building credit component shall be available
161 to an applicant for either the construction of a green building or the
162 rehabilitation of a building which is not a green whole building into a
163 green whole building. The green whole-building credit component may
164 not be allowed for any taxable year unless all the requirements under
165 subsection 5 of this section are met; and

166 a. The whole building achieves a Silver, Gold, or Platinum Rating
167 as approved by the LEED-NC Green Building Rating System, as
168 amended from time to time, or the most recent version, for a new
169 building and for major renovations; or, LEED Green Building Rating
170 System Version LEED-EB, or the most recent version, for an existing
171 building; or

172 b. The whole building achieves at least a three globes rating
173 under the most current requirements of Green Globes;

174 (b) The green base building credit component shall be available
175 to an applicant who is the contract owner for either the construction
176 of a green building or the rehabilitation of a building, which is not a
177 green base building, into a green base building. The green base
178 building credit component may not be allowed for any taxable year
179 unless all the requirements under subsection 5 of this section are met;
180 and

181 a. The base building achieves a Silver, Gold, or Platinum Rating
182 as approved by the LEED-CS Green Building Rating System, or the
183 most recent version thereof; or

184 b. The base building achieves at least a three globes rating under
185 the most current requirements of Green Globes;

186 (c) The green tenant space credit component shall be available
187 to an applicant for constructing tenant space or rehabilitating tenant

188 space, which is not green tenant space, into green tenant space. The
189 green tenant space credit component may not be allowed for an taxable
190 year unless all the requirements under subsection 5 of this section are
191 met; and

192 a. The tenant space achieves a Silver, Gold, or Platinum Rating
193 as approved by the LEED-CI Green Building Rating System, or the most
194 recent version thereof; or

195 b. The tenant space achieves at least a three globes rating under
196 the most current requirements of Green Globes.

197 (2) For each component eligible to receive credit such credit
198 component amount shall not exceed the maximum amount specified in
199 the preliminary certificate issued pursuant to subsection 8 of this
200 section.

201 5. (1) The green building tax credit shall not be allowed for any
202 taxable year unless the following are met:

203 (a) The applicant has obtained and filed a preliminary credit
204 certificate issued under subsections 8 or 9 of this section;

205 (b) The building is in service as shown by a certificate of
206 occupancy; and

207 (c) The whole building, base building or tenant space has
208 achieved either:

209 a. At least a three globes rating under the most current
210 requirements for Green Globes; or

211 b. A Silver, Gold, or Platinum rating as approved by the
212 applicable and most recent LEED Green Building Rating System as
213 determined under subsection 4 of this section and in achieving its
214 LEED rating, the whole building, base building, or tenant space must
215 earn:

216 i. At least four LEED points for Energy and Atmosphere Credit
217 Number One, or the equivalent points under any subsequent version of
218 LEED; and

219 ii. The point for Energy and Atmosphere Credit Number Three,
220 or the equivalent points under any subsequent version of LEED.

221 (2) For each component eligible to receive credit under
222 subsection 4 of this section, once construction is complete and an

223 occupancy certificate is received, such credit component amount shall
224 be allowed for each of the next four succeeding taxable years provided
225 that the applicant obtains an eligibility certificate that meets all
226 requirements for an eligibility certificate as described in paragraph (b)
227 of subdivision (3) of subsection 10 of this section.

228 (3) When filing with the department of revenue, the applicant
229 shall file the eligibility certificate and the preliminary credit
230 component certificate with the claim for credit. Allowable costs in this
231 subsection and for all five years that the credit may be available shall
232 not exceed, in the aggregate, the amount determined pursuant to
233 subsections 4, 6, and 7 of this section.

234 6. For tax years beginning on or after January 1, 2009, the tax
235 credits authorized under this section may be used to satisfy taxes owed
236 under chapters 143, 147, and 148, RSMo, excluding sections 143.191 to
237 143.265, RSMo, in the tax year the credit is issued. Tax credits issued
238 under this section shall be refundable and may be transferred, sold, or
239 assigned by notarized endorsement, which names the transferee. In no
240 case shall the aggregate amount of all tax credits issued under this
241 section exceed one million dollars per tax year.

242 7. Within one hundred twenty days of the enactment of this act,
243 the department shall promulgate rules, in accordance with the
244 provisions of this section, to:

245 (1) Determine the amount of green building tax credit available
246 to a taxpayer based on the following:

247 (a) The amount of floor space in the building;

248 (b) The square footage of the building;

249 (c) The green globes rating or the level of LEED rating achieved
250 by the building, with higher ratings corresponding to greater tax
251 credits; and

252 (d) Whether the building is located in an economic development
253 area with a higher tax credit corresponding to those buildings located
254 in an economic development area;

255 (2) Determine allowable credit for each of:

256 (a) The whole green building credit component;

257 (b) The base green building credit component; and

258 **(c) The green tenant space credit component.**
259 **Any rule or portion of a rule, as that term is defined in section 536.010,**
260 **RSMo, that is created under the authority delegated in this section**
261 **shall become effective only if it complies with and is subject to all of**
262 **the provisions of chapter 536, RSMo, and, if applicable, section 536.028,**
263 **RSMo. This section and chapter 536, RSMo, are nonseverable and if any**
264 **of the powers vested with the general assembly pursuant to chapter**
265 **536, RSMo, to review, to delay the effective date, or to disapprove and**
266 **annul a rule are subsequently held unconstitutional, then the grant of**
267 **rulemaking authority and any rule proposed or adopted after August**
268 **28, 2008, shall be invalid and void.**

269 **8. (1) Prior to construction of a proposed facility an applicant**
270 **may apply to the department for preliminary certification if the**
271 **applicant will be the owner or contract purchaser of the facility at the**
272 **time of construction.**

273 **(2) An application for preliminary certification shall be made in**
274 **writing on a form prepared by the department and shall contain:**

275 **(a) A statement that the applicant plans to construct a facility**
276 **that meets the requirements under subsection 5 of this section;**

277 **(b) A detailed description of the proposed facility and its**
278 **operation and information showing that the facility shall operate as**
279 **represented in the application;**

280 **(c) The estimated start and finish date of the construction of the**
281 **facility;**

282 **(d) Evidence of official registration in the LEED system or green**
283 **globes rating system; and**

284 **(e) Any other information determined by the director to be**
285 **necessary prior to issuance of a preliminary certificate.**

286 **(3) The director may allow an applicant to file the preliminary**
287 **application after the start of the construction of the facility if the**
288 **director finds that filing the application before the start of**
289 **construction is inappropriate because special circumstances render**
290 **filing earlier unreasonable.**

291 **(4) If the director determines that the proposed construction is**

292 technically feasible and should operate in accordance with the
293 representations made by the applicant, and is in accordance with the
294 provisions under subsection 5 of this section and any applicable rules
295 or standards adopted by the director, the director shall issue a
296 preliminary credit certificate approving the construction of the
297 facility. The preliminary credit certificate shall state the following:

298 (a) The first taxable year for which the credit may be applied;

299 (b) The expiration date of the tax credit. Such expiration date
300 may be extended at the discretion of the director in order to avoid
301 unwarranted hardship; and

302 (c) The maximum amount of the total credit allowed and the
303 maximum amount of credit allowed in any single tax year.

304 (5) If the director determines that the construction does not
305 comply with the provisions under subsection 5 of this section and
306 applicable rules and standards, the director shall issue an order
307 denying certification.

308 9. (1) To change a project that has already received preliminary
309 certification, the applicant shall file a written request to the director
310 which states:

311 (a) A detailed description of the changes;

312 (b) The reasons for the changes; and

313 (c) The effects that the changes will have on the amount of tax
314 credit stated by the preliminary certification.

315 (2) The director shall make the determination as to whether the
316 changed project complies with the requirements under subsection 5 of
317 this section.

318 (a) If the changed project complies with the requirements under
319 subsection 5 of this section, then the director shall issue an amended
320 preliminary certification.

321 (b) If the changed project fails to comply with the requirements
322 under subsection 5 of this section, then the director shall issue an order
323 that revokes the preliminary certification.

324 10. (1) No final certification shall be issued by the director
325 under this subsection unless the facility was constructed under a

326 preliminary certificate of approval issued under subsection 8 of this
327 section.

328 (2) An applicant may apply to the department for final
329 certification of a facility:

330 (a) If the department issued preliminary certification for the
331 facility under subsection 8 of this section; and

332 (b) After completion of construction of the proposed facility.

333 (3) An application for final certification shall be made in writing
334 on a form prepared by the department and shall contain:

335 (a) A statement that the conditions of the preliminary
336 certification have been complied with;

337 (b) An eligibility certificate from the project architect or
338 professional engineer licensed to practice in the state of Missouri or
339 from a LEED accredited professional that consists of a certification by
340 either:

341 a. The Green Building Initiative that the building with respect
342 to which the credit is claimed meets the requirements for a green
343 globes rating; or

344 b. The United States Green Building Council that the building
345 with respect to which the credit is claimed is LEED certified and that
346 in achieving its LEED rating, the building has earned at least four
347 LEED points for Energy and Atmosphere Credit Number One and the
348 Energy and Atmosphere Credit Number Three;

349 (c) A statement of the level of Green Globes or LEED
350 performance achieved by the building to permit determination of the
351 proper credit amount under subsection 6 of this section;

352 (d) A statement that the facility is in operation; and

353 (e) Any other information determined by the director to be
354 necessary prior to issuance of a final certificate, including inspection
355 of the facility by the department.

356 11. (1) The director may order the revocation of the final
357 certificate issued under subsection 10 of this section if the director
358 finds that:

359 (a) The certification was obtained by fraud or misrepresentation;

360 or

361 (b) The holder of the certificate has failed substantially to
362 construct the facility in compliance with the plans, specification, and
363 procedures in such certificate.

364 (2) As soon as the order of revocation under this subsection
365 becomes final, the director shall notify the department of revenue of
366 such order.

367 (3) If the certificate is ordered revoked pursuant to paragraph
368 (a) of subdivision 1 of this subsection, all prior tax credits provided to
369 the applicant by virtue of such certificate shall be forfeited, and upon
370 notification under subdivision 2 of this subsection, the department of
371 revenue immediately shall proceed to collect those taxes not paid by
372 the applicant as a result of the tax credits provided to the applicant
373 under this section.

374 (4) If the certificate is ordered revoked pursuant to this
375 subsection, the applicant shall be denied any tax credit under this
376 section in connection with such facility after the date that the order of
377 revocation becomes final.

378 12. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

379 (1) The tax credit authorized under this section shall
380 automatically sunset five years after the effective date of this section
381 unless reauthorized by an act of the general assembly; and

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

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

143.121. 1. The Missouri adjusted gross income of a resident individual
2 shall be the taxpayer's federal adjusted gross income subject to the modifications
3 in this section.

4 2. There shall be added to the taxpayer's federal adjusted gross income:

5 (a) The amount of any federal income tax refund received for a prior year
6 which resulted in a Missouri income tax benefit;

7 (b) Interest on certain governmental obligations excluded from federal
8 gross income by Section 103 of the Internal Revenue Code. The previous sentence
9 shall not apply to interest on obligations of the state of Missouri or any of its
10 political subdivisions or authorities and shall not apply to the interest described
11 in subdivision (a) of subsection 3 of this section. The amount added pursuant to
12 this paragraph shall be reduced by the amounts applicable to such interest that
13 would have been deductible in computing the taxable income of the taxpayer
14 except only for the application of Section 265 of the Internal Revenue Code. The
15 reduction shall only be made if it is at least five hundred dollars;

16 (c) The amount of any deduction that is included in the computation of
17 federal taxable income pursuant to Section 168 of the Internal Revenue Code as
18 amended by the Job Creation and Worker Assistance Act of 2002 to the extent the
19 amount deducted relates to property purchased on or after July 1, 2002, but
20 before July 1, 2003, and to the extent the amount deducted exceeds the amount
21 that would have been deductible pursuant to Section 168 of the Internal Revenue
22 Code of 1986 as in effect on January 1, 2002;

23 (d) The amount of any deduction that is included in the computation of
24 federal taxable income for net operating loss allowed by Section 172 of the
25 Internal Revenue Code of 1986, as amended, other than the deduction allowed by
26 Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as
27 amended, for a net operating loss the taxpayer claims in the tax year in which the
28 net operating loss occurred or carries forward for a period of more than twenty
29 years and carries backward for more than two years. Any amount of net
30 operating loss taken against federal taxable income but disallowed for Missouri
31 income tax purposes pursuant to this paragraph after June 18, 2002, may be
32 carried forward and taken against any income on the Missouri income tax return
33 for a period of not more than twenty years from the year of the initial loss; and

34 (e) For nonresident individuals in all taxable years ending on or after
35 December 31, 2006, the amount of any property taxes paid to another state or a
36 political subdivision of another state for which a deduction was allowed on such
37 nonresident's federal return in the taxable year.

38 3. There shall be subtracted from the taxpayer's federal adjusted gross
39 income the following amounts to the extent included in federal adjusted gross
40 income:

41 (a) Interest or dividends on obligations of the United States and its
42 territories and possessions or of any authority, commission or instrumentality of
43 the United States to the extent exempt from Missouri income taxes pursuant to
44 the laws of the United States. The amount subtracted pursuant to this
45 paragraph shall be reduced by any interest on indebtedness incurred to carry the
46 described obligations or securities and by any expenses incurred in the production
47 of interest or dividend income described in this paragraph. The reduction in the
48 previous sentence shall only apply to the extent that such expenses including
49 amortizable bond premiums are deducted in determining the taxpayer's federal
50 adjusted gross income or included in the taxpayer's Missouri itemized
51 deduction. The reduction shall only be made if the expenses total at least five
52 hundred dollars;

53 (b) The portion of any gain, from the sale or other disposition of property
54 having a higher adjusted basis to the taxpayer for Missouri income tax purposes
55 than for federal income tax purposes on December 31, 1972, that does not exceed
56 such difference in basis. If a gain is considered a long-term capital gain for
57 federal income tax purposes, the modification shall be limited to one-half of such
58 portion of the gain;

59 (c) The amount necessary to prevent the taxation pursuant to this chapter
60 of any annuity or other amount of income or gain which was properly included in
61 income or gain and was taxed pursuant to the laws of Missouri for a taxable year
62 prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose
63 death the taxpayer acquired the right to receive the income or gain, or to a trust
64 or estate from which the taxpayer received the income or gain;

65 (d) Accumulation distributions received by a taxpayer as a beneficiary of
66 a trust to the extent that the same are included in federal adjusted gross income;

67 (e) The amount of any state income tax refund for a prior year which was
68 included in the federal adjusted gross income;

69 (f) The portion of capital gain specified in section 135.357, RSMo, that
70 would otherwise be included in federal adjusted gross income;

71 (g) The amount that would have been deducted in the computation of
72 federal taxable income pursuant to Section 168 of the Internal Revenue Code as
73 in effect on January 1, 2002, to the extent that amount relates to property
74 purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that

75 amount exceeds the amount actually deducted pursuant to Section 168 of the
76 Internal Revenue Code as amended by the Job Creation and Worker Assistance
77 Act of 2002;

78 (h) For all tax years beginning on or after January 1, 2005, the amount
79 of any income received for military service while the taxpayer serves in a combat
80 zone which is included in federal adjusted gross income and not otherwise
81 excluded therefrom. As used in this section, "combat zone" means any area which
82 the President of the United States by Executive Order designates as an area in
83 which armed forces of the United States are or have engaged in combat. Service
84 is performed in a combat zone only if performed on or after the date designated
85 by the President by Executive Order as the date of the commencing of combat
86 activities in such zone, and on or before the date designated by the President by
87 Executive Order as the date of the termination of combatant activities in such
88 zone; and

89 (i) For all tax years ending on or after July 1, 2002, with respect to
90 qualified property that is sold or otherwise disposed of during a taxable year by
91 a taxpayer and for which an addition modification was made under paragraph (c)
92 of subsection 2 of this section, the amount by which addition modification made
93 under paragraph (c) of subsection 2 of this section on qualified property has not
94 been recovered through the additional subtractions provided in paragraph (g) of
95 this subsection.

96 4. There shall be added to or subtracted from the taxpayer's federal
97 adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment
98 provided in section 143.351.

99 5. There shall be added to or subtracted from the taxpayer's federal
100 adjusted gross income the modifications provided in section 143.411.

101 6. In addition to the modifications to a taxpayer's federal adjusted gross
102 income in this section, to calculate Missouri adjusted gross income there shall be
103 subtracted from the taxpayer's federal adjusted gross income any gain recognized
104 pursuant to Section 1033 of the Internal Revenue Code of 1986, as amended,
105 arising from compulsory or involuntary conversion of property as a result of
106 condemnation or the imminence thereof.

107 7. (1) As used in this subsection, "qualified health insurance premium"
108 means the amount paid during the tax year by such taxpayer for any insurance

109 policy primarily providing health care coverage for the taxpayer, the taxpayer's
110 spouse, or the taxpayer's dependents.

111 (2) In addition to the subtractions in subsection 3 of this section, one
112 hundred percent of the amount of qualified health insurance premiums shall be
113 subtracted from the taxpayer's federal adjusted gross income to the extent the
114 amount paid for such premiums is included in federal taxable income. The
115 taxpayer shall provide the department of revenue with proof of the amount of
116 qualified health insurance premiums paid.

117 **8. (1) As used in this subsection, "qualified home energy audit",**
118 **shall mean a home energy audit conducted by an entity certified by the**
119 **department of natural resources.**

120 (2) In addition to the subtractions provided in this section, fifty
121 percent of the cost incurred by a taxpayer for a qualified home energy
122 audit shall be subtracted from the taxpayer's federal adjusted gross
123 income to the extent the amount paid for such audit is included in
124 federal taxable income. The taxpayer shall provide the department of
125 revenue with proof of the amount paid for the qualified home audit.

126 **9. (1) As used in this subsection, "energy star certified product",**
127 **shall mean any product approved by both the United States**
128 **Environmental Protection Agency and the United States Department of**
129 **Energy as eligible to display the energy star label, as amended from**
130 **time to time.**

131 (2) In addition to the subtractions provided in this section, one
132 hundred percent of the purchase price paid, not to exceed one thousand
133 dollars, by a taxpayer for energy star products purchased within the
134 taxable year shall be subtracted from the taxpayer's federal adjusted
135 gross income to the extent the amount paid for such products is
136 included in federal taxable income. The taxpayer shall provide the
137 department of revenue with proof of the amount paid for such
138 products.

144.526. 1. This section shall be known, and may be cited as the
2 "Show Me Green Sales Tax Holiday".

3 2. For purposes of this section, the following terms mean:

4 (1) "Appliance", clothes washers and dryers, water heaters, trash

5 compactors, dishwashers, conventional ovens, ranges, stoves, air
6 conditioners, refrigerators and freezers; and

7 (2) "Energy star certified", any appliance approved by both the
8 United States Environmental Protection Agency and the United States
9 Department of Energy as eligible to display the energy star label, as
10 amended from time to time.

11 3. In each year beginning on or after January 1, 2009, there is
12 hereby specifically exempted from state sales tax law all retail sales of
13 any energy star certified appliance during a seven-day period
14 beginning at 12:01 a.m. on April 19 and ending at midnight on April 25.

15 4. If the governing body of any political subdivision adopted an
16 ordinance that applied to the 2009 sales tax holiday to prohibit the
17 provisions of this section from allowing the sales tax holiday to apply
18 to such political subdivision's local sales tax, then, notwithstanding any
19 provision of a local ordinance to the contrary, the 2009 sales tax
20 holiday shall not apply to such political subdivision's local sales
21 tax. However, any such political subdivision may enact an ordinance
22 to allow the 2009 sales tax holiday to apply to its local sales taxes. A
23 political subdivision must notify the department of revenue not less
24 than forty-five calendar days prior to the beginning date of the sales
25 tax holiday occurring in that year of any ordinance or order rescinding
26 an ordinance or order to opt out.

27 5. After the 2009 sales tax holiday, any political subdivision may,
28 by adopting an ordinance or order, choose to prohibit future annual
29 sales tax holidays from applying to its local sales tax. After opting out,
30 the political subdivision may rescind the ordinance or order. The
31 political subdivision must notify the department of revenue not less
32 than forty-five calendar days prior to the beginning date of the sales
33 tax holiday occurring in that year of any ordinance or order rescinding
34 an ordinance or order to opt out.

35 6. This section may not apply to any retailer when less than two
36 percent of the retailer's merchandise offered for sale qualifies for the
37 sales tax holiday. The retailer shall offer a sales tax refund in lieu of
38 the sales tax holiday.

161.360. 1. Subject to appropriation from general revenue, the
2 department of elementary and secondary education shall provide
3 grants after July 1, 2009, to assist local public school districts obtain
4 LEED certification for new construction or substantial renovation of
5 public school buildings. For purposes of this section "LEED
6 certification" shall mean any certification issued by the United States
7 Green Building Council under the Leadership in Energy and
8 Environmental Design Green Building Rating System.

9 2. Preference for the green school grants under this section shall
10 be given to schools that are designed to function as community centers
11 of learning.

12 3. The department shall promulgate rules by July 1, 2009, for the
13 green school grants authorized under this section. Any rule or portion
14 of a rule, as that term is defined in section 536.010, RSMo, that is
15 created under the authority delegated in this section shall become
16 effective only if it complies with and is subject to all of the provisions
17 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
18 section and chapter 536, RSMo, are nonseverable and if any of the
19 powers vested with the general assembly pursuant to chapter 536,
20 RSMo, to review, to delay the effective date, or to disapprove and annul
21 a rule are subsequently held unconstitutional, then the grant of
22 rulemaking authority and any rule proposed or adopted after August
23 28, 2008, shall be invalid and void.

24 4. The cumulative total of all grants under this section awarded
25 per fiscal year shall not exceed five hundred thousand dollars.

386.850. The Missouri energy task force created by executive
2 order 05-46 shall reconvene at least one time per year for the purpose
3 of reviewing any progress made toward meeting the recommendations
4 set forth in the task force's final report as issued under the executive
5 order. A status report on the task force's findings shall be issued to the
6 governor and the general assembly no later than December thirty-first
7 of each year.

640.153. The department of natural resources shall certify
2 qualified home energy auditors as required under subsection 8 of

3 section 143.121, RSMo. The department shall have the authority to
4 promulgate any rules necessary to administer this section. Any rule or
5 portion of a rule, as that term is defined in section 536.010, RSMo, that
6 is created under the authority delegated in this section shall become
7 effective only if it complies with and is subject to all of the provisions
8 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
9 section and chapter 536, RSMo, are nonseverable and if any of the
10 powers vested with the general assembly pursuant to chapter 536,
11 RSMo, to review, to delay the effective date, or to disapprove and annul
12 a rule are subsequently held unconstitutional, then the grant of
13 rulemaking authority and any rule proposed or adopted after August
14 28, 2008, shall be invalid and void.

640.157. The energy center of the department of natural
2 resources shall serve as a central point of coordination for activities
3 relating to energy sustainability in the state. As such, the energy
4 center shall:

5 (1) Consult and cooperate with other state agencies to serve as
6 a technical advisor on sustainability issues, including but not limited
7 to, renewable energy use and green building design and construction;

8 (2) Provide technical assistance to local governments, businesses,
9 schools, and homeowners on sustainability issues, including but not
10 limited to, renewable energy use and green building design and
11 construction; and

12 (3) Conduct outreach and education efforts for the purpose of
13 informing the general public about financial assistance opportunities
14 for energy conservation, including but not limited to, the tax incentives
15 under section 135.032, RSMo, subsections 8 and 9 of section 143.121,
16 RSMo, and section 144.526, RSMo.

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