

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 542
95TH GENERAL ASSEMBLY

Reported from the Committee on Governmental Accountability and Fiscal Oversight, April 2, 2009, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 542, adopted April 9, 2009.

Taken up for Perfection April 9, 2009. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

2225S.02P

AN ACT

To repeal sections 30.260, 30.270, 30.750, 30.753, 30.756, 30.758, 30.760, and 30.765, RSMo, and to enact in lieu thereof eight new sections relating to the state treasurer, with penalty provisions.

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

Section A. Sections 30.260, 30.270, 30.750, 30.753, 30.756, 30.758, 30.760, 2 and 30.765, RSMo, are repealed and eight new sections enacted in lieu thereof, 3 to be known as sections 30.260, 30.270, 30.750, 30.753, 30.756, 30.758, 30.760, 4 and 30.765, to read as follows:

30.260. 1. The state treasurer shall prepare, maintain and adhere to a 2 written investment policy which shall include an asset allocation plan which 3 limits the total amount of state moneys which may be invested in any particular 4 investment authorized by section 15, article IV of the Missouri 5 Constitution. **Such asset allocation plan shall also set diversification 6 limits, as applicable, which shall include a restriction limiting the total 7 amount of time deposits of state moneys, not including linked deposits, 8 placed with any one single banking institution to be no greater than 9 ten percent of all time deposits of state moneys.** The state treasurer shall 10 present a copy of such policy to the governor, commissioner of administration, 11 state auditor and general assembly at the commencement of each regular session 12 of the general assembly or at any time the written investment policy is amended.

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

13 2. The state treasurer shall determine by the exercise of the treasurer's
14 best judgment the amount of state moneys that are not needed for current
15 operating expenses of the state government and shall keep on demand deposit in
16 banking institutions in this state selected by the treasurer and approved by the
17 governor and state auditor the amount of state moneys which the treasurer has
18 so determined are needed for current operating expenses of the state government
19 and disburse the same as authorized by law.

20 3. Within the parameters of the state treasurer's written investment
21 policy, the state treasurer shall place the state moneys which the treasurer has
22 determined are not needed for current operations of the state government on time
23 deposit drawing interest in banking institutions in this state selected by the
24 treasurer and approved by the governor and the state auditor, or place them
25 outright or, if applicable, by repurchase agreement in obligations described in
26 section 15, article IV, Constitution of Missouri, as the treasurer in the exercise
27 of the treasurer's best judgment determines to be in the best overall interest of
28 the people of the state of Missouri, giving due consideration to:

29 (1) The preservation of such state moneys;

30 (2) The benefits to the economy and welfare of the people of Missouri
31 when such state money is invested in banking institutions in this state that, in
32 turn, provide additional loans and investments in the Missouri economy and
33 generate state taxes from such initial investments and the loans and investments
34 created by the banking institutions, compared to the removal or withholding from
35 banking institutions in the state of all or some such state moneys and investing
36 same in obligations authorized in section 15, article IV of the Missouri
37 Constitution;

38 (3) The liquidity needs of the state;

39 (4) The aggregate return in earnings and taxes on the deposits and the
40 investment to be derived therefrom; and

41 (5) All other factors which to the treasurer as a prudent state treasurer
42 seem to be relevant to the general public welfare in the light of the circumstances
43 at the time prevailing. The state treasurer may also place state moneys which
44 are determined not needed for current operations of the state government in
45 linked deposits as provided in sections 30.750 to 30.767.

46 4. Except for state moneys deposited in linked deposits as provided in
47 sections 30.750 to [30.767] **30.860**, the rate of interest payable by all banking
48 institutions on time deposits of state moneys shall be [the same as the average

49 rate paid during the week next preceding the week in which the deposit was
50 made for United States of America treasury securities maturing and becoming
51 payable closest to the time of termination of the deposit, as determined by the
52 state treasurer, adjusted to the nearest one-tenth of a percent; except that] **set**
53 **pursuant to subdivisions (1) to (7) of this subsection.** The rate shall never
54 exceed the maximum rate of interest which by federal law or regulation a bank
55 which is a member of the Federal Reserve System may from time to time pay on
56 a time deposit of the same size and maturity.

57 **(1) Beginning January 1, 2010, the rate of interest payable by a**
58 **banking institution on up to seven million dollars of time deposits of**
59 **state moneys shall be the same as the average rate paid during the**
60 **week next preceding the week in which the deposit was made for**
61 **United States of America treasury securities maturing and becoming**
62 **payable closest to the time of termination of the deposit, as determined**
63 **by the state treasurer, adjusted to the nearest one-tenth of a percent.**
64 **In the case of a banking institution that holds more than seven million**
65 **dollars of time deposits of state moneys, the rate of interest payable on**
66 **deposits in excess of seven million dollars of time deposits of state**
67 **moneys shall be set at the market rate as determined in subdivision (7)**
68 **of this subsection;**

69 **(2) Beginning January 1, 2011, the rate of interest payable by a**
70 **banking institution on up to five million dollars of time deposits of**
71 **state moneys shall be the same as the average rate paid during the**
72 **week next preceding the week in which the deposit was made for**
73 **United States of America treasury securities maturing and becoming**
74 **payable closest to the time of termination of the deposit, as determined**
75 **by the state treasurer, adjusted to the nearest one-tenth of a percent.**
76 **In the case of a banking institution that holds more than five million**
77 **dollars of time deposits of state moneys, the rate of interest payable on**
78 **deposits in excess of five million dollars of time deposits of state**
79 **moneys shall be set at the market rate as determined in subdivision (7)**
80 **of this subsection;**

81 **(3) Beginning January 1, 2012, the rate of interest payable by a**
82 **banking institution on up to three million dollars of time deposits of**
83 **state moneys shall be the same as the average rate paid during the**
84 **week next preceding the week in which the deposit was made for**
85 **United States of America treasury securities maturing and becoming**

86 payable closest to the time of termination of the deposit, as determined
87 by the state treasurer, adjusted to the nearest one-tenth of a percent.
88 In the case of a banking institution that holds more than three million
89 dollars of time deposits of state moneys, the rate of interest payable on
90 deposits in excess of three million dollars of time deposits of state
91 moneys shall be set at the market rate as determined in subdivision (7)
92 of this subsection;

93 (4) Beginning January 1, 2013, the rate of interest payable by a
94 banking institution on up to one million dollars of time deposits of
95 state moneys shall be the same as the average rate paid during the
96 week next preceding the week in which the deposit was made for
97 United States of America treasury securities maturing and becoming
98 payable closest to the time of termination of the deposit, as determined
99 by the state treasurer, adjusted to the nearest one-tenth of a percent.
100 In the case of a banking institution that holds more than one million
101 dollars of time deposits of state moneys, the rate of interest payable on
102 deposits in excess of one million dollars of time deposits of state
103 moneys shall be set at the market rate as determined in subdivision (7)
104 of this subsection;

105 (5) Beginning January 1, 2014, the rate of interest payable by a
106 banking institution on all time deposits of state moneys shall be set at
107 the market rate as determined in subdivision (7) of this subsection;

108 (6) Notwithstanding subdivisions (1) to (5) of this subsection, for
109 any new time deposits of state moneys placed after January 1, 2010,
110 with a term longer than eighteen months, the rate of interest payable
111 by a banking institution shall be set at the market rate as determined
112 in subdivision (7) of this subsection;

113 (7) "Market rate" shall be determined no less frequently than
114 once a month by the director of investments in the office of state
115 treasurer. The process for determining a market rate shall include due
116 consideration of prevailing rates offered for certificates of deposit by
117 well-capitalized Missouri financial institutions, the advance rate
118 established by the Federal Home Loan Bank of Des Moines for member
119 institutions and the costs of collateralization, as well as an evaluation
120 of the credit risk associated with other authorized securities defined
121 in Article IV, Section 15 of the State Constitution. Banking institutions
122 may also offer a higher rate than the market rate for any time deposit

123 **placed with the state treasurer in excess of the total amount of state**
124 **moneys set at the United States of America treasury securities**
125 **maturing and becoming payable closest to the time of termination of**
126 **the deposit indicated in subdivisions (1) to (5) of this subsection.**

127 5. Within the parameters of the state treasurer's written investment
128 policy, the state treasurer may subscribe for or purchase outright or by
129 repurchase agreement investments of the character described in subsection 3 of
130 this section which the treasurer, in the exercise of the treasurer's best judgment,
131 believes to be the best for investment of state moneys at the time and in payment
132 therefor may withdraw moneys from any bank account, demand or time,
133 maintained by the treasurer without having any supporting warrant of the
134 commissioner of administration. The state treasurer may bid on subscriptions for
135 such obligations in accordance with the treasurer's best judgment. The state
136 treasurer shall provide for the safekeeping of all such obligations so acquired in
137 the same manner that securities pledged to secure the repayment of state moneys
138 deposited in banking institutions are kept by the treasurer pursuant to law. The
139 state treasurer may hold any such obligation so acquired by the treasurer until
140 its maturity or prior thereto may sell the same outright or by reverse repurchase
141 agreement provided the state's security interest in the underlying security is
142 perfected or temporarily exchange such obligation for cash or other authorized
143 securities of at least equal market value with no maturity more than one year
144 beyond the maturity of any of the traded obligations, for a negotiated fee as the
145 treasurer, in the exercise of the treasurer's best judgment, deems necessary or
146 advisable for the best interest of the people of the state of Missouri in the light
147 of the circumstances at the time prevailing. The state treasurer may pay all costs
148 and expenses reasonably incurred by the treasurer in connection with the
149 subscription, purchase, sale, collection, safekeeping or delivery of all such
150 obligations at any time acquired by the treasurer.

151 6. As used in this chapter, except as more particularly specified in section
152 30.270, obligations of the United States shall include securities of the United
153 States Treasury, and United States agencies or instrumentalities as described in
154 section 15, article IV, Constitution of Missouri. The word "temporarily" as used
155 in this section shall mean no more than six months.

30.270. 1. For the security of the moneys deposited by the state treasurer
2 pursuant to the provisions of this chapter, the state treasurer shall, from time to
3 time, submit a list of acceptable securities to be approved by the governor and

4 state auditor if satisfactory to them, and the state treasurer shall require of the
5 selected and approved banks or financial institutions as security for the
6 safekeeping and payment of deposits, securities from the list provided for in this
7 section, which list shall include only securities of the following kind and
8 character, unless it is determined by the state treasurer that the use of such
9 securities as collateral may place state public funds at undue risk:

10 (1) Bonds or other obligations of the United States;

11 (2) Bonds or other obligations of the state of Missouri including revenue
12 bonds issued by state agencies or by state authorities created by legislative
13 enactment;

14 (3) Bonds **or other obligations** of any city in this state having a
15 population of not less than two thousand;

16 (4) Bonds **or other obligations** of any county in this state;

17 (5) Approved registered bonds **or other obligations** of any school district
18 **including certificates of participation and leasehold revenue bonds**,
19 situated in this state;

20 (6) Approved registered bonds **or other obligations** of any special road
21 district in this state;

22 (7) State bonds **or other obligations** of any state;

23 (8) Notes, bonds, debentures or other similar obligations issued by the
24 farm credit banks or agricultural credit banks or any other obligations issued
25 pursuant to the provisions of an act of the Congress of the United States known
26 as the Farm Credit Act of 1971, and acts amendatory thereto;

27 (9) Bonds of the federal home loan banks;

28 (10) Any bonds or other obligations guaranteed as to payment of principal
29 and interest by the government of the United States or any agency or
30 instrumentality thereof;

31 (11) Bonds of any political subdivision established pursuant to the
32 provisions of section 30, article VI of the Constitution of Missouri;

33 (12) Tax anticipation notes issued by any county of the first classification;

34 (13) A surety bond issued by an insurance company licensed pursuant to
35 the laws of the state of Missouri whose claims-paying ability is rated in the
36 highest category by at least one nationally recognized statistical rating
37 agency. The face amount of such surety bond shall be at least equal to the
38 portion of the deposit to be secured by the surety bond;

39 (14) An irrevocable standby letter of credit issued by a Federal Home

40 Loan Bank possessing the highest rating issued by at least one nationally
41 recognized statistical rating agency;

42 (15) Out-of-state municipal bonds, **including certificates of**
43 **participation and leasehold revenue bonds**, provided such bonds are rated
44 in the highest category by at least one nationally recognized statistical rating
45 agency;

46 (16) (a) Mortgage securities that are individual loans that include
47 negotiable promissory notes and the first lien deeds of trust securing payment of
48 such notes on one to four family real estate, on commercial real estate, or on farm
49 real estate located in Missouri or states adjacent to Missouri, provided such
50 loans:

51 a. Are underwritten to conform to standards established by the state
52 treasurer, which are substantially similar to standards established by the Federal
53 Home Loan Bank of Des Moines, Iowa, and any of its successors in interest that
54 provide funding for financial institutions in Missouri;

55 b. Are offered by a financial institution in which a senior executive officer
56 certifies under penalty of perjury that such loans are compliant with the
57 requirements of the Federal Home Loan Bank of Des Moines, Iowa, when such
58 loans are pledged by such bank;

59 c. Are offered by a financial institution that is well capitalized; and

60 d. Are not construction loans, are not more than ninety days delinquent,
61 have not been classified as substandard, doubtful, or subject to loss, are one
62 hundred percent owned by the financial institution, are otherwise unencumbered
63 and are not being temporarily warehoused in the financial institution for sale to
64 a third party.

65 Any disqualified mortgage securities shall be removed as collateral within ninety
66 days of disqualification or the state treasurer may disqualify such collateral as
67 collateral for state funds;

68 (b) The state treasurer may promulgate regulations and provide such
69 other forms or agreements to ensure the state maintains a first priority position
70 on the deeds of trust and otherwise protect and preserve state funds. Any rule
71 or portion of a rule, as that term is defined in section 536.010, RSMo, that is
72 created under the authority delegated in this section shall become effective only
73 if it complies with and is subject to all of the provisions of chapter 536, RSMo,
74 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
75 are nonseverable and if any of the powers vested with the general assembly

76 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to
77 disapprove and annul a rule are subsequently held unconstitutional, then the
78 grant of rulemaking authority and any rule proposed or adopted after August 28,
79 2005, shall be invalid and void;

80 (c) A status report on all such mortgage securities shall be provided to the
81 state treasurer on a calendar monthly basis in the manner and format prescribed
82 by the state treasurer by the financial institutions pledging such mortgage
83 securities and also shall certify their compliance with subsection 2 for such
84 mortgage securities;

85 (d) In the alternative to paragraph (a) of this subdivision, a financial
86 institution may provide a blanket lien on all loans secured by one to four family
87 real estate, all loans secured by commercial real estate, all loans secured by farm
88 real estate, or any combination of these categories, provided the financial
89 institution secures such blanket liens with real estate located in Missouri and
90 states adjacent to Missouri and otherwise complies with paragraphs (b) and (c)
91 of this subdivision;

92 (e) The provisions of paragraphs (a) to (d) of this subdivision are not
93 authorized for any Missouri political subdivision, notwithstanding the provisions
94 of chapter 110, RSMo, to the contrary;

95 (f) As used in this subdivision, the term "unencumbered" shall mean
96 mortgage securities pledged for state funds as provided in subsection 1 of this
97 section, and not subject to any other express claims by any third parties,
98 including but not limited to a blanket lien on the bank assets by the Federal
99 Home Loan Bank, a depositary arrangement when securities are loaned and
100 repurchased daily or otherwise, or the depositary has pledged its stock and assets
101 for a loan to purchase another depositary or otherwise; and

102 (g) As used in this subdivision, the term "well capitalized" shall mean a
103 banking institution that according to its most recent report of condition and
104 income or thrift financial report, publicly available as applicable, qualifies as well
105 capitalized under the uniform capital requirements established by the federal
106 banking regulators or as determined by state banking regulators under
107 substantially similar requirements;

108 (17) Any investment that the state treasurer may invest in as provided
109 in article IV, section 15 of the Missouri Constitution, and subject to the state
110 treasurer's written investment policy in section 30.260, that is not otherwise
111 provided for in this section, provided the banking institution or eligible lending

112 institution as defined in subdivision (7) of section 30.750 is well capitalized, as
113 defined in subdivision (16) of this subsection. The provisions of this subdivision
114 are not authorized for political subdivisions, notwithstanding the provisions of
115 chapter 110, RSMo, to the contrary.

116 2. Securities deposited shall be in an amount valued at market equal at
117 least to one hundred percent of the aggregate amount on time deposit as well as
118 on demand deposit with the particular financial institution less the amount, if
119 any, which is insured either by the Federal Deposit Insurance Corporation or by
120 the National Credit Unions Share Insurance Fund. Furthermore, for a
121 well-capitalized banking institution, securities authorized in this section that are:

122 (1) Mortgage securities on loans secured on one to four family real estate
123 appraised to reflect the market value at the time of the loan and deposited as
124 collateral shall not exceed one hundred twenty-five percent of the aggregate
125 amount of time deposits and demand deposits;

126 (2) Mortgage securities on loans secured on commercial real estate or on
127 farm real estate appraised to reflect the market value at the time of the loan and
128 deposited as collateral shall not exceed the collateral requirements of the Federal
129 Home Loan Bank of Des Moines, Iowa;

130 (3) **[Other] U.S. Treasury securities and U.S. federal agency**
131 **debentures issued by Fannie Mae, Freddie Mac, Federal Home Loan**
132 **Bank, or Federal Farm Credit Bank** valued at market and deposited as
133 collateral shall not exceed one hundred five percent of the aggregate amount of
134 time deposits and demand deposits. **All other securities, except as noted**
135 **elsewhere in this section of law, valued at market and deposited as**
136 **collateral shall not exceed one hundred fifteen percent of the aggregate**
137 **amount of the time deposits and demand deposits; and**

138 (4) Securities that are surety bonds and letters of credit authorized as
139 collateral need only collateralize one hundred percent of the aggregate amount
140 of time deposits and demand deposits.

141 3. The securities or book entry receipts shall be delivered to the state
142 treasurer and receipted for by the state treasurer and retained by the treasurer
143 or by financial institutions that the governor, state auditor and treasurer agree
144 upon. The state treasurer shall from time to time inspect the securities and book
145 entry receipts and see that they are actually held by the state treasury or by the
146 financial institutions selected as the state depositories. The governor and the
147 state auditor may inspect or request an accounting of the securities or book entry

148 receipts, and if in any case, or at any time, the securities are not satisfactory
 149 security for deposits made as provided by law, they may require additional
 150 security to be given that is satisfactory to them.

151 4. Any securities deposited pursuant to this section may from time to time
 152 be withdrawn and other securities described in the list provided for in subsection
 153 1 of this section may be substituted in lieu of the withdrawn securities with the
 154 consent of the treasurer; but a sufficient amount of securities to secure the
 155 deposits shall always be held by the treasury or in the selected depositories.

156 5. If a financial institution of deposit fails to pay a deposit, or any part
 157 thereof, pursuant to the terms of its contract with the state treasurer, the state
 158 treasurer shall forthwith convert the securities into money and disburse the same
 159 according to law.

160 6. Any financial institution making deposits of bonds with the state
 161 treasurer pursuant to the provisions of this chapter may cause the bonds to be
 162 endorsed or stamped as it deems proper, so as to show that they are deposited as
 163 collateral and are not transferable except upon the conditions of this chapter or
 164 upon the release by the state treasurer.

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

2 (1) "Eligible agribusiness", a person engaged in the processing or adding
 3 of value to agricultural products produced in Missouri;

4 (2) **"Eligible alternative energy consumer", an individual who**
 5 **wishes to borrow moneys for the purchase, installation, or construction**
 6 **of facilities or equipment related to the production of fuel or power**
 7 **primarily for his or her own use from energy sources other than fossil**
 8 **fuels, including, but not limited to, solar, hydroelectric, wind, and**
 9 **qualified biomass;**

10 (3) "Eligible alternative energy operation", a business enterprise engaged
 11 in the production [and sale] of fuel or power from energy sources other than fossil
 12 fuels, including but not limited to solar, hydroelectric, wind, and qualified
 13 biomass. Such business enterprise shall conform to the characteristics of
 14 paragraphs (a), (b), and (d) of subdivision [(5)] (6) of this section;

15 [(3)] (4) "Eligible beginning farmer",

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

18 a. Is a Missouri resident;

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

20 c. Is at least eighteen years old; and

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

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

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

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

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

36 [(4)] (5) "Eligible facility borrower", a borrower qualified under section
37 30.860 to apply for a reduced-rate loan under sections 30.750 to 30.767;

38 [(5)] (6) "Eligible farming operation", any person engaged in farming in
39 an authorized farm corporation, family farm, or family farm corporation as
40 defined in section 350.010, RSMo, that has all of the following characteristics:

41 (a) Is headquartered in this state;

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

44 (c) Employs less than ten employees;

45 (d) Is organized for profit;

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

52 [(6)] (7) "Eligible governmental entity", any political subdivision
53 of the state seeking to finance capital improvements, capital outlay, or
54 other significant programs through an eligible lending institution;

55 (8) "Eligible higher education institution", any approved public or private

56 institution as defined in section 173.205, RSMo;

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

69 [(8)] (10) "Eligible lending institution", a financial institution that is
70 eligible to make commercial or agricultural or student loans or discount or
71 purchase such loans, is a public depository of state funds or obtains its funds
72 through the issuance of obligations, either directly or through a related entity,
73 eligible for the placement of state funds under the provisions of section 15, article
74 IV, Constitution of Missouri, and agrees to participate in the linked deposit
75 program;

76 [(9)] (11) "Eligible livestock operation", any person engaged in production
77 of livestock or poultry in an authorized farm corporation, family farm, or family
78 farm corporation as defined in section 350.010, RSMo;

79 [(10)] (12) "Eligible locally owned business", any person seeking to
80 establish a new firm, partnership, cooperative company, or corporation that shall
81 retain at least fifty-one percent ownership by residents in a county in which the
82 business is headquartered, that consists of the following characteristics:

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

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

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

89 [(11)] (13) "Eligible marketing enterprise", a business enterprise
90 operating in this state which is in the process of marketing its goods, products or
91 services within or outside of this state or overseas, which marketing is designed

92 to increase manufacturing, transportation, mining, communications, or other
93 enterprises in this state, which has proposed its marketing plan and strategy to
94 the department of economic development and which plan and strategy has been
95 approved by the department for purposes of eligibility pursuant to sections 30.750
96 to 30.767. Such business enterprise shall conform to the characteristics of
97 paragraphs (a), (b) and (d) of subdivision [(5)] **(6)** of this section and also employ
98 less than twenty-five employees;

99 [(12)] **(14)** "Eligible multitenant development enterprise", a new
100 enterprise that develops multitenant space for targeted industries as determined
101 by the department of economic development and approved by the department for
102 the purposes of eligibility pursuant to sections 30.750 to 30.767;

103 [(13)] **(15)** "Eligible residential property developer", an individual who
104 purchases and develops a residential structure of either two or four units, if such
105 residential property developer uses and agrees to continue to use, for at least the
106 five years immediately following the date of issuance of the linked deposit loan,
107 one of the units as his principal residence or if such person's principal residence
108 is located within one-half mile from the developed structure and such person
109 agrees to maintain the principal residence within one-half mile of the developed
110 structure for at least the five years immediately following the date of issuance of
111 the linked deposit loan;

112 [(14)] **(16)** "Eligible residential property owner", a person, firm or
113 corporation who purchases, develops or rehabilitates a multifamily residential
114 structure;

115 [(15)] **(17)** "Eligible small business", a person engaged in an activity with
116 the purpose of obtaining, directly or indirectly, a gain, benefit or advantage and
117 which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision
118 [(5)] **(6)** of this section, and also employs less than [twenty-five] **one hundred**
119 employees;

120 [(16)] **(18)** "Eligible student borrower", any person attending, or the
121 parent of a dependent undergraduate attending, an eligible higher education
122 institution in Missouri who may or may not qualify for need-based student
123 financial aid calculated by the federal analysis called Congressional Methodology
124 Formula pursuant to 20 U.S.C. 1078, as amended (the Higher Education
125 Amendments of 1986);

126 [(17)] **(19)** "Eligible water supply system", a water system which serves
127 fewer than fifty thousand persons and which is owned and operated by:

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

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

131 (c) A water corporation;

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

135 [(18)] (20) "Farming", using or cultivating land for the production of
136 agricultural crops, livestock or livestock products, forest products, poultry or
137 poultry products, milk or dairy products, or fruit or other horticultural products;

138 [(19)] (21) "Linked deposit", a certificate of deposit, or in the case of
139 production credit associations, the subscription or purchase outright of obligations
140 described in section 15, article IV, Constitution of Missouri, placed by the state
141 treasurer with an eligible lending institution at rates otherwise provided by law
142 in section 30.758, provided the institution agrees to lend the value of such
143 deposit, according to the deposit agreement provided in sections 30.750 to 30.767,
144 to **eligible multitenant development enterprises**, eligible small businesses,
145 eligible alternative energy operations, **eligible alternative energy consumers**,
146 eligible locally owned businesses, farming operations, eligible job enhancement
147 businesses, eligible marketing enterprises, eligible residential property
148 developers, eligible residential property owners, **eligible governmental**
149 **entities**, eligible agribusinesses, eligible beginning farmers, eligible livestock
150 operations, eligible student borrowers, eligible facility borrowers, or eligible water
151 supply systems at below the present borrowing rate applicable to each
152 **multitenant development enterprise**, small business, **alternative energy**
153 **operation**, **alternative energy consumer**, farming operation, eligible job
154 enhancement business, eligible marketing enterprise, eligible residential property
155 developer, eligible residential property owner, **eligible governmental entity**,
156 eligible agribusiness, eligible beginning farmer, eligible livestock operation,
157 eligible student borrower, or supply system at the time of the deposit of state
158 funds in the institution;

159 [(20)] (22) "Market rate", the interest rate [tied to federal government
160 securities and] more specifically described in subsection 4 of section 30.260;

161 [(21)] (23) "Professional forester", any individual who holds a bachelor
162 of science degree in forestry from a regionally accredited college or university
163 with a minimum of two years of professional forest management experience;

164 [(22)] (24) "Qualified biomass", any agriculture-derived organic material
165 or any wood-derived organic material harvested in accordance with a site-specific
166 forest management plan focused on long-term forest sustainability developed by
167 a professional forester and qualified, in consultation with the conservation
168 commission, by the agriculture and small business development authority;

169 [(23)] (25) "Water corporation", as such term is defined in section
170 386.020, RSMo;

171 [(24)] (26) "Water system", as such term is defined in section 386.020,
172 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 locally owned businesses, eligible agribusinesses,
6 eligible beginning farmers, eligible livestock operations, and eligible facility
7 borrowers, no more than one hundred ten million of the aggregate deposit shall
8 be used for linked deposits to small businesses, no more than twenty million
9 dollars shall be used for linked deposits to eligible multitenant development
10 enterprises, and no more than twenty million dollars of the aggregate deposit
11 shall be used for linked deposits to eligible residential property developers and
12 eligible residential property owners, no more than two hundred twenty million
13 dollars of the aggregate deposit shall be used for linked deposits to eligible job
14 enhancement businesses and no more than twenty million dollars of the aggregate
15 deposit shall be used for linked deposit loans to eligible water systems. Linked
16 deposit loans may be made to eligible student borrowers [and], eligible
17 alternative energy operations, **eligible alternative energy consumers, and**
18 **eligible governmental entities** from the aggregate deposit. If demand for a
19 particular type of linked deposit exceeds the initial allocation, and funds initially
20 allocated to another type are available and not in demand, the state treasurer
21 may commingle allocations among the types of linked deposits.

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

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

32 2. An eligible farming operation, small business or job enhancement
33 business shall certify on its loan application that the reduced rate loan will be
34 used exclusively for necessary production expenses or the expenses listed in
35 subsection 2 of section 30.753 or the refinancing of an existing loan for production

36 expenses or the expenses listed in subsection 2 of section 30.753 of an eligible
37 farming operation, small business or job enhancement business. Whoever
38 knowingly makes a false statement concerning such application is guilty of a class
39 A misdemeanor. An eligible water supply system shall certify on its loan
40 application that the reduced rate loan shall be used exclusively to pay the costs
41 of upgrading or repairing an existing water system, constructing a new water
42 system, or making other capital improvements to a water system which are
43 necessary to improve the service capacity of the system.

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

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

69 5. The eligible lending institution shall be responsible for determining if
70 a student borrower is an eligible student borrower. A student borrower shall be
71 eligible for an initial or renewal reduced-rate loan only if, at the time of the

72 application for the loan, the student is a citizen or permanent resident of the
73 United States, a resident of the state of Missouri as defined by the coordinating
74 board for higher education, is enrolled or has been accepted for enrollment in an
75 eligible higher education institution, and establishes that the student has
76 financial need. In considering which eligible student borrowers may receive
77 reduced-rate loans, the eligible lending institution may give priority to those
78 eligible student borrowers whose income, or whose family income, if the eligible
79 student borrower is a dependent, is such that the eligible student borrower does
80 not qualify for need-based student financial aid pursuant to 20 U.S.C. 1078, as
81 amended (the Higher Education Amendments of 1986). The eligible lending
82 institution shall require the eligible student borrower to document that the
83 student has applied for and has obtained all need-based student financial aid for
84 which the student is eligible prior to application for a reduced-rate loan pursuant
85 to this section. In no case shall the combination of all financial aid awarded to
86 any student in any particular enrollment period exceed the total cost of
87 attendance at the institution in which the student is enrolled. No eligible lending
88 institution shall charge any additional fees, including but not limited to an
89 origination, service or insurance fee on any loan agreement under the provisions
90 of sections 30.750 to 30.765.

91 6. The eligible lending institution making an initial loan to an eligible
92 student borrower may make a renewal loan or loans to the student. The total of
93 such reduced-rate loans from eligible lending institutions made pursuant to this
94 section to any individual student shall not exceed the cumulative totals
95 established by 20 U.S.C. 1078, as amended. An eligible student borrower shall
96 certify on his or her loan application that the reduced rate loan shall be used
97 exclusively to pay the costs of tuition, incidental fees, books and academic
98 supplies, room and board and other fees directly related to enrollment in an
99 eligible higher education institution. The eligible lending institution shall make
100 the loan payable to the eligible student borrower and the eligible higher
101 education institution as co-payees. The method of repayment of the loan shall be
102 the same as for repayment of loans made pursuant to sections 173.095 to 173.186,
103 RSMo.

104 7. Beginning August 28, 2005, in considering which eligible multitenant
105 **development** enterprise, eligible farming operation, eligible alternative energy
106 operation, **eligible alternative energy consumer**, eligible locally owned
107 business, eligible small business, eligible job enhancement business, eligible

108 marketing enterprise, eligible residential property developer, eligible residential
109 property owner, **eligible governmental entity**, eligible agribusiness, eligible
110 beginning farmer, eligible livestock operation, eligible student borrower, eligible
111 facility borrower, or eligible water supply system should receive reduced-rate
112 loans, the eligible lending institution shall give priority to an eligible multitenant
113 enterprise, eligible farming operation, eligible alternative energy operation,
114 **eligible alternative energy consumer**, eligible locally owned business, eligible
115 small business, eligible job enhancement business, eligible marketing enterprise,
116 eligible residential property developer, eligible residential property owner,
117 **eligible governmental entity**, eligible agribusiness, eligible beginning farmer,
118 eligible livestock operation, eligible student borrower, eligible facility borrower,
119 or eligible water supply system that has not previously received a reduced-rate
120 loan through the linked deposit program. However, nothing shall prohibit an
121 eligible lending institution from making a reduced-rate loan to any entity that
122 previously has received such a loan, if such entity otherwise qualifies for such a
123 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 **alternative energy consumers**, eligible locally owned businesses, eligible
8 small businesses, eligible job enhancement businesses, eligible marketing
9 enterprises, eligible residential property developers, eligible residential property
10 owners, **eligible governmental entities**, eligible agribusinesses, eligible
11 beginning farmers, eligible livestock operations, eligible student borrowers,
12 eligible facility borrowers, or eligible water supply systems. Results of such effort
13 shall be included in the linked deposit review committee's annual report to the
14 governor.

15 3. Upon acceptance of the linked deposit loan package or any portion
16 thereof, the state treasurer may place linked deposits with the eligible lending
17 institution as follows: when market rates are five percent or above, the state
18 treasurer shall reduce the market rate by up to three percentage points to obtain
19 the linked deposit rate; when market rates are less than five percent, the state
20 treasurer shall reduce the market rate by up to sixty percent to obtain the linked

21 deposit rate[, provided that the linked deposit rate is not below one percent]. All
22 linked deposit rates are determined and calculated by the state treasurer. When
23 necessary, the treasurer may place linked deposits prior to acceptance of a linked
24 deposit loan package.

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

39 5. The period of time for which such linked deposit is placed with an
40 eligible lending institution shall be neither longer nor shorter than the period of
41 time for which the linked deposit is used to provide loans at reduced interest
42 rates. The agreement shall further provide that the state shall receive market
43 interest rates on any linked deposit or any portion thereof for any period of time
44 for which there is no corresponding linked deposit loan outstanding to an eligible
45 multitenant enterprise, eligible farming operation, eligible alternative energy
46 operation, **eligible alternative energy consumer**, eligible locally owned
47 business, eligible small business, eligible job enhancement business, eligible
48 marketing enterprise, eligible residential property developer, eligible residential
49 property owner, **eligible governmental entity**, eligible agribusiness, eligible
50 beginning farmer, eligible livestock operation, eligible student borrower, eligible
51 facility borrower, or eligible water supply system, except as otherwise provided
52 in this subsection. Within thirty days after the annual anniversary date of the
53 linked deposit, the eligible lending institution shall repay the state treasurer any
54 linked deposit principal received from borrowers in the previous yearly period and
55 thereafter repay such principal within thirty days of the yearly anniversary date
56 calculated separately for each linked deposit loan, and repaid at the linked

57 deposit rate. Such principal payment shall be accelerated when more than thirty
58 percent of the linked deposit loan is repaid within a single monthly period. Any
59 principal received and not repaid, up to the point of the thirty percent or more
60 payment, shall be repaid within thirty days of that payment at the linked deposit
61 rate. Finally, when the linked deposit is tied to a revolving line of credit
62 agreement between the banking institution and its borrower, the full amount of
63 the line of credit shall be excluded from the repayment provisions of this
64 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 energy
4 operation, **eligible alternative energy consumer**, eligible locally owned
5 business, eligible small business, eligible job enhancement business, eligible
6 marketing enterprise, eligible residential property developer, eligible residential
7 property owner, **eligible governmental entity**, eligible agribusiness, eligible
8 beginning farmer, eligible livestock operation, eligible student borrower, eligible
9 facility borrower, or eligible water supply system listed in the linked deposit loan
10 package required by section 30.756 and in accordance with the deposit agreement
11 required by section 30.758. The loan shall be at a fixed rate of interest reduced
12 by the amount established under subsection 3 of section 30.758 to each eligible
13 multitenant enterprise, eligible farming operation, eligible alternative energy
14 operation, **eligible alternative energy consumer**, eligible locally owned
15 business, eligible small business, eligible job enhancement business, eligible
16 marketing enterprise, eligible residential property developer, eligible residential
17 property owner, **eligible governmental entity**, eligible agribusiness, eligible
18 beginning farmer, eligible livestock operation, eligible student borrower, eligible
19 facility borrower, or eligible water supply system as determined pursuant to rules
20 and regulations promulgated by the state treasurer under the provisions of
21 chapter 536, RSMo, including emergency rules issued pursuant to section
22 536.025, RSMo. In addition, the loan agreement shall specify that the eligible
23 multitenant enterprise, eligible farming operation, eligible alternative energy
24 operation, **eligible alternative energy consumer**, eligible locally owned
25 business, eligible small business, eligible job enhancement business, eligible
26 marketing enterprise, eligible residential property developer, eligible residential
27 property owner, **eligible governmental entity**, eligible agribusiness, eligible
28 beginning farmer, eligible livestock operation, eligible student borrower, eligible

29 facility borrower, or eligible water supply system shall use the proceeds as
30 required by sections 30.750 to 30.765, and that in the event the loan recipient
31 does not use the proceeds in the manner prescribed by sections 30.750 to 30.765,
32 the remaining proceeds shall be immediately returned to the lending institution
33 and that any proceeds used by the loan recipient shall be repaid to the lending
34 institution as soon as practicable. All records and documents pertaining to the
35 programs established by sections 30.750 to 30.765 shall be segregated by the
36 lending institution for ease of identification and examination. A certification of
37 compliance with this section in the form and manner as prescribed by the state
38 treasurer shall be required of the eligible lending institution. Any lender or
39 lending officer of an eligible lending institution who knowingly violates the
40 provisions of sections 30.750 to 30.765 is guilty of a class A misdemeanor.

41 2. The state treasurer shall take any and all steps necessary to implement
42 the linked deposit program and monitor compliance of eligible multitenant
43 enterprises, eligible lending institutions, eligible farming operations, eligible
44 alternative energy operations, **eligible alternative energy consumers**, eligible
45 locally owned businesses, eligible small businesses, eligible job enhancement
46 businesses, eligible marketing enterprises, eligible residential property
47 developers, eligible residential property owners, **eligible governmental**
48 **entities**, eligible agribusinesses, eligible beginning farmers, eligible livestock
49 operations, eligible facility 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 alternative energy consumer**, eligible
5 locally owned business, eligible small business, eligible job enhancement business,
6 eligible marketing enterprise, eligible residential property developer, eligible
7 residential property owner, **eligible governmental entity**, eligible
8 agribusiness, eligible beginning farmer, eligible livestock operation, eligible
9 student borrower, eligible facility borrower, or eligible water supply system. Any
10 delay in payments or default on the part of an eligible multitenant enterprise,
11 eligible farming operation, eligible alternative energy operation, **eligible**
12 **alternative energy consumer**, eligible locally owned business, eligible small
13 business, eligible job enhancement business, eligible marketing enterprise,
14 eligible residential property developer, eligible residential property owner,
15 **eligible governmental entity**, eligible agribusiness, eligible beginning farmer,

16 eligible livestock operation, eligible student borrower, eligible facility borrower,
17 or eligible water supply system does not in any manner affect the deposit
18 agreement between the eligible lending institution and the state treasurer.

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