

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 428**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Agriculture Policy May 9, 2007 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 428 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1607L.09C

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**AN ACT**

To repeal sections 135.800, 135.805, 142.028, 142.031, 144.030, 192.300, 261.035, 261.230, 261.235, 261.239, 263.232, 265.200, 340.335, 340.337, 340.339, 340.341, 340.343, 340.345, 340.347, 348.430, 348.432, 348.434, 348.505, 414.420, 444.765, 444.766, 444.770, 444.774, 537.295, 578.018, 640.703, 640.710, and 640.740, RSMo, and to enact in lieu thereof fifty-nine new sections relating to agriculture, with penalty provisions and an emergency clause for a certain section.

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

Section A. Sections 135.800, 135.805, 142.028, 142.031, 144.030, 192.300, 261.035, 261.230, 261.235, 261.239, 263.232, 265.200, 340.335, 340.337, 340.339, 340.341, 340.343, 340.345, 340.347, 348.430, 348.432, 348.434, 348.505, 414.420, 444.765, 444.766, 444.770, 444.774, 537.295, 578.018, 640.703, 640.710, and 640.740, RSMo, are repealed and fifty-nine new sections enacted in lieu thereof, to be known as sections 135.633, 135.660, 135.678, 135.800, 135.805, 142.028, 142.031, 144.030, 144.051, 144.063, 192.300, 261.035, 261.175, 261.230, 261.235, 261.239, 263.232, 265.200, 265.525, 267.165, 311.297, 340.335, 340.337, 340.339, 340.341, 340.343, 340.345, 340.347, 340.375, 340.381, 340.384, 340.387, 340.390, 340.393, 340.396, 340.399, 340.402, 340.405, 348.230, 348.235, 348.430, 348.432, 348.434,

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

10 348.465, 348.505, 414.420, 444.765, 444.766, 444.770, 444.774, 537.295, 578.018, 640.703,  
11 640.710, 640.711, 640.712, 640.713, 640.717, and 640.740, to read as follows:

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

- 2 (1) "Authority", the Missouri agriculture and small business development  
3 authority;
  - 4 (2) "Eligible expenses", the actual cost to a producer of implementing odor  
5 abatement best management practices and systems necessary to achieve MELO  
6 accreditation from the department of agriculture. Eligible expenses includes the actual  
7 cost of implementing odor abatement best management practices and systems necessary  
8 to meet preferred environmental practices. All eligible expenses shall be less any federal  
9 or other state incentives;
  - 10 (3) "MELO", managed environment livestock operation;
  - 11 (4) "Odor abatement best management practices", best management practices as  
12 established by the department of natural resources and the department of agriculture;
  - 13 (5) "Preferred environmental practice", those odor abatement best management  
14 practices which exceed the criteria for MELO accreditation;
  - 15 (6) "Producer", a person, partnership, corporation, trust, or limited liability  
16 company who is a Missouri resident and whose primary purpose is agriculture production;
  - 17 (7) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,  
18 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or otherwise due  
19 under chapter 147, 148, or 153, RSMo;
  - 20 (8) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,  
21 RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the  
22 tax imposed in chapter 147, 148, or 153, RSMo.
- 23 **2. For all taxable years beginning on or after January 1, 2007, a taxpayer shall be**  
24 **allowed a tax credit for the eligible costs of implementing odor abatement best management**  
25 **practices and systems. The authority shall establish a managed environment livestock**  
26 **operation odor abatement tax credit program for producers. The maximum cumulative**  
27 **tax credit amount per taxpayer shall be equal to:**
- 28 (1) The lesser of fifty percent of such eligible expense of implementing odor  
29 abatement best management practices and systems necessary to achieve MELO  
30 accreditation from the department of agriculture and/or basic infrastructure to increase  
31 the setback from the property line, or fifty thousand dollars; or
  - 32 (2) The lesser of seventy-five percent of such eligible expense of implementing odor  
33 abatement best management practices and systems necessary to meet preferred

34 environmental practices and/or basic infrastructure to increase the setback from the  
35 property line, or seventy-five thousand dollars.

36       3. If the amount of the tax credit issued exceeds the amount of the taxpayer's state  
37 tax liability for the tax year for which the credit is claimed, the difference shall not be  
38 refundable but may be carried back to any of the taxpayer's three prior taxable years and  
39 carried forward to any of the taxpayer's five subsequent taxable years regardless of the  
40 type of tax liability to which such credits are applied as authorized under subsection 4 of  
41 this section. Tax credits granted under this section may be transferred, sold, or assigned.  
42 Whenever a certificate of tax credit is assigned, transferred, sold, or otherwise conveyed,  
43 a notarized endorsement shall be filed with the authority specifying the name and address  
44 of the new owner of the tax credit or the value of the credit. The cumulative amount of tax  
45 credits which may be issued under this section in any one fiscal year shall not exceed three  
46 million dollars.

47       4. Producers may receive a credit against the tax or estimated quarterly tax  
48 otherwise due under chapter 143, RSMo, other than taxes withheld under sections 143.191  
49 to 143.265, RSMo, or chapter 147 or 148, RSMo.

50       5. Tax credits claimed in a taxable year may be done so on a quarterly basis and  
51 applied to the estimated quarterly tax otherwise due under subsection 4 of this section. If  
52 a quarterly tax credit claim or series of claims contributes to causing an overpayment of  
53 taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the  
54 next taxable year.

55       6. A producer shall submit to the authority an application for tax credit allocation  
56 before any eligible expenses are expended. The authority may promulgate rules  
57 establishing eligibility under this section, taking into consideration:

- 58       (1) The potential for significant odor reduction;  
59       (2) The producer's ability to provide funding for the implementation of best  
60 management odor abatement projects;  
61       (3) The implementation of proven odor abatement technologies; and  
62       (4) Such other factors as the authority may establish.

63       7. The authority may impose a one-time application fee of one-fourth of one percent  
64 which shall be collected at the time of the tax credit issuance.

65       8. Ninety percent of the tax credits authorized under this section shall initially be  
66 issued to producers for MELO accreditation projects in any fiscal year. If any portion of  
67 the ninety percent of tax credits offered to producers for MELO accreditation projects is  
68 unused as of March first in any fiscal year, the unused portion of tax credits may be  
69 offered to producers for preferred environmental practices.

70           **9. If any portion of the ten percent of tax credits offered to producers for preferred**  
71 **environmental practices projects is unused as of March first in any fiscal year, the unused**  
72 **portion of tax credits may be offered to approved MELO accreditation projects.**

73           **10. Any odor abatement tax credit not issued by June thirtieth of each fiscal year**  
74 **shall expire.**

75           **11. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
76 **that is created under the authority delegated in this section shall become effective only if**  
77 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
78 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
79 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
80 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
81 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
82 **adopted after August 28, 2007, shall be invalid and void.**

83           **12. The provisions of this section shall expire on June 30, 2012.**

**135.660. 1. This section shall be known and may be cited as the "Qualified Beef**  
2 **Tax Credit Act".**

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

4           **(1) "Agricultural property", any real and personal property, including but not**  
5 **limited to buildings, structures, improvements, equipment, and livestock, that is used in**  
6 **or is to be used in this state by residents of this state for:**

7           **(a) The operation of a farm or ranch; and**

8           **(b) Grazing, feeding, or the care of livestock;**

9           **(2) "Authority", the agricultural and small business development authority**  
10 **established in chapter 348, RSMo;**

11           **(3) "Qualifying beef animal", any beef animal that is certified by the authority, that**  
12 **was born in this state after August 28, 2007, that was raised and backgrounded or finished**  
13 **in this state by the taxpayer, and that weighs more than four hundred fifty pounds,**  
14 **excluding any beef animal more than thirty months of age;**

15           **(4) "Qualifying sale", the first time a qualifying beef animal is sold in this state**  
16 **after the qualifying beef animal's weight reaches four hundred fifty pounds, and a**  
17 **subsequent sale if the weight of the qualifying beef animal at the time of the subsequent**  
18 **sale is greater than the weight of the qualifying beef animal at the time of the first**  
19 **qualifying sale of such beef animal;**

20           **(5) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,**  
21 **excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or otherwise due**  
22 **under chapter 147, RSMo;**

23           (6) "Taxpayer", any individual or entity who:

24           (a) Is subject to the tax imposed in chapter 143, RSMo, excluding withholding tax  
25 imposed by sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 147, RSMo;

26           (b) In the case of an individual, is a resident of this state; and

27           (c) Owns or rents agricultural property.

28           3. For all taxable years beginning on or after January 1, 2009, but ending on or  
29 before December 31, 2016, a taxpayer shall be allowed a tax credit for each qualifying sale  
30 of a qualifying beef animal. The tax credit amount shall be based on the qualifying beef  
31 animal's weight at the time of the first qualifying sale, and shall be equal to ten cents per  
32 pound above four hundred fifty pounds and for a subsequent qualifying sale, ten cents per  
33 pound above the weight of the qualifying beef animal at the time of the first qualifying sale  
34 of such beef animal or four hundred fifty pounds, whichever weight is greater.

35           4. The amount of the tax credit claimed shall not exceed the amount of the  
36 taxpayer's state tax liability for the taxable year for which the credit is claimed. No tax  
37 credit claimed under this section shall be refundable. The tax credit shall be claimed in the  
38 taxable year in which the qualifying sale of the qualifying beef occurred, but any amount  
39 of credit that the taxpayer is prohibited by this section from claiming in a taxable year may  
40 be carried forward to any of the taxpayer's five subsequent taxable years and carried  
41 backward to any of the taxpayer's three previous taxable years. The amount of tax credits  
42 that may be issued to all eligible applicants claiming tax credits authorized in this section  
43 in a fiscal year shall not exceed five hundred thousand dollars, and the cumulative amount  
44 of tax credits that may be issued to all eligible applicants claiming all tax credits authorized  
45 in this section shall not exceed five hundred thousand dollars.

46           5. To claim the tax credit allowed under this section, the taxpayer shall submit to  
47 the authority an application for the tax credit on a form provided by the authority. The  
48 application shall be filed with the authority at the end of each calendar year in which a  
49 qualified sale was made and for which a tax credit is claimed under this section. The  
50 application shall include any documentation and information required by the authority.  
51 All required information obtained by the authority shall be confidential and not disclosed  
52 except by court order or as otherwise provided by law. If the taxpayer and the qualified  
53 sale meets all criteria required by this section and is approved by the authority, the  
54 authority shall issue a tax credit certificate in the appropriate amount. Tax credit  
55 certificates issued under this section may be assigned, transferred, sold, or otherwise  
56 conveyed, and the new owner of the tax credit certificate shall have the same rights in the  
57 tax credit as the original taxpayer. Whenever a tax credit certificate is assigned,  
58 transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the

59 authority specifying the name and address of the new owner of the tax credit certificate or  
60 the value of the tax credit.

61 6. Any information provided under this section shall be confidential information,  
62 to be shared with no one except state and federal animal health officials, and shall not be  
63 subject to subpoena or other compulsory production.

64 7. The department of agriculture and the authority may promulgate rules to  
65 implement the provisions of this section. Any rule or portion of a rule, as that term is  
66 defined in section 536.010, RSMo, that is created under the authority delegated in this  
67 section shall become effective only if it complies with and is subject to all of the provisions  
68 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter  
69 536, RSMo, are nonseverable and if any of the powers vested with the general assembly  
70 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and  
71 annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
72 authority and any rule proposed or adopted after August 28, 2007, shall be invalid and  
73 void.

74 8. This section shall not be subject to the Missouri sunset act, sections 23.250 to  
75 23.298, RSMo.

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

2 (1) "Board", the CAFO review board created under section 348.465, RSMo;

3 (2) "Department", the Missouri department of revenue;

4 (3) "Reasonably available odor control technology", odor control technologies that  
5 reduce odors to the greatest extent that a concentrated animal feeding operation is capable  
6 of meeting by the application of odor control technology that is reasonably available  
7 considering technological and economic feasibility;

8 (4) "State tax liability", in the case of a business taxpayer, any liability incurred by  
9 such taxpayer pursuant to the provisions of chapter 143, RSMo, excluding sections 143.191  
10 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any  
11 liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo,  
12 excluding sections 143.191 to 143.265, RSMo, and related provisions;

13 (5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder  
14 in an S corporation doing business in the state of Missouri and subject to the state income  
15 tax imposed by the provisions of chapter 143, RSMo, or an individual subject to the state  
16 income tax imposed by the provisions of chapter 143, RSMo.

17 2. For all tax years beginning on or after January 1, 2008, a taxpayer shall be  
18 allowed to claim a tax credit against the taxpayer's state tax liability in an amount equal  
19 to fifty percent of the amount such taxpayer paid to purchase and install reasonably

20 available odor control technology in a class IB, class IC, or class II concentrated animal  
21 feeding operation, as such terms are defined under section 640.703, RSMo. In no case shall  
22 the tax credit exceed one hundred thousand dollars per concentrated animal feeding  
23 operation per year. The cumulative amount of tax credits which may be issued under this  
24 section in any one fiscal year shall not exceed two million dollars.

25 3. Taxpayers shall file an application for tax credits with the board on a form  
26 prescribed by the board. The board shall grant priority based upon greatest need for  
27 reasonably available odor control technology and not upon the order in which applications  
28 for tax credits are received. The board shall issue tax credits no earlier than November  
29 first of each tax year. The board shall notify the department of the name of each taxpayer  
30 receiving a credit under this section as well as the amount of such credit.

31 4. The amount of the tax credit claimed shall not exceed the amount of the  
32 taxpayer's state tax liability for the taxable year for which the credit is claimed. However,  
33 any tax credit that cannot be claimed in the taxable year the purchase and installation was  
34 made may be carried over to the next three succeeding taxable years until the full credit  
35 has been claimed. Any taxpayer may sell, assign, exchange, convey, or otherwise transfer  
36 tax credits authorized under this section.

37 5. The board shall promulgate rules necessary for the implementation of the  
38 provisions of this section. Any rule or portion of a rule, as that term is defined in section  
39 536.010, RSMo, that is created under the authority delegated in this section shall become  
40 effective only if it complies with and is subject to all of the provisions of chapter 536,  
41 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
42 nonseverable and if any of the powers vested with the general assembly pursuant to  
43 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule  
44 are subsequently held unconstitutional, then the grant of rulemaking authority and any  
45 rule proposed or adopted after August 28, 2007, shall be invalid and void.

46 6. No tax credit under this section shall be issued for tax years beginning on or after  
47 January 1, 2013.

135.800. 1. The provisions of sections 135.800 to 135.830 shall be known and may be  
2 cited as the "Tax Credit Accountability Act of 2004".

3 2. As used in sections 135.800 to 135.830, the following terms mean:

4 (1) "Administering agency", the state agency or department charged with administering  
5 a particular tax credit program, as set forth by the program's enacting statute; where no  
6 department or agency is set forth, the department of revenue;

7 (2) "Agricultural tax credits", the agricultural product utilization contributor tax credit  
8 created pursuant to section 348.430, RSMo, the new generation cooperative incentive tax credit

9 created pursuant to section 348.432, RSMo, **family farm breeding livestock loan tax credit**  
10 **created under section 348.500, RSMo**, and the wine and grape production tax credit created  
11 pursuant to section 135.700;

12 (3) "All tax credit programs", the tax credit programs included in the definitions of  
13 agricultural tax credits, business recruitment tax credits, community development tax credits,  
14 domestic and social tax credits, entrepreneurial tax credits, environmental tax credits, housing  
15 tax credits, redevelopment tax credits, and training and educational tax credits;

16 (4) "Business recruitment tax credits", the business facility tax credit created pursuant  
17 to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created  
18 pursuant to sections 135.200 to 135.270, the business use incentives for large-scale development  
19 programs created pursuant to sections 100.700 to 100.850, RSMo, the development tax credits  
20 created pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax credit  
21 created pursuant to section 135.535, and the film production tax credit created pursuant to  
22 section 135.750;

23 (5) "Community development tax credits", the neighborhood assistance tax credit created  
24 pursuant to sections 32.100 to 32.125, RSMo, the family development account tax credit created  
25 pursuant to sections 208.750 to 208.775, RSMo, the dry fire hydrant tax credit created pursuant  
26 to section 320.093, RSMo, and the transportation development tax credit created pursuant to  
27 section 135.545;

28 (6) "Domestic and social tax credits", the youth opportunities tax credit created pursuant  
29 to section 135.460 and sections 620.1100 to 620.1103, RSMo, the shelter for victims of domestic  
30 violence created pursuant to section 135.550, the senior citizen or disabled person property tax  
31 credit created pursuant to sections 135.010 to 135.035, the special needs adoption tax credit  
32 created pursuant to sections 135.325 to 135.339, the maternity home tax credit created pursuant  
33 to section 135.600, and the shared care tax credit created pursuant to section 660.055, RSMo;

34 (7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections  
35 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500  
36 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, RSMo,  
37 the new enterprise creation tax credit created pursuant to sections 620.635 to 620.653, RSMo,  
38 the research tax credit created pursuant to section 620.1039, RSMo, the small business incubator  
39 tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit created  
40 pursuant to section 135.766, and the new generation cooperative tax credit created pursuant to  
41 sections 32.105 to 32.125, RSMo;

42 (8) "Environmental tax credits", the charcoal producer tax credit created pursuant to  
43 section 135.313, the wood energy tax credit created pursuant to sections 135.300 to 135.311, and



44 the manufacturing and recycling flexible cellulose casing tax credit created pursuant to section  
45 260.285, RSMo;

46 (9) "Housing tax credits", the neighborhood preservation tax credit created pursuant to  
47 sections 135.475 to 135.487, the low-income housing tax credit created pursuant to sections  
48 135.350 to 135.363, and the affordable housing tax credit created pursuant to sections 32.105 to  
49 32.125, RSMo;

50 (10) "Recipient", the individual or entity who is the original applicant for and who  
51 receives proceeds from a tax credit program directly from the administering agency, the person  
52 or entity responsible for the reporting requirements established in section 135.805;

53 (11) "Redevelopment tax credits", the historic preservation tax credit created pursuant  
54 to sections 253.545 to 253.561, RSMo, the brownfield redevelopment program tax credit created  
55 pursuant to sections 447.700 to 447.718, RSMo, the community development corporations tax  
56 credit created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created  
57 pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit created  
58 pursuant to section 100.297, RSMo, and the disabled access tax credit created pursuant to section  
59 135.490;

60 (12) "Training and educational tax credits", the community college new jobs tax credit  
61 created pursuant to sections 178.892 to 178.896, RSMo, the skills development account tax  
62 credit created pursuant to sections 620.1400 to 620.1460, RSMo, the mature worker tax credit  
63 created pursuant to section 620.1560, RSMo, and the sponsorship and mentoring tax credit  
64 created pursuant to section 135.348.

135.805. 1. A recipient of a community development tax credit shall annually, for a  
2 period of three years following issuance of tax credits, provide to the administering agency  
3 information confirming the title and location of the corresponding project, the estimated or actual  
4 time period for completion of the project, and all geographic areas impacted by the project.

5 2. A recipient of a redevelopment tax credit shall annually, for a period of three years  
6 following issuance of tax credits, provide to the administering agency information confirming  
7 whether the property is used for residential, commercial, or governmental purposes, and the  
8 projected or actual project cost, labor cost, and date of completion.

9 3. A recipient of a business recruitment tax credit shall annually, for a period of three  
10 years following issuance of tax credits, provide to the administering agency information  
11 confirming the category of business by size, the address of the business headquarters and all  
12 offices located within this state, the number of employees at the time of the annual update, an  
13 updated estimate of the number of employees projected to increase as a result of the completion  
14 of the project, and the estimated or actual project cost.

15           4. A recipient of a training and educational tax credit shall annually, for a period of three  
16 years following issuance of tax credits, provide to the administering agency information  
17 confirming the name and address of the educational institution used, the average salary of  
18 workers served as of such annual update, the estimated or actual project cost, and the number of  
19 employees and number of students served as of such annual update.

20           5. A recipient of a housing tax credit shall annually, for a period of three years following  
21 issuance of tax credits, provide to the administering agency information confirming the address  
22 of the property, the fair market value of the property, as defined in subsection 6 of section  
23 135.802, and the projected or actual labor cost and completion date of the project.

24           6. A recipient of an entrepreneurial tax credit shall annually, for a period of three years  
25 following issuance of tax credits, provide to the administering agency information confirming  
26 the amount of investment and the names of the project, fund, and research project.

27           7. A recipient of an agricultural tax credit shall annually, for a period of three years  
28 following issuance of tax credits, provide to the administering agency information confirming  
29 the type of agricultural commodity, the amount of contribution, the type of equipment purchased,  
30 and the name and description of the facility, except that if the agricultural credit is issued as a  
31 result of a producer member investing in a new generation processing entity **or new generation**  
32 **cooperative** then the new generation processing entity **or new generation cooperative**, and not  
33 the recipient, shall annually, for a period of three years following issuance of tax credits, provide  
34 to the administering agency information confirming the type of agricultural commodity, the  
35 amount of contribution, the type of equipment purchased, and the name and description of the  
36 facility.

37           8. A recipient of an environmental tax credit shall annually, for a period of three years  
38 following issuance of tax credits, provide to the administering agency information detailing any  
39 change to the type of equipment purchased, if applicable, and any change to any environmental  
40 impact statement, if such statement is required by state or federal law.

41           9. The reporting requirements established in this section shall be due annually on June  
42 thirtieth of each year. No person or entity shall be required to make an annual report until at least  
43 one year after the credit issuance date.

44           10. Where the sole requirement for receiving a tax credit in the enabling legislation of  
45 any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a  
46 particular group or entity, the reporting requirements provided in this section shall apply to the  
47 recipient of such assessment or contribution and shall not apply to the assessed nor the  
48 contributor.

49           11. Where the enacting statutes of a particular tax credit program or the rules of a  
50 particular administering agency require reporting of information that includes the information

51 required in sections 135.802 to 135.810, upon reporting of the required information, the  
52 applicant shall be deemed to be in compliance with the requirements of sections 135.802 to  
53 135.810. The administering agency shall notify in writing the department of economic  
54 development of the administering agency's status as custodian of any particular tax credit  
55 program and that all records pertaining to the program are available at the administering agency's  
56 office for review by the department of economic development.

57 12. The provisions of subsections 1 to 10 of this section shall apply beginning on June  
58 30, 2005.

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

2 (1) "Fuel ethanol", [one hundred ninety-eight proof ethanol denatured in conformity with  
3 the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and  
4 distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain  
5 by-products] **a fuel which meets ASTM International specification number D 4806 or**  
6 **subsequent specifications for blending with gasoline for use as automotive spark-ignition**  
7 **engine fuel and where the ethanol is made from cereal grains, cereal grain by-products, or**  
8 **qualified biomass;**

9 (2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel  
10 ethanol in which the gasoline portion of the blend or the finished blend meets the [American  
11 Society for Testing and Materials -] **ASTM International** specification number [D-439] **D 4814;**

12 (3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose  
13 principal place of business and facility for the fermentation and distillation of fuel ethanol is  
14 located within the state of Missouri and is at least fifty-one percent owned by agricultural  
15 producers actively engaged in agricultural production for commercial purposes, and which has  
16 made formal application, posted a bond, and conformed to the requirements of this section;

17 (4) "Professional forester", **any individual who holds a bachelor of science degree**  
18 **in forestry from a regionally accredited college or university with a minimum of two years**  
19 **of professional forest management experience;**

20 (5) "Qualified biomass", **any agriculture-derived organic material or any wood-**  
21 **derived organic material harvested in accordance with a site specific forest management**  
22 **plan focused for long-term forest sustainability developed by a professional forester and**  
23 **qualified, in consultation with the conservation commission, by the agriculture and small**  
24 **business development authority.**

25 2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby created and  
26 subject to appropriations shall be used to provide economic subsidies to Missouri qualified fuel  
27 ethanol producers pursuant to this section. The director of the department of agriculture shall  
28 administer the fund pursuant to this section.

29           3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from  
30 the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the  
31 grant for a total of sixty months unless such producer during those sixty months failed, due to  
32 a lack of appropriations, to receive the full amount from the fund for which they were eligible,  
33 in which case such producers shall continue to be eligible for up to twenty-four additional  
34 months or until they have received the maximum amount of funding for which they were eligible  
35 during the original sixty-month time period. The amount of the grant is determined by  
36 calculating the estimated gallons of qualified fuel ethanol production to be produced from  
37 Missouri agricultural products **or qualified biomass** for the succeeding calendar month, as  
38 certified by the department of agriculture, and applying such figure to the per-gallon incentive  
39 credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be  
40 eligible for a total grant in any fiscal year equal to twenty cents per gallon for the first twelve and  
41 one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products  
42 **or qualified biomass** in the fiscal year plus five cents per gallon for the next twelve and one-half  
43 million gallons of qualified fuel ethanol produced from Missouri agricultural products **or**  
44 **qualified biomass** in the fiscal year. All such qualified fuel ethanol produced by a Missouri  
45 qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to  
46 the computation of a grant pursuant to this subsection. The department of agriculture shall pay  
47 all grants for a particular month by the fifteenth day after receipt and approval of the application  
48 described in subsection 4 of this section. If actual production of qualified fuel ethanol during a  
49 particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol  
50 producer, the department of agriculture shall adjust the subsequent monthly grant by paying  
51 additional amount or subtracting the amount in deficiency by using the calculation described in  
52 this subsection.

53           4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from the fund  
54 for a particular month, an application for such funds shall be received no later than fifteen days  
55 prior to the first day of the month for which the grant is sought. The application shall include:  
56           (1) The location of the Missouri qualified fuel ethanol producer;  
57           (2) The average number of citizens of Missouri employed by the Missouri qualified fuel  
58 ethanol producer in the preceding quarter, if applicable;  
59           (3) The number of bushels of Missouri agricultural commodities **or green weight tons**  
60 **of qualified biomass** used by the Missouri qualified fuel ethanol producer in the production of  
61 fuel ethanol in the preceding quarter;  
62           (4) The number of gallons of qualified fuel ethanol the producer expects to manufacture  
63 during the month for which the grant is applied;

64 (5) A copy of the qualified fuel ethanol producer license required pursuant to subsection  
65 5 of this section, name and address of surety company, and amount of bond to be posted pursuant  
66 to subsection 5 of this section; and

67 (6) Any other information deemed necessary by the department of agriculture to  
68 adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol  
69 producers.

70 5. The director of the department of agriculture, in consultation with the department of  
71 revenue **and the department of conservation**, shall promulgate rules and regulations necessary  
72 for the administration of the provisions of this section. The director shall also establish  
73 procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel  
74 ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an  
75 amount not to exceed the estimated maximum monthly grant to be issued to such Missouri  
76 qualified fuel ethanol producer.

77 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
78 is created under the authority delegated in this section shall become effective only if it complies  
79 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
80 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers  
81 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the  
82 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the  
83 grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be  
84 invalid and void.

85 **7. Beginning January 1, 2008, through December 31, 2018, the economic subsidies**  
86 **provided under this section to Missouri qualified fuel ethanol producers of fuel ethanol**  
87 **made from qualified biomass shall not exceed ten million dollars per year. Prior to**  
88 **January 1, 2008, and after January 1, 2019, Missouri qualified fuel ethanol producers of**  
89 **fuel ethanol made from qualified biomass shall be ineligible for economic subsidies under**  
90 **this section.**

142.031. 1. As used in this section the following terms shall mean:

2 (1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard  
3 specifications for biodiesel fuel (B100) blend stock for distillate fuels;

4 (2) "Missouri qualified biodiesel producer", a facility that produces biodiesel, is  
5 registered with the United States Environmental Protection Agency according to the  
6 requirements of 40 CFR 79, and:

7 (a) Is at least fifty-one percent owned by agricultural producers who are residents of this  
8 state and who are actively engaged in agricultural production for commercial purposes; or

9 (b) At least eighty percent of the feedstock used by the facility originates in the state of  
10 Missouri. For purposes of this section, "feedstock" means [a Missouri agricultural product as  
11 defined in section 348.400, RSMo] **an agricultural, horticultural, viticultural, vegetable,**  
12 **aquacultural, livestock, forestry, or poultry product either in its natural or processed state.**

13 2. The "Missouri Qualified Biodiesel Producer Incentive Fund" is hereby created and  
14 subject to appropriations shall be used to provide economic subsidies to Missouri qualified  
15 biodiesel producers pursuant to this section. The director of the department of agriculture shall  
16 administer the fund pursuant to this section.

17 3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the  
18 fund provided that one hundred percent of the feedstock originates in the United States.  
19 However, the director may waive the feedstock requirements on a month-to-month basis if the  
20 facility provides verification that adequate feedstock is not available. A Missouri qualified  
21 biodiesel producer shall only be eligible for the grant for a total of sixty months unless such  
22 producers during the sixty months fail, due to a lack of appropriations, to receive the full amount  
23 from the fund for which the producers were eligible, in which case such producers shall continue  
24 to be eligible for up to twenty-four additional months or until they have received the maximum  
25 amount of funding for which such producers were eligible during the original sixty-month time  
26 period. The amount of the grant is determined by calculating the estimated gallons of qualified  
27 biodiesel produced during the preceding month from [Missouri agricultural products] **feedstock**,  
28 as certified by the department of agriculture, and applying such figure to the per-gallon incentive  
29 credit established in this subsection. Each Missouri qualified biodiesel producer shall be eligible  
30 for a total grant in any fiscal year equal to thirty cents per gallon for the first fifteen million  
31 gallons of qualified biodiesel produced from [Missouri agricultural products] **feedstock** in the  
32 fiscal year plus ten cents per gallon for the next fifteen million gallons of qualified biodiesel  
33 produced from [Missouri agricultural products] **feedstock** in the fiscal year. All such qualified  
34 biodiesel produced by a Missouri qualified biodiesel producer in excess of thirty million gallons  
35 shall not be applied to the computation of a grant pursuant to this subsection. The department  
36 of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and  
37 approval of the application described in subsection 4 of this section.

38 4. In order for a Missouri qualified biodiesel producer to obtain a grant from the fund,  
39 an application for such funds shall be received no later than fifteen days following the last day  
40 of the month for which the grant is sought. The application shall include:

41 (1) The location of the Missouri qualified biodiesel producer;

42 (2) The average number of citizens of Missouri employed by the Missouri qualified  
43 biodiesel producer in the preceding month, if applicable;

44 (3) The number of bushel equivalents of Missouri [agricultural commodities] **feedstock**  
45 **and out-of-state feedstock** used by the Missouri qualified biodiesel producer in the production  
46 of biodiesel in the preceding month;

47 (4) The number of gallons of qualified biodiesel the producer manufactures during the  
48 month for which the grant is applied;

49 (5) A copy of the qualified biodiesel producer license required pursuant to subsection  
50 5 of this section, name and address of surety company, and amount of bond to be posted pursuant  
51 to subsection 5 of this section; and

52 (6) Any other information deemed necessary by the department of agriculture to  
53 adequately ensure that such grants shall be made only to Missouri qualified biodiesel producers.

54 5. The director of the department of agriculture, in consultation with the department of  
55 revenue, shall promulgate rules and regulations necessary for the administration of the provisions  
56 of this section.

57 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
58 is created under the authority delegated in this section shall become effective only if it complies  
59 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
60 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers  
61 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the  
62 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the  
63 grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be  
64 invalid and void.

65 7. This section shall expire on December 31, 2009. However, Missouri qualified  
66 biodiesel producers receiving any grants awarded prior to December 31, 2009, shall continue to  
67 be eligible for the remainder of the original sixty-month time period under the same terms and  
68 conditions of this section unless such producer during such sixty months failed, due to a lack of  
69 appropriations, to receive the full amount from the fund for which he or she was eligible. In such  
70 case, such producers shall continue to be eligible for up to twenty-four additional months or until  
71 they have received the maximum amount of funding for which they were eligible during the  
72 original sixty-month time period.

144.030. 1. There is hereby specifically exempted from the provisions of sections  
2 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to  
3 sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and  
4 any other state of the United States, or between this state and any foreign country, and any retail  
5 sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws  
6 of the United States of America, and such retail sales of tangible personal property which the

7 general assembly of the state of Missouri is prohibited from taxing or further taxing by the  
8 constitution of this state.

9         2. There are also specifically exempted from the provisions of the local sales tax law as  
10 defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and  
11 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to  
12 the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections  
13 144.010 to 144.525 and 144.600 to 144.745:

14         (1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of  
15 such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel  
16 to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing  
17 water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into  
18 foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or  
19 fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will  
20 be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at  
21 retail; economic poisons registered pursuant to the provisions of the Missouri pesticide  
22 registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with  
23 the growth or production of crops, fruit trees or orchards applied before, during, or after planting,  
24 the crop of which when harvested will be sold at retail or will be converted into foodstuffs which  
25 are to be sold ultimately in processed form at retail;

26         (2) Materials, manufactured goods, machinery and parts which when used in  
27 manufacturing, processing, compounding, mining, producing or fabricating become a component  
28 part or ingredient of the new personal property resulting from such manufacturing, processing,  
29 compounding, mining, producing or fabricating and which new personal property is intended to  
30 be sold ultimately for final use or consumption; and materials, including without limitation,  
31 gases and manufactured goods, including without limitation, slagging materials and firebrick,  
32 which are ultimately consumed in the manufacturing process by blending, reacting or interacting  
33 with or by becoming, in whole or in part, component parts or ingredients of steel products  
34 intended to be sold ultimately for final use or consumption;

35         (3) Materials, replacement parts and equipment purchased for use directly upon, and for  
36 the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock  
37 or aircraft engaged as common carriers of persons or property;

38         (4) Replacement machinery, equipment, and parts and the materials and supplies solely  
39 required for the installation or construction of such replacement machinery, equipment, and  
40 parts, used directly in manufacturing, mining, fabricating or producing a product which is  
41 intended to be sold ultimately for final use or consumption; and machinery and equipment, and  
42 the materials and supplies required solely for the operation, installation or construction of such



43 machinery and equipment, purchased and used to establish new, or to replace or expand existing,  
44 material recovery processing plants in this state. For the purposes of this subdivision, a "material  
45 recovery processing plant" means a facility that has as its primary purpose the recovery of  
46 materials into a useable product or a different form which is used in producing a new product and  
47 shall include a facility or equipment which are used exclusively for the collection of recovered  
48 materials for delivery to a material recovery processing plant but shall not include motor vehicles  
49 used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall  
50 have the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse  
51 of materials within a manufacturing process or the use of a product previously recovered. The  
52 material recovery processing plant shall qualify under the provisions of this section regardless  
53 of ownership of the material being recovered;

54 (5) Machinery and equipment, and parts and the materials and supplies solely required  
55 for the installation or construction of such machinery and equipment, purchased and used to  
56 establish new or to expand existing manufacturing, mining or fabricating plants in the state if  
57 such machinery and equipment is used directly in manufacturing, mining or fabricating a product  
58 which is intended to be sold ultimately for final use or consumption;

59 (6) Tangible personal property which is used exclusively in the manufacturing,  
60 processing, modification or assembling of products sold to the United States government or to  
61 any agency of the United States government;

62 (7) Animals or poultry used for breeding or feeding purposes;

63 (8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and  
64 other machinery, equipment, replacement parts and supplies used in producing newspapers  
65 published for dissemination of news to the general public;

66 (9) The rentals of films, records or any type of sound or picture transcriptions for public  
67 commercial display;

68 (10) Pumping machinery and equipment used to propel products delivered by pipelines  
69 engaged as common carriers;

70 (11) Railroad rolling stock for use in transporting persons or property in interstate  
71 commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or  
72 more or trailers used by common carriers, as defined in section 390.020, RSMo, solely in the  
73 transportation of persons or property in interstate commerce;

74 (12) Electrical energy used in the actual primary manufacture, processing, compounding,  
75 mining or producing of a product, or electrical energy used in the actual secondary processing  
76 or fabricating of the product, or a material recovery processing plant as defined in subdivision  
77 (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical  
78 energy so used exceeds ten percent of the total cost of production, either primary or secondary,

79 exclusive of the cost of electrical energy so used or if the raw materials used in such processing  
80 contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo.  
81 For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts  
82 performed upon materials to transform and reduce them to a different state or thing, including  
83 treatment necessary to maintain or preserve such processing by the producer at the production  
84 facility;

85 (13) Anodes which are used or consumed in manufacturing, processing, compounding,  
86 mining, producing or fabricating and which have a useful life of less than one year;

87 (14) Machinery, equipment, appliances and devices purchased or leased and used solely  
88 for the purpose of preventing, abating or monitoring air pollution, and materials and supplies  
89 solely required for the installation, construction or reconstruction of such machinery, equipment,  
90 appliances and devices, and so certified as such by the director of the department of natural  
91 resources, except that any action by the director pursuant to this subdivision may be appealed to  
92 the air conservation commission which may uphold or reverse such action;

93 (15) Machinery, equipment, appliances and devices purchased or leased and used solely  
94 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies  
95 solely required for the installation, construction or reconstruction of such machinery, equipment,  
96 appliances and devices, and so certified as such by the director of the department of natural  
97 resources, except that any action by the director pursuant to this subdivision may be appealed to  
98 the Missouri clean water commission which may uphold or reverse such action;

99 (16) Tangible personal property purchased by a rural water district;

100 (17) All amounts paid or charged for admission or participation or other fees paid by or  
101 other charges to individuals in or for any place of amusement, entertainment or recreation, games  
102 or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a  
103 municipality or other political subdivision where all the proceeds derived therefrom benefit the  
104 municipality or other political subdivision and do not inure to any private person, firm, or  
105 corporation;

106 (18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1,  
107 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of  
108 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically  
109 including hearing aids and hearing aid supplies and all sales of drugs which may be legally  
110 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to  
111 administer those items, including samples and materials used to manufacture samples which may  
112 be dispensed by a practitioner authorized to dispense such samples and all sales of medical  
113 oxygen, home respiratory equipment and accessories, hospital beds and accessories and  
114 ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers,

115 electronic Braille equipment and, if purchased by or on behalf of a person with one or more  
116 physical or mental disabilities to enable them to function more independently, all sales of  
117 scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and  
118 augmentative communication devices, and items used solely to modify motor vehicles to permit  
119 the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or  
120 nonprescription drugs to individuals with disabilities;

121 (19) All sales made by or to religious and charitable organizations and institutions in  
122 their religious, charitable or educational functions and activities and all sales made by or to all  
123 elementary and secondary schools operated at public expense in their educational functions and  
124 activities;

125 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce  
126 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,  
127 including fraternal organizations which have been declared tax-exempt organizations pursuant  
128 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or  
129 charitable functions and activities and all sales made to eleemosynary and penal institutions and  
130 industries of the state, and all sales made to any private not-for-profit institution of higher  
131 education not otherwise excluded pursuant to subdivision (19) of this subsection or any  
132 institution of higher education supported by public funds, and all sales made to a state relief  
133 agency in the exercise of relief functions and activities;

134 (21) All ticket sales made by benevolent, scientific and educational associations which  
135 are formed to foster, encourage, and promote progress and improvement in the science of  
136 agriculture and in the raising and breeding of animals, and by nonprofit summer theater  
137 organizations if such organizations are exempt from federal tax pursuant to the provisions of the  
138 Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any  
139 fair conducted by a county agricultural and mechanical society organized and operated pursuant  
140 to sections 262.290 to 262.530, RSMo;

141 (22) All sales made to any private not-for-profit elementary or secondary school, all sales  
142 of feed additives, medications or vaccines administered to livestock or poultry in the production  
143 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for  
144 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,  
145 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying  
146 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as  
147 defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new  
148 generation cooperative or an eligible new generation processing entity as defined in section  
149 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes[,] **and**  
150 motor vehicles [and trailers]. As used in this subdivision, the term "feed additives" means

151 tangible personal property which, when mixed with feed for livestock or poultry, is to be used  
152 in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes  
153 adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used  
154 to improve or enhance the effect of a pesticide and the foam used to mark the application of  
155 pesticides and herbicides for the production of crops, livestock or poultry. As used in this  
156 subdivision, the term "farm machinery and equipment" means new or used farm tractors and such  
157 other new or used farm machinery and equipment **and trailers manufactured in Missouri**, and  
158 repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and  
159 directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail,  
160 or for producing milk for ultimate sale at retail, including field drain tile, and [one-half of each  
161 purchaser's] **the purchase of [diesel] motor fuel, as defined in section 142.800, RSMo**, therefor  
162 which is:

- 163 (a) Used exclusively for agricultural purposes;  
164 (b) Used on land owned or leased for the purpose of producing farm products; and  
165 (c) Used directly in producing farm products to be sold ultimately in processed form or  
166 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold  
167 ultimately in processed form at retail;

168 (23) Except as otherwise provided in section 144.032, all sales of metered water service,  
169 electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil  
170 for domestic use and in any city not within a county, all sales of metered or unmetered water  
171 service for domestic use;

172 (a) "Domestic use" means that portion of metered water service, electricity, electrical  
173 current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not  
174 within a county, metered or unmetered water service, which an individual occupant of a  
175 residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility  
176 service through a single or master meter for residential apartments or condominiums, including  
177 service for common areas and facilities and vacant units, shall be deemed to be for domestic use.  
178 Each seller shall establish and maintain a system whereby individual purchases are determined  
179 as exempt or nonexempt;

180 (b) Regulated utility sellers shall determine whether individual purchases are exempt or  
181 nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file  
182 with and approved by the Missouri public service commission. Sales and purchases made  
183 pursuant to the rate classification "residential" and sales to and purchases made by or on behalf  
184 of the occupants of residential apartments or condominiums through a single or master meter,  
185 including service for common areas and facilities and vacant units, shall be considered as sales  
186 made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales

187 tax upon the entire amount of purchases classified as nondomestic use. The seller's utility  
188 service rate classification and the provision of service thereunder shall be conclusive as to  
189 whether or not the utility must charge sales tax;

190 (c) Each person making domestic use purchases of services or property and who uses any  
191 portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day  
192 of the fourth month following the year of purchase, and without assessment, notice or demand,  
193 file a return and pay sales tax on that portion of nondomestic purchases. Each person making  
194 nondomestic purchases of services or property and who uses any portion of the services or  
195 property so purchased for domestic use, and each person making domestic purchases on behalf  
196 of occupants of residential apartments or condominiums through a single or master meter,  
197 including service for common areas and facilities and vacant units, under a nonresidential utility  
198 service rate classification may, between the first day of the first month and the fifteenth day of  
199 the fourth month following the year of purchase, apply for credit or refund to the director of  
200 revenue and the director shall give credit or make refund for taxes paid on the domestic use  
201 portion of the purchase. The person making such purchases on behalf of occupants of residential  
202 apartments or condominiums shall have standing to apply to the director of revenue for such  
203 credit or refund;

204 (24) All sales of handicraft items made by the seller or the seller's spouse if the seller or  
205 the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such  
206 sales do not constitute a majority of the annual gross income of the seller;

207 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071,  
208 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of  
209 revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local  
210 sales taxes on such excise taxes;

211 (26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne  
212 vessels which are used primarily in or for the transportation of property or cargo, or the  
213 conveyance of persons for hire, on navigable rivers bordering on or located in part in this state,  
214 if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while  
215 it is afloat upon such river;

216 (27) All sales made to an interstate compact agency created pursuant to sections 70.370  
217 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and  
218 activities of such agency as provided pursuant to the compact;

219 (28) Computers, computer software and computer security systems purchased for use  
220 by architectural or engineering firms headquartered in this state. For the purposes of this  
221 subdivision, "headquartered in this state" means the office for the administrative management  
222 of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

- 223           (29) All livestock sales when either the seller is engaged in the growing, producing or  
224 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering  
225 or leasing of such livestock;
- 226           (30) All sales of barges which are to be used primarily in the transportation of property  
227 or cargo on interstate waterways;
- 228           (31) Electrical energy or gas, whether natural, artificial or propane, water, or other  
229 utilities which are ultimately consumed in connection with the manufacturing of cellular glass  
230 products or in any material recovery processing plant as defined in subdivision (4) of subsection  
231 2 of this section;
- 232           (32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or  
233 herbicides used in the production of crops, aquaculture, livestock or poultry;
- 234           (33) Tangible personal property **and utilities** purchased for use or consumption directly  
235 or exclusively in the research and development of **agricultural/biotechnology and plant**  
236 **genomics products and** prescription pharmaceuticals consumed by humans or animals;
- 237           (34) All sales of grain bins for storage of grain for resale;
- 238           (35) All sales of feed which are developed for and used in the feeding of pets owned by  
239 a commercial breeder when such sales are made to a commercial breeder, as defined in section  
240 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;
- 241           (36) All purchases by a contractor on behalf of an entity located in another state,  
242 provided that the entity is authorized to issue a certificate of exemption for purchases to a  
243 contractor under the provisions of that state's laws. For purposes of this subdivision, the term  
244 "certificate of exemption" shall mean any document evidencing that the entity is exempt from  
245 sales and use taxes on purchases pursuant to the laws of the state in which the entity is located.  
246 Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's  
247 exemption certificate as evidence of the exemption. If the exemption certificate issued by the  
248 exempt entity to the contractor is later determined by the director of revenue to be invalid for any  
249 reason and the contractor has accepted the certificate in good faith, neither the contractor or the  
250 exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result  
251 of use of the invalid exemption certificate. Materials shall be exempt from all state and local  
252 sales and use taxes when purchased by a contractor for the purpose of fabricating tangible  
253 personal property which is used in fulfilling a contract for the purpose of constructing, repairing  
254 or remodeling facilities for the following:
- 255           (a) An exempt entity located in this state, if the entity is one of those entities able to issue  
256 project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) [Tangible personal property purchased for use or consumption directly or exclusively in research or experimentation activities performed by life science companies and so certified as such by the director of the department of economic development or the director's designees; except that, the total amount of exemptions certified pursuant to this section shall not exceed one million three hundred thousand dollars in state and local taxes per fiscal year. For purposes of this subdivision, the term "life science companies" means companies whose primary research activities are in agriculture, pharmaceuticals, biomedical or food ingredients, and whose North American Industry Classification System (NAICS) Codes fall under industry 541710 (biotech research or development laboratories), 621511 (medical laboratories) or 541940 (veterinary services). The exemption provided by this subdivision shall expire on June 30, 2003;

(38)] All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo; and

[(39)] (38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event.

**144.051. 1. As used in this section, "machinery and equipment" means new or used farm tractors and such other new or used machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for the planting, harvesting, processing, or transporting of a forestry product, and the purchase of motor fuel, as defined in section 142.800, RSMo, therefor which is:**

(1) Used exclusively for forestry purposes;

(2) Used on land owned or leased for the purpose of planting, harvesting, processing, or transporting forestry products; and

(3) Used directly in planting, harvesting, processing, or transporting forestry products.

**2. Notwithstanding any other provision of law to the contrary, for purposes of department of revenue administrative interpretation, all machinery and equipment used solely for the planting, harvesting, processing, or transporting of a forestry product shall**

14 be considered farm machinery, and shall be exempt from state and local sales and use tax,  
15 as provided for other farm machinery in section 144.030.

2 **144.063. In addition to all other exemptions granted under this chapter, there is**  
3 **also specifically exempted from the provisions of the local sales tax law as defined in section**  
4 **32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.761 and from the**  
5 **computation of the tax levied, assessed or payable under the local sales tax law as defined**  
6 **in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.761, all sales**  
7 **of fencing materials used for agricultural purposes.**

8 192.300. 1. The county commissions and the county health center boards of the several  
9 counties may make and promulgate orders, ordinances, rules or regulations, respectively as will  
10 tend to enhance the public health and prevent the entrance of infectious, contagious,  
11 communicable or dangerous diseases into such county, but any orders, ordinances, rules or  
12 regulations shall not be in conflict with any rules or regulations authorized and made by the  
13 department of health and senior services in accordance with this chapter or by the department  
14 of social services under chapter 198, RSMo. The county commissions and the county health  
15 center boards of the several counties may establish reasonable fees to pay for any costs incurred  
16 in carrying out such orders, ordinances, rules or regulations, however, the establishment of such  
17 fees shall not deny personal health services to those individuals who are unable to pay such fees  
18 or impede the prevention or control of communicable disease. Fees generated shall be deposited  
19 in the county treasury. All fees generated under the provisions of this section shall be used to  
20 support the public health activities for which they were generated. After the promulgation and  
21 adoption of such orders, ordinances, rules or regulations by such county commission or county  
22 health board, such commission or county health board shall make and enter an order or record  
23 declaring such orders, ordinances, rules or regulations to be printed and available for distribution  
24 to the public in the office of the county clerk, and shall require a copy of such order to be  
25 published in some newspaper in the county in three successive weeks, not later than thirty days  
26 after the entry of such order, ordinance, rule or regulation. Any person, firm, corporation or  
27 association which violates any of the orders or ordinances adopted, promulgated and published  
28 by such county commission is guilty of a misdemeanor and shall be prosecuted, tried and fined  
as otherwise provided by law. The county commission or county health board of any such  
county has full power and authority to initiate the prosecution of any action under this section.

2 **2. Notwithstanding the provisions of subsection 1 of this section to the contrary, no**  
3 **public health order, ordinance, rule, or regulation promulgated by a county commission**  
4 **or county health center board under this section shall apply to any agricultural operation**  
5 **and its appurtenances, except that any such order, ordinance, rule, or regulation in**  
6 **existence as of August 28, 2007 that applies to any agricultural operation or its**



29 appurtenances shall remain in effect until the standards required under section 261.175,  
30 RSMo, have been promulgated. As used in this section, the term "agricultural operation  
31 and its appurtenances" shall have the same meaning as in section 537.295, RSMo. Nothing  
32 in this subsection shall be construed as limiting the authority or ability of a county  
33 commission or county health center board to regulate public health matters otherwise  
34 authorized under subsection 1 of this section that are located on or within a farming  
35 operation but are unrelated to agricultural operations and their appurtenances.  
36 Additionally, nothing in this subsection shall be construed as limiting any planning or  
37 zoning authority granted to a county under chapter 64, RSMo.

261.035. 1. There is hereby created in the state treasury for the use of the [marketing]  
2 agriculture business development division of the state department of agriculture a fund to be  
3 known as "The [Marketing] Agriculture Business Development Fund". All moneys received  
4 by the state department of agriculture for marketing development from any source within the  
5 state shall be deposited in the fund.

6 2. Moneys deposited in the fund shall, upon appropriation by the general assembly to the  
7 state department of agriculture, be expended by the state department of agriculture for purposes  
8 of agricultural marketing development and for no other purposes.

9 3. The unexpended balance in the [marketing] agriculture business development fund  
10 at the end of the biennium shall not be transferred to the ordinary revenue fund of the state  
11 treasury and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating  
12 to transfer of funds to the ordinary revenue funds of the state by the state treasurer.

261.175. 1. The department of agriculture shall as soon as practicable promulgate  
2 rules and regulations creating standards for managed environment livestock operations.  
3 As used in this section, the term "managed environment livestock operation" means a  
4 concentrated animal feeding operation, as such term is defined in 10 CSR 20-6.300, that  
5 implements effective, reasonably available odor control technology and utilizes best  
6 management practices for the handling and management of animals and animal manure.  
7 The sole purpose of promulgating standards under this section is to determine the  
8 applicable buffer distance as set forth in section 640.710, RSMo.

9 2. The department shall develop procedures to determine if a concentrated animal  
10 feeding operation meets the standards promulgated under this section. Such procedures  
11 shall ensure that the department renders such determination within thirty days of the date  
12 a permit application submitted by a concentrated animal feeding operation is received by  
13 the department of natural resources.

14           **3. Upon the establishment of the CAFO review board pursuant to section 348.465,**  
15 **RSMo, the authority to promulgate rules to revise the standards under this section shall**  
16 **transfer from the department to the board in accordance with section 348.465, RSMo.**

17           **4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
18 **that is created under the authority delegated in this section shall become effective only if**  
19 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
20 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
21 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
22 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
23 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
24 **adopted after August 28, 2007, shall be invalid and void.**

261.230. The director of the department of agriculture shall, for the use of the  
2 [marketing] **agriculture business development** division of the department of agriculture,  
3 develop and implement rules and regulations by product category for all Missouri agricultural  
4 products included in the AgriMissouri marketing program.

261.235. 1. There is hereby created in the state treasury for the use of the [marketing]  
2 **agriculture business development** division of the state department of agriculture a fund to be  
3 known as "The [Missouri Agricultural Products Marketing Development] **AgriMissouri** Fund".  
4 All moneys received by the state department of agriculture for Missouri agricultural products  
5 marketing development from any source, including trademark fees, shall be deposited in the  
6 fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the  
7 state department of agriculture, be expended by the [marketing] **agriculture business**  
8 **development** division of the state department of agriculture for promotion of Missouri  
9 agricultural products under the AgriMissouri program. The unexpended balance in the [Missouri  
10 agricultural products marketing development] **AgriMissouri** fund at the end of the biennium  
11 shall not be transferred to the general revenue fund of the state treasury and accordingly shall be  
12 exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary  
13 revenue funds of the state by the state treasurer.

14           2. There is hereby created within the department of agriculture the "[Citizens']  
15 **AgriMissouri** Advisory Commission for Marketing Missouri Agricultural Products". The  
16 commission shall establish guidelines, and make recommendations to the director of agriculture,  
17 for the use of funds appropriated by the general assembly for the [marketing] **agriculture**  
18 **business development** division of the department of agriculture, and for all funds collected or  
19 appropriated to the Missouri agricultural products marketing development fund created pursuant  
20 to subsection 1 of this section. The guidelines shall focus on the promotion of the AgriMissouri

21 trademark associated with Missouri agricultural products that have been approved by the general  
22 assembly, and shall advance the following objectives:

23 (1) Increasing the impact and fostering the effectiveness of local efforts to promote  
24 Missouri agricultural products;

25 (2) Enabling and encouraging expanded advertising efforts for Missouri agricultural  
26 products;

27 (3) Encouraging effective, high-quality advertising projects, innovative marketing  
28 strategies, and the coordination of local, regional and statewide marketing efforts;

29 (4) Providing training and technical assistance to cooperative-marketing partners of  
30 Missouri agricultural products.

31 3. The commission may establish a fee structure for sellers electing to use the  
32 AgriMissouri trademark associated with Missouri agricultural products. Under the fee structure:

33 (1) A seller having gross annual sales greater than two million dollars per fiscal year of  
34 Missouri agricultural products which constitute the final product of a series of processes or  
35 activities shall remit to the [marketing] **agriculture business development** division of the  
36 department of agriculture, at such times and in such manner as may be prescribed, a trademark  
37 fee of one-half of one percent of the aggregate amount of all of such seller's wholesale sales of  
38 products carrying the AgriMissouri trademark; and

39 (2) All sellers having gross annual sales less than or equal to two million dollars per  
40 fiscal year of Missouri agricultural products which constitute the final product of a series of  
41 processes or activities shall, after three years of selling Missouri agricultural products carrying  
42 the AgriMissouri trademark, remit to the [marketing] **agriculture business development**  
43 division of the department of agriculture, at such times and in such manner as may be prescribed,  
44 a trademark fee of one-half of one percent of the aggregate amount of all of such seller's  
45 wholesale sales of products carrying the AgriMissouri trademark.

46

47 All trademark fees shall be deposited to the credit of the [Missouri agricultural products  
48 marketing development] **AgriMissouri** fund, created pursuant to this section.

49 4. The [marketing] **agriculture business development** division of the department of  
50 agriculture is authorized to promulgate rules consistent with the guidelines and fee structure  
51 established by the commission. No rule or portion of a rule shall become effective unless it has  
52 been promulgated pursuant to the provisions of chapter 536, RSMo.

53 5. The commission shall consist of nine members appointed by the governor with the  
54 advice and consent of the senate. One member shall be the director of the [market] **agriculture**  
55 **business** development division of the department of agriculture, or his or her representative. At  
56 least one member shall be a specialist in advertising; at least one member shall be a specialist

57 in agribusiness; at least one member shall be a specialist in the retail grocery business; at least  
58 one member shall be a specialist in communications; at least one member shall be a specialist  
59 in product distribution; at least one member shall be a family farmer with expertise in livestock  
60 farming; at least one member shall be a family farmer with expertise in grain farming and at least  
61 one member shall be a family farmer with expertise in organic farming. Members shall serve  
62 for four-year terms, except in the first appointments three members shall be appointed for terms  
63 of four years, three members shall be appointed for terms of three years and three members shall  
64 be appointed for terms of two years each. Any member appointed to fill a vacancy of an  
65 unexpired term shall be appointed for the remainder of the term of the member causing the  
66 vacancy. The governor shall appoint a chairperson of the commission, subject to ratification by  
67 the commission.

68 6. Commission members shall receive no compensation but shall be reimbursed for  
69 actual and necessary expenses incurred in the performance of their official duties on the  
70 commission. The division of [market] **agriculture business development** of the department of  
71 agriculture shall provide all necessary staff and support services as required by the commission  
72 to hold commission meetings, to maintain records of official acts and to conduct all other  
73 business of the commission. The commission shall meet quarterly and at any such time that it  
74 deems necessary. Meetings may be called by the chairperson or by a petition signed by a  
75 majority of the members of the commission. Ten days' notice shall be given in writing to such  
76 members prior to the meeting date. A simple majority of the members of the commission shall  
77 be present to constitute a quorum. Proxy voting shall not be permitted.

261.239. The [marketing] **agriculture business development** division of the department  
2 of agriculture shall create an Internet web site for the purpose of fostering the marketing of  
3 Missouri agricultural products over the Internet.

263.232. It shall be the duty of any person or persons, association of persons,  
2 corporations, partnerships, the state highways and transportation commission, any state  
3 department, any state agency, the county commissions, the township boards, school boards,  
4 drainage boards, the governing bodies of incorporated cities, railroad companies and other  
5 transportation companies or their authorized agents and those supervising state-owned lands:

6 (1) To control and eradicate the spread of cut-leaved teasel (*Dipsacus laciniatus*) and  
7 common teasel (*Dipsacus fullonum*), which are hereby designated as noxious and dangerous  
8 weeds to agriculture, by methods approved by the Environmental Protection Agency and in  
9 compliance with the manufacturer's label instructions; [and]

10 (2) To control the spread of kudzu vine (*Pueraria lobata*), which is hereby designated as  
11 a noxious and dangerous weed to agriculture, by methods approved by the Environmental  
12 Protection Agency and in compliance and conformity with the manufacturer's label instructions;

13           **(3) To control the spread of spotted knapweed (*Centaurea biebersteinii*, including**  
14 **all subspecies), which is hereby designated as a noxious and dangerous weed to agriculture,**  
15 **by methods approved by the Environmental Protection Agency and in compliance and**  
16 **conformity with the manufacturer's label instructions; and**

17           **(4) To control the spread of sericea lespedeza (*Lespedeza cuneata*), which is hereby**  
18 **designated as a noxious and dangerous weed to agriculture, by methods approved by the**  
19 **Environmental Protection Agency and in compliance and conformity with the**  
20 **manufacturer's label instructions.**

          265.200. The executive board of the Missouri state horticultural society shall have the  
2 power and duty:

3           (1) To authorize the director to expend, within the appropriations provided therefor, a  
4 designated amount of the moneys in the apple merchandising fund in the enforcement of sections  
5 265.130 and 265.140, referring to the labeling of apples.

6           (2) To authorize the director to expend, within the appropriations provided therefor, a  
7 reasonable amount of the moneys in the apple merchandising fund in the administration of  
8 sections 265.150 to 265.180, referring to the collection of levies imposed by this chapter.

9           (3) To authorize the director to apportion, within the appropriations provided therefor,  
10 a reasonable amount of the moneys in the apple merchandising fund to the [marketing]  
11 **agriculture business** development fund.

12           (4) To plan and to authorize the director to conduct a campaign of education, advertising,  
13 publicity and sales promotion to increase the consumption of Missouri apples and the director  
14 may contract for any advertising, publicity and sales promotion service. To accomplish such  
15 purpose the director shall have power and it shall be the duty of the director, within the  
16 appropriations provided therefor, to disseminate information:

17           (a) Relating to apples and the importance thereof in preserving the public health, the  
18 economy thereof in the diet of the people, and the importance thereof in the nutrition of children;

19           (b) Relating to the problem of furnishing the consumer at all times with a supply of good  
20 quality apples at reasonable prices;

21           (c) Relating to such other, further and additional information as shall tend to promote  
22 increased consumption of Missouri apples, and as may foster a better understanding and more  
23 efficient cooperation between producers, dealers and the consuming public.

24           (5) To cooperate with other state, regional and national agricultural organizations and  
25 may at its discretion authorize the director to expend within the appropriations provided therefor  
26 moneys of the apple merchandising fund for such purposes.

**265.525. 1. This section shall be known as the "Missouri Rice Certification Act".**

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

(1) "Characteristics of commercial impact", characteristics that may adversely affect the marketability of rice in the event of commingling with other rice and may include, but are not limited to, those characteristics that cannot be visually identified without the aid of specialized equipment or testing, those characteristics that create a significant economic impact in their removal from commingled rice, and those characteristics whose removal from commingled rice is infeasible;

(2) "Council", the rice advisory council established in this section;

(3) "Department", the department of agriculture;

(4) "Director", the director of the department of agriculture;

(5) "End user", any company or corporation that uses rice as a major ingredient in industrial food processing;

(6) "Handler", any person engaged in this state in the business of marketing rice, including persons engaged in the drying, milling, or storing of rice;

(7) "Person", any individual, partnership, limited liability company, limited liability partnership, corporation, firm, company, or any other entity doing business in Missouri;

(8) "Producer", any person who produces, or causes to be produced, rice;

(9) "Rice", all rough or "paddy" rice or brown rice (*Oryza* species) produced in or shipped in Missouri, including rice produced for seed. It does not include wild rice (*Zizania aquatic* or *Zizania palustris*).

3. Except as provided by rules promulgated by the department, it shall be unlawful for any person to introduce, sell, plant, produce, harvest, transport, store, process, or otherwise handle rice identified as having characteristics of commercial impact.

4. There is hereby created within the department of agriculture the "Rice Advisory Council". The council shall be made up of the following ten members:

(1) The director, or his or her designee;

(2) Three members appointed by the director to include:

(a) An individual representing handlers in Missouri;

(b) An individual representing end users;

(c) An individual representing the biotechnology industry;

(3) Six members appointed by the director as recommended by the Missouri Rice Research and Merchandising Council to include:

(a) Two producers, neither of whom shall be employed by or serve on the board of any rice mill or rice merchandiser;

(b) Two scientists employed by institutes of higher education in Missouri;

(c) A representative of rice mills operating in Missouri; and

39 (d) A representative of rice seed dealers.

40 5. Members of the council shall serve terms of three years in length except that the  
41 director shall be a permanent member of the council and the director shall stagger the  
42 terms of the initial appointments so that three members serve terms of two years, three  
43 members serve terms of three years, and three members serve terms of four years. There  
44 is no limit to the number of terms a member may serve. Vacancies shall be filled in the  
45 same manner of representation as the original appointments.

46 6. The rice advisory council shall meet no less than twice annually as determined  
47 by the chairperson of the council, who shall be elected by the council at its first meeting  
48 and once every calendar year thereafter. Members of the council shall serve without  
49 compensation but shall be reimbursed for their actual and necessary expenses incurred in  
50 the performance of their duties.

51 7. The powers and duties of the rice advisory council may include, but not be  
52 limited to, all of the following:

53 (1) Identifying rice varieties that have characteristics of commercial impact;

54 (2) Reviewing the efficacy of terms and conditions of identity preservation  
55 programs imposed on the planting, producing, harvesting, transporting, drying, storing,  
56 testing, or otherwise handling of rice identified using the most current industry standards  
57 and generally accepted scientific principles;

58 (3) Reviewing each rice variety identified as having characteristics of commercial  
59 impact not less often than every two years, or upon receipt of a petition from the purveyor  
60 of the rice;

61 (4) Making recommendations to the director on all matters pertaining to this  
62 section, including, but not limited to, enforcement of this section.

63 8. The department shall have the power to:

64 (1) Maintain the integrity and prevent the contamination of rice which has not been  
65 identified as having characteristics of commercial impact;

66 (2) Prevent the introduction of disease, weeds, or other pests that would adversely  
67 affect rice which has not been identified as having characteristics of commercial impact;

68 (3) Require that persons selling, offering for sale, or otherwise distributing seed for  
69 the production of rice identified as having characteristics of commercial impact, or that  
70 persons bringing rice identified as having characteristics of commercial impact into the  
71 state for processing, notify the department of the location of planting sites and the dates  
72 and procedures for planting, producing, harvesting, transporting, drying, storing, testing,  
73 or otherwise handling of rice identified as having characteristics of commercial impact;

(4) Require that persons receiving rice having been identified as having characteristics of commercial impact produced outside the state for processing notify the department of the location of the receipt and the procedures for processing, transporting, drying, storing, testing, or otherwise handling the rice to prevent commercial impact to other rice and the spread of weeds, disease, or other pests;

(5) Enforce restrictions and prohibitions imposed by the department on the selling, planting, producing, harvesting, transporting, drying, storing, testing, processing, or otherwise handling of rice identified as having characteristics of commercial impact;

(6) Investigate alleged violations of this section, issue notices of violation, provide for an appeals process for persons aggrieved by the provisions of this section, and impose penalties for violation of this section.

9. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

10. The department shall regularly report to the rice advisory council any findings of rice varieties that could potentially have characteristics of commercial impact.

11. If the rice advisory council determines that any rice variety with characteristics of commercial impact is documented as causing unreasonable adverse effects on the environment or public health, the council may issue recommendations to the department. Within sixty days of receiving any such recommendations from the council, the department shall hold a public hearing for the purpose of determining the nature and extent of commercial impact. Within thirty days of holding any such public hearing, the department shall issue a detailed opinion in response to the council recommendations.

12. The penalty for violating a provision of this section shall be no less than ten thousand dollars nor more than one hundred thousand dollars per day per violation.

13. If the department determines a person has violated any provision of this section, the department shall provide written notice to such person informing the person of the violation. The notice shall inform the person of the right to request an appeal. Nothing in this section shall prevent a person from seeking judicial relief in a court of competent jurisdiction.



110           **14. The provisions of this section shall become effective one hundred eighty days**  
111 **from August 28, 2007.**

112           **15. The provisions of this section shall not be subject to the provisions of sections**  
113 **610.010 to 610.200, RSMo.**

**267.165. 1. The department of agriculture shall not participate in any national**  
2 **animal identification system (NAIS) administered by the United States Department of**  
3 **Agriculture mandating any person to participate in premises registration, animal**  
4 **identification and animal tracing without specific authorization from the general assembly.**

5           **2. Notwithstanding the provisions of subsection 1 of this section, nothing in this**  
6 **section shall be construed as prohibiting the department of agriculture from issuing**  
7 **voluntary premises identification and participating in any voluntary or private animal**  
8 **identification program that verifies the health of Missouri livestock required for interstate**  
9 **export, marketing, and livestock movement or addresses a specific disease in a specific**  
10 **species of livestock.**

11           **3. Notwithstanding the provisions of subsection 1 of this section, nothing in this**  
12 **section shall be construed as prohibiting the department of agriculture from establishing,**  
13 **monitoring and participating in any voluntary or private animal identification program**  
14 **the purpose of which is to add value to Missouri livestock, including, but not limited to,**  
15 **livestock identification, brand registration and inspection.**

16           **4. Any voluntary animal identification program in which the department of**  
17 **agriculture participates shall be subject to the following conditions:**

18           **(1) The department shall provide participants all relevant program information;**

19           **(2) Program participants shall be permitted to withdraw from the program at any**  
20 **time;**

21           **(3) The department shall not require participation in a Missouri specific source**  
22 **verification program for any species of livestock; and**

23           **(4) The department shall not deny or limit any services, licenses, permits,**  
24 **certifications, special consideration, incentives or other essential services that may be**  
25 **offered by the state based solely on lack of participation in an animal identification**  
26 **program. Notwithstanding the provisions of this subdivision, the department may make**  
27 **reasonable requirements for participation in a voluntary or private animal identification**  
28 **program established, monitored or participated in by the department including, but not**  
29 **limited to, voluntary premises identification.**

30           **5. Failure to participate in a premises registration or animal identification program**  
31 **shall not be deemed a crime, nor evidence of any negligence or gross negligence on the part**  
32 **of any livestock owner or provider of goods or services.**

311.297. 1. Any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide and pour distilled spirits, wine, or malt beverage samples off a licensed retail premises for tasting purposes provided no sales transactions take place. For purposes of this section, a sales transaction shall mean an actual and immediate exchange of monetary consideration for the immediate delivery of goods at the tasting site.

2. Any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide, furnish, or pour distilled spirits, wine, or malt beverage samples for customer tasting purposes on any temporary licensed retail premises as described in section 311.218, 311.482, 311.485, 311.486, or 311.487, or on any tax exempt organization's licensed premises as described in section 311.090.

340.335. 1. Sections 340.335 to 340.350 establish a loan repayment program for graduates of approved veterinary medical schools who practice in areas of defined need and shall be known as the "Large Animal Veterinary Medicine Loan Repayment Program".

2. The "Large Animal Veterinary Medicine Loan Repayment Program Fund" is hereby created in the state treasury. All funds recovered from an individual pursuant to section 340.347 and all funds generated by loan repayments and penalties received pursuant to section 340.347 shall be credited to the fund. The moneys in the fund shall be used by the [Missouri veterinary medical board] **department of agriculture** to provide loan repayments pursuant to section 340.343 in accordance with sections 340.335 to 340.350.

340.337. As used in sections 340.335 to [340.350] **340.405**, the following terms shall mean:

(1) "Areas of defined need", areas designated by the [board] **department** pursuant to section 340.339, when services of a large animal veterinarian are needed to improve the [client-doctor] **veterinarian-patient** ratio in the area, or to contribute professional veterinary services to an area of economic impact;

(2) ["Board", the Missouri veterinary medical board] **"College", the college of veterinary medicine at the University of Missouri-Columbia;**

(3) **"Department", the Missouri department of agriculture;**

(4) **"Director", director of the Missouri department of agriculture;**

(5) **"Eligible student", a resident who has been accepted as a full-time student at the University of Missouri-Columbia enrolled in the doctor of veterinary medicine degree program at the college of veterinary medicine;**

[(3)] (6) **"Large animal veterinarian", veterinarians licensed [and registered] pursuant to this chapter, engaged in general or large animal practice as their primary [specialties] focus of**

16 **practice**, and who have [at least fifty percent] **a substantial portion** of their practice devoted  
17 to large animal veterinary medicine;

18 (7) **"Qualified applicant"**, an eligible student approved by the department for  
19 participation in the large animal veterinary student loan program established by sections  
20 **340.375 to 340.405**;

21 (8) **"Qualified employment"**, employment as a large animal veterinarian and where  
22 a substantial portion of business involves the treatment of large animals on a full-time basis  
23 in Missouri located in an area of need as determined by the department of agriculture.  
24 **Qualified employment shall not include employment with a large-scale agribusiness**  
25 **enterprise, corporation, or entity. Any forgiveness of such principal and interest for any**  
26 **qualified applicant engaged in qualified employment on a less than full-time basis may be**  
27 **prorated to reflect the amounts provided in this section**;

28 (9) **"Resident"**, any person who has lived in this state for one or more years for any  
29 purpose other than the attending of an educational institution located within this state.

340.339. The [board] **department** shall designate counties, communities or sections of  
2 rural areas as areas of defined need as determined by the [board] **department** by rule.

340.341. 1. The [board] **department** shall adopt and promulgate rules establishing  
2 standards for determining eligible persons for loan repayment pursuant to sections 340.335 to  
3 340.350. Such standards shall include, but are not limited to the following:

4 (1) Citizenship or permanent residency in the United States;

5 (2) Residence in the state of Missouri;

6 (3) Enrollment as a full-time veterinary medical student in the final year of a course of  
7 study offered by an approved educational institution in Missouri;

8 (4) Application for loan repayment.

9 2. The [board] **department** shall not grant repayment for more than [five] **six**  
10 veterinarians each year.

340.343. 1. The [board] **department** shall enter into a contract with each individual  
2 qualifying for repayment of educational loans. The written contract between the [board]  
3 **department** and an individual shall contain, but not be limited to, the following:

4 (1) An agreement that the state agrees to pay on behalf of the individual, loans in  
5 accordance with section 340.345 and the individual agrees to serve for a time period equal to  
6 [five] **four** years, or such longer period as the individual may agree to, in an area of defined need,  
7 such service period to begin within one year of [the signed contract or] graduation by the  
8 individual with a degree of doctor of veterinary medicine[, whichever is later] ;

9 (2) A provision that any financial obligations arising out of a contract entered into and  
10 any obligation of the individual which is conditioned thereon is contingent upon funds being  
11 appropriated for loan repayments;

12 (3) The area of defined need where the person will practice;

13 (4) A statement of the damages to which the state is entitled for the individual's breach  
14 of the contract;

15 (5) Such other statements of the rights and liabilities of the [board] **department** and of  
16 the individual not inconsistent with sections 340.335 to 340.350.

17 2. The [board] **department** may stipulate specific practice sites contingent upon  
18 [board-generated] **department-generated** large animal veterinarian need priorities where  
19 applicants shall agree to practice for the duration of their participation in the program.

340.345. 1. A loan payment provided for an individual pursuant to a written contract  
2 under the large animal veterinary medicine loan repayment program shall consist of payment on  
3 behalf of the individual of the principal, interest and related expenses on government and  
4 commercial loans received by the individual for tuition, fees, books, laboratory and living  
5 expenses incurred by the individual.

6 2. For each year of obligated services that an individual contracts to serve in an area of  
7 defined need, the [board] **department** may pay up to [ten] **twenty** thousand dollars on behalf of  
8 the individual for loans described in subsection 1 of this section.

9 3. The [board] **department** may enter into an agreement with the holder of the loans for  
10 which repayments are made under the large animal veterinary medicine loan repayment program  
11 to establish a schedule for the making of such payments if the establishment of such a schedule  
12 would result in reducing the costs to the state.

13 4. Any qualifying communities providing a portion of a loan repayment shall be  
14 considered first for placement.

340.347. 1. An individual who has entered into a written contract with the [board]  
2 **department** or an individual who is enrolled [in a course of study] **at the college** and fails to  
3 maintain an acceptable level of academic standing [in the educational institution in which such  
4 individual is enrolled] or voluntarily terminates such enrollment or is dismissed [from such  
5 educational institution] before completion of such course of study or fails to become licensed  
6 pursuant to this chapter within one year after graduation shall be liable to the state for the amount  
7 which has been paid on such individual's behalf pursuant to the contract.

8 2. If an individual breaches the written contract of the individual by failing either to  
9 begin such individual's service obligation or to complete such service obligation, the state shall  
10 be entitled to recover from the individual an amount equal to the sum of:

11 (1) The total of the amounts paid by the state on behalf of the individual, including  
12 interest; and

13 (2) An amount equal to the unserved obligation penalty, which is the total number of  
14 months of obligated service which were not completed by an individual, multiplied by five  
15 hundred dollars.

16 3. The [board] **department** may act on behalf of a qualified community to recover from  
17 an individual described in subsections 1 and 2 of this section the portion of a loan repayment  
18 paid by such community for such individual.

**340.375. 1. The department of agriculture shall implement and administer the**  
2 **large animal veterinary student loan program established under sections 340.375 to**  
3 **340.405, and the large animal veterinary medicine loan repayment program established**  
4 **under sections 340.335 to 340.350.**

5 **2. An advisory panel of not more than five members shall be appointed by the**  
6 **director. The panel shall consist of three licensed large animal veterinarians, the dean of**  
7 **the college or his or her designee, and one public member from the agricultural sector. The**  
8 **panel shall make recommendations to the director on the content of any rules, regulations**  
9 **or guidelines under sections 340.335 to 340.405 prior to their promulgation. The panel may**  
10 **make recommendations to the director regarding fund allocations for loans and loan**  
11 **repayment based on current veterinarian shortage needs.**

12 **3. The department of agriculture shall promulgate reasonable rules and regulations**  
13 **for the administration of sections 340.375 to 340.405, including but not limited to rules for**  
14 **disbursements and repayment of loans. It shall prescribe the form, the time and method**  
15 **of filing applications and supervise the proceedings thereof. Any rule or portion of a rule,**  
16 **as that term is defined in section 536.010, RSMo, that is created under the authority**  
17 **delegated in this section shall become effective only if it complies with and is subject to all**  
18 **of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This**  
19 **section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the**  
20 **general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or**  
21 **to disapprove and annul a rule are subsequently held unconstitutional, then the grant of**  
22 **rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be**  
23 **invalid and void.**

**340.381. There is hereby created in the state treasury the "Veterinary Student Loan**  
2 **Payment Fund", which shall consist of general revenue appropriated to the large animal**  
3 **veterinary student loan program, voluntary contributions to support or match program**  
4 **activities, money collected under section 340.396, and funds received from the federal**  
5 **government. The state treasurer shall be custodian of the fund and shall approve**

6 disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon  
7 appropriation, money in the fund shall be used solely for the administration of sections  
8 340.375 to 340.405. Notwithstanding the provisions of section 33.080, RSMo, to the  
9 contrary, any moneys remaining in the fund at the end of the biennium shall not revert to  
10 the credit of the general revenue fund. The state treasurer shall invest moneys in the fund  
11 in the same manner as other funds are invested. Any interest and moneys earned on such  
12 investments shall be credited to the fund.

2 340.384. The department of agriculture shall enter into a contract with each  
3 qualified applicant receiving financial assistance under the provisions of sections 340.375  
4 to 340.405 for repayment of the principal and interest.

2 340.387. Eligible students may apply to the department for financial assistance  
3 under the provisions of sections 340.375 to 340.405. If, at the time of application for a loan,  
4 a student has formally applied for acceptance at the college, receipt of financial assistance  
5 is contingent upon acceptance and continued enrollment at the college. A qualified  
6 applicant may receive financial assistance for each academic year he or she remains a  
7 student in good standing at the college.

2 340.390. Up to six qualified applicants per academic year may be awarded loans  
3 of up to eighty thousand dollars per applicant under the provisions of sections 340.375 to  
4 340.405. Priority for loans shall be given to eligible students who have established financial  
5 need. All financial assistance shall be made from funds credited to the veterinary student  
6 loan payment fund.

2 340.393. The department shall establish schedules for repayment of the principal  
3 and interest on any financial assistance made under the provisions of sections 340.375 to  
4 340.405. Interest at the rate of nine and one-half percent per annum shall be charged on  
5 all financial assistance made under the provisions of sections 340.375 to 340.405, but the  
6 interest and principal of the total financial assistance granted to a qualified applicant at  
7 the time of the successful completion of a doctor of veterinary medicine degree program  
8 shall be forgiven through qualified employment.

2 340.396. The financial assistance recipient shall repay the financial assistance  
3 principal and interest beginning not more than one year after completion of the degree for  
4 which the financial assistance was made in accordance with the repayment contract. If an  
5 eligible student ceases his or her study prior to successful completion of a degree or  
6 graduation from the college, interest at the rate specified in section 340.393 shall be  
7 charged on the amount of financial assistance received from the state under the provisions  
8 of sections 340.375 to 340.405, and repayment, in accordance with the repayment contract,  
9 shall begin within ninety days of the date the financial aid recipient ceased to be an eligible

9 student. All funds repaid by recipients of financial assistance to the department shall be  
10 deposited in the veterinary student loan payment fund for use pursuant to sections 340.375  
11 to 340.405.

340.399. The department shall grant a deferral of interest and principal payments  
2 to a financial assistance recipient who is pursuing a post-degree training program, or upon  
3 special conditions established by the department. The deferral shall not exceed four years.  
4 The status of each deferral shall be reviewed annually by the department to ensure  
5 compliance with the intent of this section.

340.402. When necessary to protect the interest of the state in any financial  
2 assistance transaction under sections 340.375 to 340.405, the department may institute any  
3 action to recover any amount due.

340.405. 1. Sections 340.375 to 340.405 shall not be construed to require the  
2 department to enter into contracts with individuals who qualify for education loans or loan  
3 repayment programs when federal, state and local funds are not available for such  
4 purposes.

5 2. Sections 340.375 to 340.405 shall not be subject to the provisions of sections  
6 23.250 to 23.298, RSMo.

7 3. Sections 340.375 to 340.405 shall expire on June 30, 2013.

348.230. 1. The Missouri agriculture and small business development authority,  
2 subject to appropriation, shall pay for the first full year of charged interest on any  
3 applicable Missouri linked deposit program loan, as provided in sections 30.750 to 30.850,  
4 RSMo. For the purpose of this section, the term "applicable loan" shall mean any loan  
5 made and used solely for the acquisition of dairy cows and other replacement dairy  
6 females.

7 2. The Missouri agriculture and small business development authority may charge  
8 a fee for the service in subsection 1 of this section, not to exceed fifty dollars per individual.  
9 Revenue generated from the fee shall be used to defray administrative costs.

348.235. 1. The Missouri agriculture and small business development authority,  
2 subject to appropriation not to exceed fifty thousand dollars, shall develop and implement  
3 dairy business planning grants as provided in this section.

4 2. The Missouri agriculture and small business development authority may charge  
5 an application fee for the grants developed under this section, not to exceed fifty dollars  
6 per application. Revenue generated from the application fee shall be used to defray the  
7 cost of administering the grants.

8 3. Eligible applicants shall be existing or start-up dairy operations wholly located  
9 in the state of Missouri that are at least fifty-one percent owned by residents of this state.

10           **4. A single grant shall not exceed five thousand dollars or finance more than ninety**  
11 **percent of the cost of the business plan, whichever is less.**

12           **5. Proceeds from a grant shall only be used to contract with a dairy business**  
13 **planning professional that is approved by the Missouri agriculture and small business**  
14 **development authority.**

15           **6. The Missouri agriculture and small business development authority may**  
16 **promulgate rules establishing eligibility and award criteria under this section including,**  
17 **but not limited to, the following:**

18           **(1) The potential to improve the profitability, modernization, and expansion of the**  
19 **dairy operation;**

20           **(2) The education, experience, and past relevant experience of the dairy business**  
21 **planning professional;**

22           **(3) The qualifications, education, and experience of the dairy owner or owners and**  
23 **management team;**

24           **(4) The potential for timely near-term application of the results of the study;**

25           **(5) The potential economic benefit to the state of Missouri;**

26           **(6) Such other factors as the Missouri agriculture and small business development**  
27 **authority may establish.**

28           **7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
29 **that is created under the authority delegated in this section shall become effective only if**  
30 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
31 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
32 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
33 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
34 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
35 **adopted after August 28, 2007, shall be invalid and void.**

          348.430. 1. The tax credit created in this section shall be known as the "Agricultural  
2 Product Utilization Contributor Tax Credit".

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

4           (1) "Authority", the agriculture and small business development authority as provided  
5 in this chapter;

6           (2) "Contributor", an individual, partnership, corporation, trust, limited liability  
7 company, entity or person that contributes cash funds to the authority;

8           (3) "Development facility", a facility producing either a good derived from an  
9 agricultural commodity or using a process to produce a good derived from an agricultural  
10 product;



11 (4) "Eligible new generation cooperative", a nonprofit cooperative association formed  
12 pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose  
13 of operating **within this state** a development facility or a renewable fuel production facility;

14 (5) "Eligible new generation processing entity", a partnership, corporation, cooperative,  
15 or limited liability company organized or incorporated pursuant to the laws of this state  
16 consisting of not less than twelve members, approved by the authority, for the purpose of owning  
17 or operating within this state a development facility or a renewable fuel production facility in  
18 which producer members:

19 (a) Hold a majority of the governance or voting rights of the entity and any governing  
20 committee;

21 (b) Control the hiring and firing of management; and

22 (c) Deliver agricultural commodities or products to the entity for processing, unless  
23 processing is required by multiple entities;

24 (6) "Renewable fuel production facility", a facility producing an energy source which is  
25 derived from a renewable, domestically grown, organic compound capable of powering  
26 machinery, including an engine or power plant, and any by-product derived from such energy  
27 source.

28 3. For all tax years beginning on or after January 1, 1999, a contributor who contributes  
29 funds to the authority may receive a credit against the tax or estimated quarterly tax otherwise  
30 due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to  
31 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred  
32 percent of such contribution. Tax credits claimed in a taxable year may be done so on a quarterly  
33 basis and applied to the estimated quarterly tax pursuant to this subsection. If a quarterly tax  
34 credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year,  
35 such overpayment shall not be refunded but shall be applied to the next taxable year. The  
36 awarding of such credit shall be at the approval of the authority, based on the least amount of  
37 credits necessary to provide incentive for the contributions. A contributor that receives tax  
38 credits for a contribution to the authority shall receive no other consideration or compensation  
39 for such contribution, other than a federal tax deduction, if applicable, and goodwill.

40 4. A contributor shall submit to the authority an application for the tax credit authorized  
41 by this section on a form provided by the authority. If the contributor meets all criteria  
42 prescribed by this section and the authority, the authority shall issue a tax credit certificate in the  
43 appropriate amount. Tax credits issued pursuant to this section may be claimed in the taxable  
44 year in which the contributor contributes funds to the authority. For all fiscal years beginning  
45 on or after July 1, 2004, tax credits allowed pursuant to this section may be carried back to any  
46 of the contributor's three prior tax years and may be carried forward to any of the contributor's

47 five subsequent taxable years. Tax credits issued pursuant to this section may be assigned,  
48 transferred or sold and the new owner of the tax credit shall have the same rights in the credit as  
49 the contributor. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise  
50 conveyed, a notarized endorsement shall be filed with the authority specifying the name and  
51 address of the new owner of the tax credit or the value of the credit.

52 5. The funds derived from contributions in this section shall be used for financial  
53 assistance or technical assistance for the purposes provided in section 348.407 to rural  
54 agricultural business concepts as approved by the authority. The authority may provide or  
55 facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts,  
56 but limited to two million dollars per project or the net state economic impact, whichever is less.  
57 Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for  
58 an amount that is the least amount necessary to cause the project to occur, as determined by the  
59 authority. The authority may structure the loans, equity investments or guaranteed loans in a way  
60 that facilitates the project, but also provides for a compensatory return on investment or loan  
61 payment to the authority, based on the risk of the project.

62 6. In any given year, at least ten percent of the funds granted to rural agricultural business  
63 concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single  
64 rural agricultural business concept shall receive more than two hundred thousand dollars in grant  
65 awards from the authority. Agricultural businesses owned by minority members or women shall  
66 be given consideration in the allocation of funds.

348.432. 1. The tax credit created in this section shall be known as the "New Generation  
2 Cooperative Incentive Tax Credit".

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

4 (1) "Authority", the agriculture and small business development authority as provided  
5 in this chapter;

6 (2) "Development facility", a facility producing either a good derived from an  
7 agricultural commodity or using a process to produce a good derived from an agricultural  
8 product;

9 (3) "Eligible new generation cooperative", a nonprofit cooperative association formed  
10 pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose  
11 of operating **within this state** a development facility or a renewable fuel production facility and  
12 approved by the authority;

13 (4) "Eligible new generation processing entity", a partnership, corporation, cooperative,  
14 or limited liability company organized or incorporated pursuant to the laws of this state  
15 consisting of not less than twelve members, approved by the authority, for the purpose of owning

16 or operating within this state a development facility or a renewable fuel production facility in  
17 which producer members:

18 (a) Hold a majority of the governance or voting rights of the entity and any governing  
19 committee;

20 (b) Control the hiring and firing of management; and

21 (c) Deliver agricultural commodities or products to the entity for processing, unless  
22 processing is required by multiple entities;

23 (5) "Employee-qualified capital project", an eligible new generation cooperative with  
24 capital costs greater than fifteen million dollars which will employ at least sixty employees;

25 (6) "Large capital project", an eligible new generation cooperative with capital costs  
26 greater than one million dollars;

27 (7) "Producer member", a person, partnership, corporation, trust or limited liability  
28 company whose main purpose is agricultural production that invests cash funds to an eligible  
29 new generation cooperative or eligible new generation processing entity;

30 (8) "Renewable fuel production facility", a facility producing an energy source which is  
31 derived from a renewable, domestically grown, organic compound capable of powering  
32 machinery, including an engine or power plant, and any by-product derived from such energy  
33 source;

34 (9) "Small capital project", an eligible new generation cooperative with capital costs of  
35 no more than one million dollars.

36 3. Beginning tax year 1999, and ending December 31, 2002, any producer member who  
37 invests cash funds in an eligible new generation cooperative or eligible new generation  
38 processing entity may receive a credit against the tax or estimated quarterly tax otherwise due  
39 pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to  
40 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of  
41 fifty percent of such producer member's investment or fifteen thousand dollars.

42 4. For all tax years beginning on or after January 1, 2003, any producer member who  
43 invests cash funds in an eligible new generation cooperative or eligible new generation  
44 processing entity may receive a credit against the tax or estimated quarterly tax otherwise due  
45 pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to  
46 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an amount equal to the lesser of  
47 fifty percent of such producer member's investment or fifteen thousand dollars. Tax credits  
48 claimed in a taxable year may be done so on a quarterly basis and applied to the estimated  
49 quarterly tax pursuant to subsection 3 of this section. If a quarterly tax credit claim or series of  
50 claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall  
51 not be refunded but shall be applied to the next taxable year.

52           5. A producer member shall submit to the authority an application for the tax credit  
53 authorized by this section on a form provided by the authority. If the producer member meets  
54 all criteria prescribed by this section and is approved by the authority, the authority shall issue  
55 a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section may  
56 be carried back to any of the producer member's three prior taxable years and carried forward to  
57 any of the producer member's five subsequent taxable years regardless of the type of tax liability  
58 to which such credits are applied as authorized pursuant to subsection 3 of this section. Tax  
59 credits issued pursuant to this section may be assigned, transferred, sold or otherwise conveyed  
60 and the new owner of the tax credit shall have the same rights in the credit as the producer  
61 member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise  
62 conveyed, a notarized endorsement shall be filed with the authority specifying the name and  
63 address of the new owner of the tax credit or the value of the credit.

64           6. Ten percent of the tax credits authorized pursuant to this section initially shall be  
65 offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits  
66 offered to small capital costs projects is unused in any calendar year, then the unused portion of  
67 tax credits may be offered to employee-qualified capital projects and large capital projects. If  
68 the authority receives more applications for tax credits for small capital projects than tax credits  
69 are authorized therefor, then the authority, by rule, shall determine the method of distribution of  
70 tax credits authorized for small capital projects.

71           7. Ninety percent of the tax credits authorized pursuant to this section initially shall be  
72 offered in any fiscal year to employee-qualified capital projects and large capital projects. If any  
73 portion of the ninety percent of tax credits offered to employee-qualified capital projects and  
74 large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may  
75 be offered to small capital projects. The maximum tax credit allowed per employee-qualified  
76 capital project is three million dollars and the maximum tax credit allowed per large capital  
77 project is one million five hundred thousand dollars. If the authority approves the maximum tax  
78 credit allowed for any employee-qualified capital project or any large capital project, then the  
79 authority, by rule, shall determine the method of distribution of such maximum tax credit. In  
80 addition, if the authority receives more tax credit applications for employee-qualified capital  
81 projects and large capital projects than the amount of tax credits authorized therefor, then the  
82 authority, by rule, shall determine the method of distribution of tax credits authorized for  
83 employee-qualified capital projects and large capital projects.

348.434. 1. The aggregate of tax credits issued per fiscal year pursuant to sections  
2 348.430 and 348.432 shall not exceed [six] **twelve** million dollars.

3           2. Upon July 2, 1999, and ending June 30, 2000, tax credits shall be issued pursuant to  
4 section 348.430, except that, the authority shall allocate no more than three million dollars to

5 fund section 348.432 in fiscal year 2000. Beginning in fiscal year 2001 and each subsequent  
6 year, tax credits shall be issued pursuant to section 348.432; **except that, one million dollars**  
7 **in tax credits may be issued under section 348.430 each fiscal year.**

8 3. Beginning the first day of May of each fiscal year following implementation of section  
9 348.432, the authority may determine the extent of tax credits, pursuant to section 348.432, that  
10 will be utilized in each fiscal year. If the authority determines that:

11 (1) Less than [six] **eleven** million dollars for a fiscal year is to be utilized in tax credits  
12 pursuant to section 348.432; and

13 (2) The assets available to the authority, pursuant to section 348.430, do not exceed  
14 twelve million dollars;

15

16 then, the authority may offer the remaining authorized tax credits be issued pursuant to section  
17 348.430.

**348.465. 1. There is hereby created, with such duties and powers as are set forth**  
2 **to carry out the provisions of this section, a body politic and corporate, an independent**  
3 **instrumentality exercising essential public functions, to be known as the "Concentrated**  
4 **Animal Feeding Operation Review Board" or "CAFO Review Board". The powers of the**  
5 **board shall be vested in five members. One member shall be the director of the**  
6 **department of natural resources or his or her designee, one member shall be the director**  
7 **of the department of agriculture or his or her designee, one member shall be the director**  
8 **of the commercial agriculture program at the University of Missouri or his or her designee,**  
9 **one member shall be the director of the Missouri Association of Counties or his or her**  
10 **designee, and one member shall represent Missouri's agricultural community. The**  
11 **representative of the agricultural community shall be appointed by the governor, with the**  
12 **advice and consent of the senate, and shall serve at the pleasure of the governor.**

13 **2. The members shall annually elect from among their number a chairman and a**  
14 **vice chairman, and such other officers as they may deem necessary.**

15 **3. The board shall meet at the call of the chairman or whenever two members so**  
16 **request but shall not meet less than once per quarter. Three members of the board shall**  
17 **constitute a quorum, and any action taken by the board under this section may be**  
18 **authorized by resolution approved by a majority of the members present at any regular**  
19 **or special meeting. No vacancy in the membership of the board shall impair the right of**  
20 **a quorum to exercise all the rights and perform all the duties of the board.**

21 **4. By whatever contractual agreement the board deems necessary and proper with**  
22 **the Missouri agricultural and small business development authority authorized under**  
23 **section 348.020, RSMo, the board shall employ the services of the staff of the agricultural**

24 and small business development authority to carry out its functions under this section. The  
25 executive director shall be the secretary of the board and shall administer, manage, and  
26 direct the affairs and business of the board, subject to the policies, control, and direction  
27 of the members. The members may delegate to the executive director, or to one or more  
28 of its agents or employees, such powers and duties as it may deem proper.

29 5. The board shall have the power as necessary or convenient to carry out and  
30 effectuate the purposes and provisions of this section, including rulemaking authority. Any  
31 rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created  
32 under the authority delegated in this section shall become effective only if it complies with  
33 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
34 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the  
35 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to  
36 delay the effective date, or to disapprove and annul a rule are subsequently held  
37 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
38 after August 28, 2007, shall be invalid and void.

39 6. The duties of the board shall consist of the following:

40 (1) Review the standards required under section 261.175, RSMo, for managed  
41 environment livestock operations for the purpose of evaluating whether the standards are  
42 consistent with changes in technology. The board shall review such standards not less than  
43 once every thirty-six months following the date of the original promulgation of such  
44 standards by the department of agriculture, and shall promulgate rules to revise such  
45 standards as deemed necessary;

46 (2) Review and approve expenditures from the concentrated animal feeding  
47 operation indemnity fund created under section 640.740;

48 (3) Administer the odor control tax credit program created under section 135.678,  
49 RSMo; and

50 (4) Provide input to the director of the department of natural resources regarding  
51 the permitting of concentrated animal feeding operations, provided that the provision of  
52 such input does not delay the permitting process.

348.505. 1. As used in this section, "state tax liability", any state tax liability incurred  
2 by a taxpayer under the provisions of chapters 143, 147, and 148, RSMo, exclusive of the  
3 provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265,  
4 RSMo, and related provisions.

5 2. Any eligible lender under the family farm livestock loan program under section  
6 348.500 shall be entitled to receive a tax credit equal to one hundred percent of the amount of  
7 interest waived by the lender under section 348.500 on a qualifying loan for the first year of the

8 loan only. The tax credit shall be evidenced by a tax credit certificate issued by the agricultural  
9 and small business development authority and may be used to satisfy the state tax liability of the  
10 owner of such certificate that becomes due in the tax year in which the interest on a qualified  
11 loan is waived by the lender under section 348.500. No lender may receive a tax credit under  
12 this section unless such person presents a tax credit certificate to the department of revenue for  
13 payment of such state tax liability. The amount of the tax credits that may be issued to all  
14 eligible lenders claiming tax credits authorized in this section in a fiscal year shall not exceed  
15 one [hundred fifty thousand] **million** dollars.

16 3. The agricultural and small business development authority shall be responsible for the  
17 administration and issuance of the certificate of tax credits authorized by this section. The  
18 authority shall issue a certificate of tax credit at the request of any lender. Each request shall  
19 include a true copy of the loan documents, the name of the lender who is to receive a certificate  
20 of tax credit, the type of state tax liability against which the tax credit is to be used, and the  
21 amount of the certificate of tax credit to be issued to the lender based on the interest waived by  
22 the lender under section 348.500 on the loan for the first year.

23 4. The Missouri department of revenue shall accept a certificate of tax credit in lieu of  
24 other payment in such amount as is equal to the lesser of the amount of the tax or the remaining  
25 unused amount of the credit as indicated on the certificate of tax credit, and shall indicate on the  
26 certificate of tax credit the amount of tax thereby paid and the date of such payment.

27 5. The following provisions shall apply to tax credits authorized under this section:

28 (1) Tax credits claimed in a taxable year may be claimed on a quarterly basis and applied  
29 to the estimated quarterly tax of the lender;

30 (2) Any amount of tax credit which exceeds the tax due, including any estimated  
31 quarterly taxes paid by the lender under subdivision (1) of this subsection which results in an  
32 overpayment of taxes for a taxable year, shall not be refunded but may be carried over to any  
33 subsequent taxable year, not to exceed a total of three years for which a tax credit may be taken  
34 for a qualified family farm livestock loan;

35 (3) Notwithstanding any provision of law to the contrary, a lender may assign, transfer  
36 or sell tax credits authorized under this section, with the new owner of the tax credit receiving  
37 the same rights in the tax credit as the lender. For any tax credits assigned, transferred, sold, or  
38 otherwise conveyed, a notarized endorsement shall be filed by the lender with the authority  
39 specifying the name and address of the new owner of the tax credit and the value of such tax  
40 credit; and

41 (4) Notwithstanding any other provision of this section to the contrary, any commercial  
42 bank may use tax credits created under this section as provided in section 148.064, RSMo, and  
43 receive a net tax credit against taxes actually paid in the amount of the first year's interest on

44 loans made under this section. If such first year tax credits reduce taxes due as provided in  
45 section 148.064, RSMo, to zero, the remaining tax credits may be carried over as otherwise  
46 provided in this section and utilized as provided in section 148.064, RSMo, in subsequent years.

414.420. **1. As used in this section, the term "alternative fuel" shall have the same  
2 meaning as in section 414.400.**

3 **2.** There is hereby created the "Missouri [Ethanol and Other Renewable Fuel Sources]  
4 **Alternative Fuels** Commission" composed of [seven] **nine** members, including two members  
5 of the senate of different political parties appointed by the president pro tem of the senate, two  
6 members of the house of representatives of different political parties appointed by the speaker  
7 of the house, and [three] **five** other persons appointed by the governor, with the advice and  
8 consent of the senate. The members appointed by the governor [may include, but are not limited  
9 to,] **shall be** persons engaged in [the ethanol production industry] **industries that produce**  
10 **alternative fuels, wholesale alternative fuels, or retail alternative fuels** and no more than two  
11 of such members shall **represent an alternative fuel producer, retailer, or wholesaler and no**  
12 **more than three of such members shall** be of the same political party. The members appointed  
13 by the governor shall be appointed for a term of four years[, except that of the first members  
14 appointed, one shall serve for a term of two years, one shall serve for a term of three years, and  
15 one shall serve for a term of four years]. Vacancies in the membership of the commission shall  
16 be filled in the same manner as the original appointments. The commission shall elect a member  
17 of its own group as chairman at the first meeting, which shall be called by the governor. The  
18 commission shall meet at least four times in a calendar year at the call of the chairman. [The  
19 commission shall promote the continued production of ethanol and the continued usage of  
20 ethanol and fuel ethanol blends, as defined in section 142.027, RSMo, and the production and  
21 usage of other renewable fuel sources, in this state. The commission shall report to each regular  
22 session of the general assembly its recommendations for legislation in the field of the promotion  
23 of the ethanol industry and related subjects in this state.] Members of the commission shall serve  
24 without compensation but shall be reimbursed for actual and necessary expenses incurred in the  
25 performance of their duties.

26 **3. The commission shall:**

27 **(1) Make recommendations to the governor and general assembly on changes to**  
28 **state law to facilitate the sale and distribution of alternative fuels and alternative fuel**  
29 **vehicles;**

30 **(2) Promote the development, sale, distribution, and consumption of alternative**  
31 **fuels;**

32 **(3) Promote the development and use of alternative fuel vehicles and technology**  
33 **that will enhance the use of alternative and renewable transportation fuels;**



34           **(4) Educate consumers about alternative fuels, including but not limited to ethanol**  
35 **and biodiesel;**

36           **(5) Develop a long-range plan for the state to reduce consumption of petroleum**  
37 **fuels; and**

38           **(6) Submit an annual report to the governor and the general assembly.**

444.765. Wherever used or referred to in sections 444.760 to 444.790, unless a different  
2 meaning clearly appears from the context, the following terms mean:

3           (1) "Affected land", the pit area or area from which overburden shall have been removed,  
4 or upon which overburden has been deposited after September 28, 1971. When mining is  
5 conducted underground, affected land means any excavation or removal of overburden required  
6 to create access to mine openings, except that areas of disturbance encompassed by the actual  
7 underground openings for air shafts, portals, adits and haul roads in addition to disturbances  
8 within fifty feet of any openings for haul roads, portals or adits shall not be considered affected  
9 land. Sites which exceed the excluded areas by more than one acre for underground mining  
10 operations shall obtain a permit for the total extent of affected lands with no exclusions as  
11 required under sections 444.760 to 444.790;

12           (2) "Beneficiation", the dressing or processing of minerals for the purpose of regulating  
13 the size of the desired product, removing unwanted constituents, and improving the quality or  
14 purity of a desired product;

15           (3) "Commercial purpose", the purpose of extracting minerals for their value in sales to  
16 other persons or for incorporation into a product;

17           (4) "Commission", the land reclamation commission in the department of natural  
18 resources;

19           (5) "Construction", construction, erection, alteration, maintenance, or repair of any  
20 facility including but not limited to any building, structure, highway, road, bridge, viaduct, water  
21 or sewer line, pipeline or utility line, and demolition, excavation, land clearance, and moving of  
22 minerals or fill dirt in connection therewith;

23           (6) "Director", the staff director of the land reclamation commission;

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

25           **(8) "Excavation", any operation in which earth, minerals, or other material in or on the**  
26 **ground is moved, removed, or otherwise displaced for purposes of construction at the site of**  
27 **excavation, by means of any tools, equipment, or explosives and includes, but is not limited to,**  
28 **backfilling, grading, trenching, digging, ditching, drilling, well-drilling, auguring, boring,**  
29 **tunneling, scraping, cable or pipe plowing, plowing-in, pulling-in, ripping, driving, demolition**  
30 **of structures, and the use of high-velocity air to disintegrate and suction to remove earth and**  
31 **other materials. For purposes of this section, excavation or removal of overburden for purposes**

32 of mining for a commercial purpose or for purposes of reclamation of land subjected to surface  
33 mining is not included in this definition. Neither shall excavations of sand and gravel by  
34 political subdivisions using their own personnel and equipment or private individuals for  
35 personal use be included in this definition;

36 [(8)] (9) "Fill dirt", material removed from its natural location through mining or  
37 construction activity, which is a mixture of unconsolidated earthy material, which may include  
38 some minerals, and which is used to fill, raise, or level the surface of the ground at the site of  
39 disposition, which may be at the site it was removed or on other property, and which is not  
40 processed to extract mineral components of the mixture. Backfill material for use in completing  
41 reclamation is not included in this definition;

42 [(9)] (10) "Land improvement", work performed by or for a public or private owner or  
43 lessor of real property for purposes of improving the suitability of the property for construction  
44 at an undetermined future date, where specific plans for construction do not currently exist;

45 [(10)] (11) "Mineral", a constituent of the earth in a solid state which, when extracted  
46 from the earth, is usable in its natural form or is capable of conversion into a usable form as a  
47 chemical, an energy source, or raw material for manufacturing or construction material. For the  
48 purposes of this section, this definition includes barite, tar sands, and oil shales, but does not  
49 include iron, lead, zinc, gold, silver, coal, surface or subsurface water, fill dirt, natural oil or gas  
50 together with other chemicals recovered therewith;

51 [(11)] (12) "Mining", the removal of overburden and extraction of underlying minerals  
52 or the extraction of minerals from exposed natural deposits for a commercial purpose, as defined  
53 by this section;

54 [(12)] (13) "Operator", any person, firm or corporation engaged in and controlling a  
55 surface mining operation;

56 [(13)] (14) "Overburden", all of the earth and other materials which lie above natural  
57 deposits of minerals; and also means such earth and other materials disturbed from their natural  
58 state in the process of surface mining other than what is defined in subdivision (10) of this  
59 section;

60 [(14)] (15) "Peak", a projecting point of overburden created in the surface mining  
61 process;

62 [(15)] (16) "Pit", the place where minerals are being or have been mined by surface  
63 mining;

64 [(16)] (17) "Public entity", the state or any officer, official, authority, board, or  
65 commission of the state and any county, city, or other political subdivision of the state, or any  
66 institution supported in whole or in part by public funds;

67 [(17)] (18) "Refuse", all waste material directly connected with the cleaning and  
68 preparation of substance mined by surface mining;

69 [(18)] (19) "Ridge", a lengthened elevation of overburden created in the surface mining  
70 process;

71 [(19)] (20) "Site" or "mining site", any location or group of associated locations where  
72 minerals are being surface mined by the same operator;

73 [(20)] (21) "Surface mining", the mining of minerals for commercial purposes by  
74 removing the overburden lying above natural deposits thereof, and mining directly from the  
75 natural deposits thereby exposed, and shall include mining of exposed natural deposits of such  
76 minerals over which no overburden lies and, after August 28, 1990, the surface effects of  
77 underground mining operations for such minerals. For purposes of the provisions of sections  
78 444.760 to 444.790, surface mining shall not include excavations to move minerals or fill dirt  
79 within the confines of the real property where excavation occurs or to remove minerals or fill dirt  
80 from the real property in preparation for construction at the site of excavation. No excavation  
81 of fill dirt shall be deemed surface mining regardless of the site of disposition or whether  
82 construction occurs at the site of excavation.

444.766. 1. No provision of sections 444.760 to 444.790 shall apply to the excavation  
2 of minerals or fill dirt for the purposes of construction or land improvement as unrelated to the  
3 mining of minerals for a commercial purpose or reclamation of land subsequent to the surface  
4 mining of minerals.

5 2. No permit is required under sections 444.760 to 444.790 for the purpose of moving  
6 minerals or fill dirt within the confines of real property where excavation occurs, or for purposes  
7 of removing minerals or fill dirt from the real property as provided in this section.

8 (1) Excavations for construction pursuant to engineering plans and specifications  
9 prepared by an architect, professional engineer, or landscape architect licensed pursuant to  
10 chapter 327, RSMo, or any excavation for construction performed under a written contract that  
11 requires excavation of minerals or fill dirt and establishes dates for completion of work and  
12 specifies the terms of payment for work, shall be presumed to be for the purposes of construction  
13 and shall not require a permit for surface mining.

14 (2) Excavations for purposes of land improvement where minerals removed from the site  
15 are excess minerals that cannot be used on-site for any practical purpose and at no time are  
16 subjected to crushing, screening, or other means of beneficiation with the exception of removal  
17 of **dead trees, decaying vegetation**, tree limbs, and stumps shall be presumed to be for the  
18 purposes of land improvement and shall not require a permit for surface mining, provided that:

19 (a) The site has not been designated as a surface mine by the federal Mine Safety and  
20 Health Administration;

21 (b) Minerals from the property are not used for commercial purposes on a frequent or  
22 ongoing basis; and

23 (c) A pit, peak, or ridge does not persist at the site as inconsistent with the purposes of  
24 land improvement.

25 (3) Permits shall not be required for the excavation of fill dirt, regardless of the site of  
26 disposition or whether construction occurs at the site of excavation.

27 3. (1) If the director or his or her designee determines that a surface mining permit is  
28 required for real property which is purported to be for purposes of construction or land  
29 improvement not requiring a surface mining permit under this section, such determination shall  
30 be sent in writing to the owner of the property by certified mail stating the reasons for such  
31 determination. Upon request of the person receiving the letter, an informal conference shall be  
32 scheduled with the director within fifteen calendar days to discuss the determination. Following  
33 the informal conference, the director shall issue a written determination regarding his or her  
34 findings of fact no later than thirty calendar days after the date of the conference. If the director  
35 agrees that a surface mining permit is required and the person disagrees with that decision, the  
36 person may make a written request for a hearing before the commission at its next regular  
37 meeting. Such written request shall be filed within thirty calendar days after receipt of the  
38 director's written determination, except when the thirtieth day would be later than the date of the  
39 next regularly scheduled commission meeting, the written request shall be filed at least seven  
40 days prior to the commission meeting unless the director and the person filing the request  
41 mutually agree to place the matter on the commission's agenda for a later meeting. The  
42 commission shall issue a written determination as to whether a surface mining permit is required  
43 under this state's law within thirty calendar days after the hearing. The written determination  
44 may be appealed as provided under this chapter.

45 (2) Until a final written determination has been issued under the process established  
46 under subdivision (1) of this subsection, the person receiving a letter stating the reasons a mining  
47 permit is required may continue activity at the site in dispute. The commission may stay the  
48 director's determination. If the final written determination is that a permit is required, all fees  
49 otherwise provided by statute or rules of the commission shall apply. If the determination is that  
50 no permit is required, no permit fees shall be required by the director or the commission.

51 (3) The process set out in this subsection for determining whether a mining permit is  
52 required shall not be subject to the hearing requirements of section 444.789.

444.770. 1. It shall be unlawful for any operator to engage in surface mining without  
2 first obtaining from the commission a permit to do so, in such form as is hereinafter provided,  
3 including any operator involved in any gravel mining operation where the annual tonnage of

4 gravel mined by such operator is less than five thousand tons, **except as provided in subsection**  
5 **2 of this section.**

6       2. (1) A property owner or operator conducting gravel removal at the request of  
7 a property owner for the primary purpose of managing seasonal gravel accretion on  
8 property not used primarily for gravel mining, or a political subdivision who contracts  
9 with an operator for excavation to obtain sand and gravel material solely for the use of  
10 such political subdivision shall be exempt from obtaining a permit as required in  
11 subsection 1 of this section. Such gravel removal shall be conducted solely on the property  
12 owner's or political subdivision's property and shall be in accordance with department  
13 guidelines, rules, and regulations. The property owner shall notify the department before  
14 any person or operator conducts gravel removal from the property owner's property if the  
15 gravel is sold or intended to be sold commercially. Notification shall include the nature of  
16 the activity, name of the county and stream in which the site is located and the property  
17 owner's name. The property owner shall not be required to notify the department  
18 regarding any gravel removal at each site location for up to one year from the original  
19 notification regarding that site. The property owner shall renotify the department before  
20 any person or operator conducts gravel removal at any site after the expiration of one year  
21 from the previous notification regarding that site. At the time of each notification to the  
22 department, the department shall provide the property owner with a copy of the  
23 department's guidelines, rules, and regulations relevant to the activity reported. Said  
24 guidelines, rules and regulations may be transmitted either by mail or via the Internet.

25       (2) The annual tonnage of gravel mined by such property owner or operator  
26 conducting gravel removal at the request of a property owner shall be less than five  
27 thousand tons, with a site limitation of fifteen hundred tons annually. Any operator  
28 conducting gravel removal at the request of a property owner that has removed five  
29 thousand tons of sand and gravel material within one calendar year shall have a watershed  
30 management practice plan approved by the commission in order to remove any future sand  
31 or gravel material the remainder of the calendar year. The application for approval shall  
32 be accompanied by a three hundred dollar application fee and shall contain the name of  
33 the watershed from which the operator will be conducting sand and gravel removal, the  
34 location within the watershed district that the sand and gravel will be removed, and the  
35 description of the vehicles and equipment used for removal. Upon approval of the  
36 watershed management practice plan, the department shall provide a copy of the relevant  
37 commission regulations to the operator.

38       (3) No property owner or operator conducting gravel removal at the request of a  
39 property owner for the primary purpose of managing seasonal gravel accretion on

40 **property not used primarily for gravel mining, or a political subdivision who contracts**  
41 **with an operator for excavation to obtain sand and gravel material solely for the use of**  
42 **such political subdivision shall conduct gravel removal annually from March fifteenth to**  
43 **June first.**

44 **(4) No property owner or operator conducting gravel removal at the request of a**  
45 **property owner for the primary purpose of managing seasonal gravel accretion on**  
46 **property not used primarily for gravel mining shall conduct gravel removal from any site**  
47 **located within a distance, to be determined by the commission and included in the**  
48 **guidelines, rules, and regulations given to the property owner at the time of notification,**  
49 **of any building, structure, highway, road, bridge, viaduct, water or sewer line, and pipeline**  
50 **or utility line.**

51 **3.** Sections 444.760 to 444.790 shall apply only to those areas which are opened on or  
52 after January 1, 1972, or to the extended portion of affected areas extended after that date. The  
53 effective date of this section for minerals not previously covered under the provisions of sections  
54 444.760 to 444.790 shall be August 28, 1990.

55 **[3.] 4.** All surface mining operations where land is affected after September 28, 1971,  
56 which are under the control of any government agency whose regulations are equal to or greater  
57 than those imposed by section 444.774, are not subject to the further provisions of sections  
58 444.760 to 444.790, except that such operations shall be registered with the land reclamation  
59 commission.

60 **[4.] 5.** Any portion of a surface mining operation which is subject to the provisions of  
61 sections 260.200 to 260.245, RSMo, and the regulations promulgated thereunder, shall not be  
62 subject to the provisions of sections 444.760 to 444.790, and any bonds or portions thereof  
63 applicable to such operations shall be promptly released by the commission, and the associated  
64 permits canceled by the commission upon presentation to it of satisfactory evidence that the  
65 operator has received a permit pursuant to section 260.205, RSMo, and the regulations  
66 promulgated thereunder. Any land reclamation bond associated with such released permits shall  
67 be retained by the commission until presentation to the commission of satisfactory evidence that:

68 **(1)** The operator has complied with sections 260.226 and 260.227, RSMo, and the  
69 regulations promulgated thereunder, pertaining to closure and postclosure plans and financial  
70 assurance instruments; and

71 **(2)** The operator has commenced operation of the solid waste disposal area or sanitary  
72 landfill as those terms are defined in chapter 260, RSMo.

73 **[5.] 6.** Notwithstanding the provisions of subsection 1 of this section, any political  
74 subdivision which uses its own personnel and equipment or any private individual for personal

75 use may conduct in-stream gravel operations without obtaining from the commission a permit  
76 to conduct such an activity.

77 **7. Any person filing a complaint of an alleged violation of this section, with the**  
78 **department, shall identify themselves by name and telephone number, provide the date and**  
79 **location of the violation, and provide adequate information, as determined by the**  
80 **department, that there has been a violation. Any records, statements, or communications**  
81 **submitted by any person to the department relevant to the complaint shall remain**  
82 **confidential and used solely by the department to investigate such alleged violation.**

444.774. 1. Every operator to whom a permit is issued pursuant to the provisions of  
2 sections 444.760 to 444.790 may engage in surface mining upon the lands described in the  
3 permit upon the performance of and subject to the following requirements with respect to such  
4 lands:

5 (1) All ridges and peaks of overburden created by surface mining, except areas meeting  
6 the qualifications of subdivision (4) of this subsection, or where washing, cleaning or retaining  
7 ponds and reservoirs may be formed under subdivision (2) of this subsection, shall be graded to  
8 a rolling topography traversable by farm machinery, but such slopes need not be reduced to less  
9 than the original grade of that area prior to mining, and the slope of the ridge of overburden  
10 resulting from a box cut need not be reduced to less than twenty-five degrees from horizontal  
11 whenever the same cannot be practically incorporated into the land reclaimed for wildlife  
12 purposes pursuant to subdivision (4) of this subsection. In surface mining the operator shall  
13 remove all debris and materials not allowed by the reclamation plan before the bond or any  
14 portion thereof may be released;

15 (2) As a means of controlling damaging erosion, the director may require the operator  
16 to construct terraces or use such other measures and techniques as are necessary to control soil  
17 erosion and siltation on reclaimed land. Such erosion control measures and techniques may also  
18 be required on overburden stockpiles if the erosion is causing environmental damage outside the  
19 permit area. In determining the grading requirements to restore barite pit areas, the sidewalls of  
20 the excavation shall be graded to a point where it blends with the surrounding countryside, but  
21 in no case should the contour be such that erosion and siltation be increased;

22 (3) In the surface mining of tar sands, the operator shall recover and collect all spent  
23 sands and other refuse yielded from the processing of tar sands, whether such spent sands and  
24 refuse are produced at the surface mine or elsewhere, in the manner prescribed by the  
25 commission as conditions of the permit, and shall finally dispose of such spent sands and refuse  
26 in the manner prescribed by the commission as conditions of the permit and in accordance with  
27 the provisions of sections 444.760 to 444.790;

28 (4) Up to and including twenty-five percent of the total acreage to be reclaimed each year  
29 need not be graded to a rolling topography if the land is reclaimed for wildlife purposes as  
30 required by the commission, except that all peaks and ridges shall be leveled off to a minimum  
31 width of thirty feet or one-half the diameter of the base of the pile at the original ground surface  
32 whichever is less;

33 (5) Surface mining operations that remove and do not replace the lateral support shall  
34 not, unless mutually agreed upon by the operator and the adjacent property owner, remove the  
35 lateral support in the vicinity of any established right-of-way line of any public road, street or  
36 highway closer than a distance equal to twenty-five feet plus one and one-half times the depth  
37 of the unconsolidated material from such right-of-way line to the beginning of the excavation;  
38 except that, unless granted a variance by the commission, the minimum distance is fifty feet.  
39 The provisions of this subdivision shall apply to all existing surface mining operations beginning  
40 August 28, 1990, except as provided in subsection [2] 3 of section 444.770;

41 (6) If surface mining is or has been conducted up to the minimum distance as defined  
42 in subdivision (5) of this subsection along an established right-of-way line of any public road,  
43 street or highway, a barrier or berm of adequate height shall be placed or constructed along the  
44 perimeter of the excavation. Adequate height shall mean a height of no less than three feet.  
45 Such barriers or berms shall not be required if barriers, berms or guardrails already exist on the  
46 adjoining right-of-way. Barriers or berms of adequate height may also be required by the  
47 commission when surface mining is or has been conducted up to the minimum distance as  
48 defined in subdivision (5) of this subsection along other property lines, but only as necessary to  
49 mitigate serious and obvious threats to public safety;

50 (7) The operator may construct earth dams to form lakes in pits resulting from the final  
51 cut in a mining area; except that, the formation of the lakes shall not interfere with underground  
52 or other mining operations or damage adjoining property and shall comply with the requirements  
53 of subdivision (8) of this subsection;

54 (8) The operator shall cover the exposed face of a mineral seam where acid-forming  
55 materials are present, to a depth of not less than two feet with earth that will support plant life  
56 or with a permanent water impoundment, terraced or otherwise so constructed as to prevent a  
57 constant inflow of water from any stream and to prevent surface water from flowing into such  
58 impoundment in such amounts as will cause runoff or spillage from said impoundment in a  
59 volume which will cause kills of fish or animals downstream. The operator shall cover an  
60 exposed deposit of tar sands, including an exposed face thereof, to a depth of not less than two  
61 feet with earth that will support plant life, and in addition may cover such deposit or face with  
62 a permanent water impoundment as provided above; however, no water impoundment shall be  
63 so constructed as to allow a permanent layer of oil or other hydrocarbon to collect on the surface



64 of such impoundment in an amount which will adversely affect fish, wildfowl and other wildlife  
65 in or upon such impoundment;

66 (9) The operator shall reclaim all affected lands except as otherwise provided in sections  
67 444.760 to 444.790. The operator shall determine on company-owned land, and with the  
68 landowners on leased land for leases that are entered into after August 28, 1990, which parts of  
69 the affected land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational,  
70 industrial or other use including food, shelter, and ground cover for wildlife;

71 (10) The operator, with the approval of the commission, shall sow, set out or plant upon  
72 the affected land, seeds, plants, cuttings of trees, shrubs, grasses or legumes. The plantings or  
73 seedings shall be appropriate to the type of reclamation designated by the operator on  
74 company-owned land and with the owner on leased land for leases entered into after August 28,  
75 1990, and shall be based upon sound agronomic and forestry principles;

76 (11) Surface mining operations conducted in the flood plains of streams and rivers, and  
77 subject to periodic flooding, may be exempt from the grading requirements contained in this  
78 section if it can be demonstrated to the commission that such operations will be unsafe to pursue  
79 or ineffective in achieving reclamation required in this section because of the periodic flooding;

80 (12) Such other requirements as the commission may prescribe by rule or regulation to  
81 conform with the purposes and requirements of sections 444.760 to 444.790.

82 2. An operator shall commence the reclamation of the area of land affected by its  
83 operation as soon as possible after the completion of surface mining of viable mineral reserves  
84 in any portion of the permit area in accordance with the plan of reclamation required by  
85 subsection 9 of section 444.772, the rules and regulations of the commission, and the conditions  
86 of the permit. Grading shall be completed within twelve months after mining of viable mineral  
87 reserves is complete in that portion of the permit area based on the operator's prior mining  
88 practices at that site. Mining shall not be deemed complete if the operator can provide credible  
89 evidence to the director that viable mineral reserves are present. The seeding and planting of  
90 supporting vegetation, as provided in the reclamation plan, shall be completed within twenty-four  
91 months after with mining has been completed survival of such supporting vegetation by the  
92 second growing season.

93 3. With the approval of the director, the operator may substitute for all or any part of the  
94 affected land to be reclaimed, an equal number of acres of land previously mined and not  
95 reclaimed. If any area is so substituted the operator shall submit a map and reclamation plan of  
96 the substituted area, and this map and reclamation plan shall conform to all requirements with  
97 respect to other maps and reclamation plan required by section 444.772. The operator shall be  
98 relieved of all obligations pursuant to sections 444.760 to 444.790 with respect to the land for

99 which substitution has been permitted. On leased land, the landowner shall grant written  
100 approval to the operator for substitutions made pursuant to this subsection.

101 4. The operator shall file a report with the commission within sixty days after the date  
102 of expiration of a permit stating the exact number of acres of land affected by the operation, the  
103 extent of the reclamation already accomplished, and such other information as may be required  
104 by the commission.

105 5. The operator shall ensure that all affected land where vegetation is to be reestablished  
106 is covered with enough topsoil or other approved material in order to provide a proper rooting  
107 medium. No topsoil or other approved material is required to be placed on areas described in  
108 subdivision (4) of subsection 1 of this section or on any areas to be reclaimed for industrial uses  
109 as specified in the reclamation plan.

110 6. The commission may grant such additional time for meeting with the completion dates  
111 required by sections 444.760 to 444.790 as are necessary due to an act of God, war, strike, riot,  
112 catastrophe, or other good cause shown.

537.295. 1. No agricultural operation or any of its appurtenances shall be deemed to be  
2 a nuisance, private or public, **or trespass** by any changed conditions in **or about** the locality  
3 thereof after the facility has been in operation for more than one year, when the facility was not  
4 a nuisance at the time the operation began. An agricultural operation protected pursuant to the  
5 provisions of this section may reasonably expand, **diversify, or modernize** its operation [in  
6 terms of acres or animal units] without losing its protected status so long as all **applicable**  
7 county, state, and federal environmental codes, laws, or regulations are met by the agricultural  
8 operation. Reasonable expansion, **diversification, or modernization** shall not be deemed a  
9 public or private nuisance **or trespass**, provided the [expansion] **changed condition** does not  
10 create a substantially adverse effect upon the environment or [creates] **create** a hazard to public  
11 health and safety, or [creates] **create** a measurably significant difference in environmental  
12 pressures upon existing and surrounding neighbors because of increased pollution. Reasonable  
13 expansion, **diversification, or modernization** shall not include complete relocation of a farming  
14 operation by the owner within or without the present boundaries of the farming operation;  
15 however, reasonable expansion of like kind that presently exists[,] may occur. If a poultry or  
16 livestock operation is to maintain its protected status following a reasonable expansion,  
17 **diversification, or modernization**, the operation must ensure that its waste handling capabilities  
18 and facilities meet or exceed minimum recommendations of the University of Missouri extension  
19 service for storage, processing, or removal of animal waste. The protected status of an  
20 agricultural operation, once acquired, shall be assignable, alienable, and inheritable. The  
21 protected status of an agricultural operation, once acquired, shall not be waived by the temporary  
22 cessation of farming or by diminishing the size of the operation. [The provisions of this section

23 shall not apply whenever a nuisance results from the negligent or improper operation of any such  
24 agricultural operation or its appurtenances.]

25 2. As used in this section, the term "agricultural operation and its appurtenances"  
26 includes, but is not limited to, any facility used in the production [or] , processing, **or storage**  
27 for commercial purposes of crops, livestock, **equine, forestry**, swine, poultry, livestock  
28 products, swine products or poultry products.

29 3. The provisions of this section shall not affect or defeat the right of any person, firm  
30 or corporation to recover damages for any injuries sustained by it as a result of the pollution or  
31 other change in the quantity or quality of water used by that person, firm or corporation for  
32 private or commercial purposes, or as a result of any overflow of land owned by or in the  
33 possession of any such person, firm or corporation.

34 4. The provisions of this section shall not apply to any nuisance **or trespass** resulting  
35 from an agricultural operation located within the limits of any city, town or village on August  
36 13, 1982.

37 5. In any [nuisance] action brought in which an agricultural operation is alleged to be a  
38 nuisance **or trespass**, and which is found to be frivolous by the court, the defendant shall recover  
39 the aggregate amount of costs and expenses determined by the court to have been reasonably  
40 incurred [in] **on** his behalf in connection with the defense of such action, together with a  
41 reasonable amount for attorneys fees.

42 6. **No agricultural operation or any of its appurtenances shall be deemed a**  
43 **nuisance, private or public, or trespass, for conditions associated with any farming-related**  
44 **activities conducted by the agricultural operation or any of its appurtenances. For**  
45 **purposes of this section, "farming-related activities" shall include, but not be limited to,**  
46 **planting, cultivating, harvesting, fertilizing, mowing, application of authorized pesticides**  
47 **or herbicides, animal husbandry practices and activities, land clearing, or the construction**  
48 **of roads, lakes, and ponds associated with a farming operation.**

49 7. **The provisions of this section shall not apply whenever a nuisance or trespass**  
50 **results from negligence in the conduct of any farming-related activity.**

578.018. 1. Any duly authorized public health official or law enforcement official may  
2 seek a warrant from the appropriate court to enable [him] **such official** to enter private property  
3 in order to inspect, care for, **quarantine**, or impound a neglected or abused [animals] **animal**.  
4 All requests for such warrants shall be accompanied by an affidavit stating the probable cause  
5 to believe a violation of sections 578.005 to 578.023 has occurred. A person acting under the  
6 authority of a warrant shall:

7 (1) Be given a disposition hearing before the court through which the warrant was issued,  
8 within thirty days of the filing of the request for the purpose of granting immediate disposition  
9 of the animals impounded;

10 (2) **Subject to the provisions of subsection 2 of this section**, place impounded animals  
11 in the care or custody of a veterinarian, the appropriate animal control authority, or an animal  
12 shelter. If no appropriate veterinarian, animal control authority, or animal shelter is available,  
13 the animal shall not be impounded unless it is diseased or disabled beyond recovery for any  
14 useful purpose;

15 (3) Humanely kill any animal impounded if it is determined by a licensed veterinarian  
16 that the animal is diseased or disabled beyond recovery for any useful purpose;

17 (4) Not be liable for any necessary damage to property while acting under such warrant.

18 **2. No farm animal, as defined in section 578.005 and weighing more than fifty**  
19 **pounds, shall be impounded until a district state veterinarian of the department of**  
20 **agriculture, or his or her designee, has examined the farm animal and has determined the**  
21 **farm animal to be in imminent danger of loss of life, or has determined that the condition**  
22 **or conditions deemed to be in violation of section 578.012 cannot reasonably be rectified**  
23 **before the disposition hearing described in subsection 1 of this section. Upon issuance of**  
24 **a court order to enter private property and prior to execution of such order, the executing**  
25 **law enforcement agency shall notify the state veterinarian, as defined in section 267.010,**  
26 **RSMo, who shall accompany, or designate a state licensed veterinarian that shall**  
27 **accompany in his or her place, the law enforcement agency personnel when entering the**  
28 **private property. If after entering the private property the state veterinarian, or his or her**  
29 **designee, determines that further action is necessary to safeguard the health and welfare**  
30 **of the animal on the property, the state veterinarian, or his or her designee, shall advise the**  
31 **issuing court as to the appropriate actions to be taken, including but not limited to**  
32 **quarantine, impoundment, placement, medical treatment, or euthanasia. Any such animal**  
33 **not impounded shall be quarantined by such state veterinarian, or his or her designee. The**  
34 **district state veterinarian, or his or her designee, shall instruct the owner or owners of such**  
35 **animal in writing of the step or steps necessary to correct the condition or conditions**  
36 **deemed to be in violation of section 578.012. Under the existing warrant, the district state**  
37 **veterinarian, or his or her designee, shall make follow-up visits to verify the improvement**  
38 **of the condition or conditions outlined in the quarantine. If reasonable attempts to correct**  
39 **the violations have not occurred on or before the disposition hearing described in**  
40 **subsection 1 of this section, the court may order the farm animal to be impounded and**  
41 **disposed of in accordance with this section.**

42           **3.** The owner or custodian or any person claiming an interest in any animal that has been  
43 impounded because of neglect or abuse may prevent disposition of the animal by posting bond  
44 or security in an amount sufficient to provide for the animal's care and keeping for at least thirty  
45 days, inclusive of the date on which the animal was taken into custody. Notwithstanding the fact  
46 that bond may be posted pursuant to this subsection, the authority having custody of the animal  
47 may humanely dispose of the animal at the end of the time for which expenses are covered by  
48 the bond or security, unless there is a court order prohibiting such disposition. Such order shall  
49 provide for a bond or other security in the amount necessary to protect the authority having  
50 custody of the animal from any cost of the care, keeping or disposal of the animal. The authority  
51 taking custody of an animal shall give notice **in writing to the owner or owners** of the  
52 provisions of this section by posting a copy of this section at the place where the animal was  
53 taken into custody [or] **and** by delivering it to a person residing on the property. **Diligent effort**  
54 **shall be made to notify in writing the owner or owners of farm animals believed to be**  
55 **owned by a person other than the caregiver.**

56           [3.] **4.** The owner or custodian of any animal humanely killed pursuant to this section  
57 shall not be entitled to recover any damages related to nor the actual value of the animal if the  
58 animal was found by a licensed veterinarian to be diseased or disabled, or if the owner or  
59 custodian failed to post bond or security for the care, keeping and disposition of the animal after  
60 being notified of impoundment.

640.703. For the purposes of sections 640.700 to 640.755, the following terms mean:

- 2           (1) "Animal units", shall be defined by rules of the department in effect as of January 30,  
3 1996;
- 4           (2) "Animal waste wet handling facility", includes all gravity outfall lines, recycle pump  
5 stations, recycle force mains and appurtenances;
- 6           (3) "Class IA", any concentrated animal feeding operation with a capacity of seven  
7 thousand animal units or more;
- 8           (4) "Class IB", any concentrated animal feeding operation with a capacity between three  
9 thousand animal units and six thousand nine hundred and ninety-nine animal units inclusive;
- 10          (5) "Class IC", any concentrated animal feeding operation with a capacity between one  
11 thousand animal units and two thousand nine hundred and ninety-nine animal units inclusive;
- 12          (6) "Class II", any concentrated animal feeding operation with a capacity of at least three  
13 hundred animal units, but less than one thousand animal units;
- 14          (7) "Department", the department of natural resources;
- 15          (8) "Facility", any class IA concentrated animal feeding operation which uses a flush  
16 system;

17 (9) "Flush system", a system of moving or removing manure utilizing liquid as the  
18 primary agent as opposed to a primarily mechanical or automatic device;

19 (10) "Sensitive areas", areas in the watershed located within five miles upstream of any  
20 stream or river drinking water intake structure, other than those intake structures on the Missouri  
21 and Mississippi rivers;

22 (11) **"Voluntarily regulated facility", any animal feeding operation or concentrated**  
23 **animal feeding operation with a capacity of less than one thousand animal units which**  
24 **voluntarily applies with the department to be regulated and which is not otherwise**  
25 **required by law to have a class II permit due to the facility's discharge of pollutants into**  
26 **waters of the state.**

640.710. 1. The department shall promulgate rules regulating the establishment,  
2 permitting, design, construction, operation and management of class I facilities. The department  
3 shall have the authority and jurisdiction to regulate the establishment, permitting, design,  
4 construction, operation and management of any class I facility. Such rules may require  
5 monitoring wells on a site-specific basis when, in the determination of the division of geology  
6 and land survey, class IA concentrated animal feeding operation lagoons are located in  
7 hydrologically sensitive areas where the quality of groundwater may be compromised. Such  
8 rules and regulations shall be designed to afford a prudent degree of environmental protection  
9 while accommodating modern agricultural practices.

10 2. Except as provided in subsections [3 and] 4 **and 5** of this section, the department shall  
11 require at least but not more than the following buffer distances **for class I facilities that meet**  
12 **the standards for managed environment livestock operations under section 261.175, RSMo,**  
13 **between the nearest confinement building or lagoon and any public building or occupied**  
14 **residence, except [a] an occupied residence which is owned by the concentrated animal feeding**  
15 **operation or [a] an occupied residence from which a written agreement [for operation is**  
16 **obtained] is obtained from all owners of such occupied residence:**

17 (1) For concentrated animal feeding operations with at least one thousand animal units,  
18 one thousand feet;

19 (2) For concentrated animal feeding operations with between three thousand and six  
20 thousand nine hundred ninety-nine animal units inclusive, two thousand feet; and

21 (3) For concentrated animal feeding operations of seven thousand or more animal units,  
22 three thousand feet.

23 3. **For any class I facility not meeting the managed environment livestock operation**  
24 **standards under section 261.175, the following buffer distances shall be required between**  
25 **the nearest confinement building or lagoon and any public building or occupied residence,**  
26 **except an occupied residence which is owned by the concentrated animal feeding operation**

27 or an occupied residence from which a written agreement is obtained from all owners of  
28 such occupied residence:

29 (1) For concentrated animal feeding operations with at least one thousand animal  
30 units, one thousand two hundred fifty feet;

31 (2) For concentrated animal feeding operations with between three thousand and  
32 six thousand nine hundred ninety-nine animal units inclusive, two thousand five hundred  
33 feet; and

34 (3) For concentrated animal feeding operations of seven thousand or more animal  
35 units, three thousand seven hundred fifty feet.

36 4. All concentrated animal feeding operations in existence as of June 25, 1996, shall be  
37 exempt from the buffer distances prescribed in [subsection] **subsections 2 and 3** of this section.  
38 [Such distances shall not apply to concentrated animal feeding operations which have received  
39 a written agreement which has been signed by all affected property owners within the buffer  
40 distance.]

41 5. All concentrated animal feeding operations in existence prior to the  
42 promulgation of standards under section 261.175 shall be exempt from the buffer distances  
43 prescribed in subsection 3 of this section, provided that such operation remains in the same  
44 classification as it was prior to the promulgation of the standards. If the operation expands  
45 to a higher classification after the standards under section 261.175, RSMo, have been  
46 promulgated, the buffer requirements in subsections 2 and 3 shall apply.

47 [4.] 6. The department may, upon review of the information contained in the site plan  
48 including, but not limited to, the prevailing winds, topography and other local environmental  
49 factors, [authorize] **recommend** a distance which is less than the distance prescribed in  
50 [subsection] **subsections 2 or 3** of this section. The department's recommendation shall be sent  
51 to the governing body of the county in which such site is proposed. [The department's authorized  
52 buffer distance shall become effective unless the county governing body rejects the department's  
53 recommendation by a majority vote at the next meeting of the governing body after the  
54 recommendation is received.] **If a majority of the governing body rejects the**  
55 **recommendation and notifies the department in writing of such decision within sixty days**  
56 **of the date the department issued the recommendation, the department shall not adopt the**  
57 **recommended distance. If the governing body approves the recommendation and notifies**  
58 **the department in writing within sixty days of the date the department issued the**  
59 **recommendation, or if the governing body does not respond to the department within such**  
60 **time frame, the department shall adopt the recommended distance.**

61 [5. Nothing in this section shall be construed as restricting local controls.]

62           **7. On and after August 28, 2007, the department shall send a copy of any draft**  
63 **operating permit for a new source class IA concentrated animal feeding operation to the**  
64 **governing body of the county in which the new source class IA facility is proposed. If a**  
65 **majority of the governing body rejects the draft permit and notifies the department in**  
66 **writing of such decision within sixty days of the initial date of public notice of the draft**  
67 **permit, the department shall not issue the draft permit as a final permit. If the governing**  
68 **body approves the permit and notifies the department in writing of such approval within**  
69 **sixty days of the initial date of public notice of the draft permit or if the governing body**  
70 **does not respond to the department within such time frame, the department shall continue**  
71 **the process to issue the draft permit as a final permit.**

**640.711. 1. The department shall promulgate rules regulating the establishment,**  
2 **permitting, design, construction, operation, and management of voluntarily regulated**  
3 **facilities.**

4           **2. No facility which is eligible to become a voluntarily regulated facility shall be**  
5 **required to obtain a construction or operating permit. At such time that an eligible facility**  
6 **applies with the department to become a voluntarily regulated facility, the department**  
7 **shall have the authority and jurisdiction to regulate the permitting, design, construction,**  
8 **operation, and management of such facility.**

9           **3. Such rules shall be designed to afford a prudent degree of environmental**  
10 **protection while accommodating modern agricultural practices.**

11           **4. Any permit issued to a facility smaller than class I prior to the effective date of**  
12 **this section shall remain in full force and effect until its expiration or is otherwise**  
13 **disciplined or revoked by the department consistent with this chapter. Such permit shall**  
14 **be considered a permit issued to a voluntarily regulated facility under this section.**

15           **5. The terms and conditions of an expired permit issued under this section are**  
16 **continued automatically and remain fully effective and enforceable pending issuance of a**  
17 **new permit if:**

18           **(1) The permittee has submitted a timely and sufficient application for a new permit**  
19 **under this section; and**

20           **(2) The department is unable, through no fault of the permittee, to issue a new**  
21 **permit before the expiration date of the previous permit.**

22           **6. Any permit issued under this section shall not be terminated by the permittee**  
23 **until such time that the permit expires, the ownership of the facility changes, or with leave**  
24 **of the department.**

25           **7. The provisions of this section shall not be construed to cause an otherwise eligible**  
26 **voluntarily regulated facility to become ineligible for state revolving loan funds.**



2       **640.712.** The clean water commission, as created under section 644.021, RSMo,  
3 shall review and revise, as appropriate, design guidelines relating to manure storage  
4 structure design for concentrated animal feeding operations.

2       **640.713. 1.** On and after August 28, 2007, any proposed class II concentrated  
3 animal feeding operation with a capacity of more than six hundred fifty animal units shall  
4 obtain a letter of approval from the department. Any such class II concentrated animal  
5 feeding operation may obtain an operating permit from the department in lieu of a letter  
6 of approval, at the discretion of the concentrated animal feeding operation. The clean  
7 water commission shall review and revise, as necessary, rules that establish requirements  
8 that must be met in order for any such letter of approval to be issued. Any rule or portion  
9 of a rule, as that term is defined in section 536.010, RSMo, that is created under the  
10 authority delegated in this section shall become effective only if it complies with and is  
11 subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
12 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers  
13 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the  
14 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,  
15 then the grant of rulemaking authority and any rule proposed or adopted after August 28,  
2007, shall be invalid and void.

16       **2.** Prior to issuing any letter of approval under this section, the department shall  
17 review the applicant's manure management plan and manure storage structure design.

18       **3.** Any class II concentrated animal feeding operation with a capacity of more than  
19 six hundred fifty animal units:

20       **(1)** Shall not locate a confinement building or lagoon less than five hundred feet  
21 from any public building or occupied residence; and

22       **(2)** Shall be subject to the neighbor notification requirements required under  
23 section 640.715.

24       **4.** The requirements of this section shall not apply to any class II concentrated  
25 animal feeding operation in existence as of August 28, 2007.

2       **640.717. 1.** Any concentrated animal feeding operation with a capacity of more  
3 than six hundred fifty animal units:

4       **(1)** Shall not be located within one mile of the normal pool boundary of federally-  
5 owned reservoirs or reservoirs regulated by the Federal Energy Regulatory Commission;  
6 and

7       **(2)** Shall not apply manure within one-quarter mile of any reservoir listed in  
8 subdivision (1) of this subsection.

8           **2. The requirements of this section shall not apply to any concentrated animal**  
9 **feeding operation in existence as of August 28, 2007.**

640.740. **1.** There is hereby established in the state treasury the "Concentrated Animal  
2 Feeding Operation Indemnity Fund", to be known as the "fund" for the purposes of sections  
3 640.740 to 640.747. All fees or other moneys payable pursuant to the provisions of section  
4 640.745 or other moneys received including gifts, grants, appropriations, and bequests from  
5 federal, private or other sources made for the purpose of the provisions of this act shall be  
6 payable to and collected by the director of the department of natural resources and deposited in  
7 this fund. **Subject to approval by a majority vote of the CAFO review board established**  
8 **under section 348.465,** the money in this fund, upon appropriation, shall be expended to:

9           **(1) Offset the liability of any county to address animal manure spills associated**  
10 **with a class I or class II concentrated animal feeding operation; or**

11           **(2)** Close class IA, class IB, class IC and class II concentrated animal feeding operations  
12 as defined in the department's rules, that have been placed in the control of the government due  
13 to bankruptcy or failure to pay property taxes, or if the class IA, class IB, class IC or class II  
14 concentrated animal feeding operation is abandoned property. "Abandoned property", for the  
15 purposes of this section, means real property previously used for, or which has the potential to  
16 be used for, agricultural purposes which has been placed in the control of the state, a county, or  
17 municipal government, or an agency thereof, through donation, purchase, tax delinquency,  
18 foreclosure, default or settlement, including conveyance by deed in lieu of foreclosure, and has  
19 been vacant for a period of not less than three years.

20           **2. Expenditures made from the fund shall only be made to, or on behalf of, a**  
21 **county.**

22           **3.** Any portion of the fund not immediately needed for the purposes authorized **in this**  
23 **section** shall be invested by the state treasurer as provided by the constitution and laws of this  
24 state. All income from such investments shall be deposited in the fund. Any unexpended  
25 balance in the fund at the end of any appropriation period shall not be transferred to the general  
26 revenue fund and, accordingly, shall be exempt from the provisions of section 33.080, RSMo,  
27 relating to the transfer of funds to the general revenue funds of the state by the state treasurer.

28           **4. Any time the balance in the fund is less than five hundred thousand dollars, the**  
29 **state of Missouri shall indemnify the difference between the fund balance and five hundred**  
30 **thousand dollars. Any expenditures made for the purposes described in this section shall**  
31 **be paid with monies deposited into the fund under section 640.745 before using**  
32 **indemnified monies provided by the state. Any state indemnified monies used to pay**  
33 **expenditures authorized under this section shall be repaid to the state from monies**  
34 **collected under 640.745.**

Section B. Because immediate action is necessary to assist Missourians with repairing  
2 winter storm damage to fencing, section 144.063 of section A of this act is deemed necessary for  
3 the immediate preservation of the public health, welfare, peace, and safety, and is hereby  
4 declared to be an emergency act within the meaning of the constitution, and section 144.063 of  
5 section A of this act shall be in full force and effect upon its passage and approval.

✓