

SECOND REGULAR SESSION

HOUSE BILL NO. 2442

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHOELLER (Sponsor), HOLSMAN, BIVINS, LOW (39), AULL, HUGHES, LeVOTA, CORCORAN, WILDBERGER, FALLERT, DOUGHERTY, ROBINSON, BROWN (50), YAEGER, SCAVUZZO, GRILL, OXFORD, NORR, LAMPE, ZIMMERMAN, WITTE, SKAGGS, PAGE, McCLANAHAN, BAKER (25), BLAND, HAYWOOD, HUBBARD, GEORGE, SCHIEFFER, HODGES, HOSKINS, WALTON, NASHEED, EL-AMIN, DONNELLY, STORCH, TALBOY AND WASSON (Co-sponsors).

Read 1st time March 13, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5500L.011

AN ACT

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

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

Section A. Sections 8.800, 8.810, 8.812, 8.815, 8.837, and 143.121, RSMo, are repealed
2 and sixteen new sections enacted in lieu thereof, to be known as sections 8.295, 8.305, 8.309,
3 8.800, 8.810, 8.812, 8.815, 8.837, 8.852, 135.032, 143.121, 144.526, 386.850, 640.153, 640.157,
4 and 640.216, to read as follows:

8.295. Up to ten percent of the amount appropriated each year from the facilities
2 **maintenance reserve fund created in article IV, section 27(b) of the Missouri Constitution**
3 **shall be expended on maintenance, repair, or renovation projects that are otherwise**
4 **allowable under the constitution but that are also considered energy projects with a twenty**
5 **year payback or less.**

8.305. Any appliance purchased with state moneys or a portion of state moneys
2 **shall be an appliance that has earned the Energy Star under the Energy Star program co-**
3 **sponsored by the United States Department of Energy and the Environmental Protection**

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.

4 **Agency. For purposes of this section, the term "appliance" shall have the same meaning**
5 **as in section 144.526, RSMo.**

2 **8.309. 1. The division of facilities management, design and construction shall**
3 **ensure that regular maintenance is conducted on all lighting, heating, ventilation, and air**
4 **conditioning systems used within any state building. Such maintenance shall include, but**
5 **not be limited to, lubricating, balancing, aligning, vacuuming, cleaning, and checking seals**
6 **to ensure the optimum operation and energy efficiency of any such system.**

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

17 **8.800. As used in sections 8.800 to 8.825, the following terms mean:**

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

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

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

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

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

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

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

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

11 2. The director of the division shall not let a contract after January 1, 1996, for
12 construction of a state building or substantial renovation of an existing state building when major
13 energy systems are involved before completing an evaluation of the design documents and
14 construction documents based upon life cycle cost factors and the minimum energy efficiency
15 standard established in subsection 1 of section 8.812.

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

8.812. 1. By January 1, [1995] **2009**, the department[, in consultation with the division
2 and the voluntary working group created in subsection 1 of section 8.815,] shall establish, by

rule, a minimum energy efficiency standard for construction of a state building, substantial renovation of a state building when major energy systems are involved or a building which the state or state agency considers for acquisition or lease. Such standard shall be at least as stringent as the [American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Standard 90] **International Energy Conservation Code 2006**, latest revision.

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

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

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

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

8.815. The department and the division shall establish a voluntary working group of persons and interest groups with expertise in energy efficiency, including, but not limited to, such persons as electrical engineers, mechanical engineers, builders, architects, landscape architects, **interior designers**, nonprofit organizations, **persons affiliated with gas or electric utilities**, and persons with expertise in solar and renewable energy forms. The voluntary working group shall advise the department on the development of the energy efficiency standard and shall assist the department in implementation of the standard by recommending, reviewing and coordinating education programs for designers, builders, businesses and other interested persons to facilitate incorporation of the standard into existing practices.

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

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

8.852. On or after July 1, 2016, at least ten percent of the electricity used by the state government shall come from a renewable energy source or sources, to the extent that

3 such renewable energy sources are available. On and after July 1, 2026, at least twenty
4 percent of the electricity used by the state government shall come from a renewable energy
5 source or sources, to the extent that such renewable energy sources are available. The
6 provisions of this section shall not apply to political subdivisions of the state, but shall not
7 preclude a political subdivision from voluntarily complying with this section.

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

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

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

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

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

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

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

18 (6) "Director", the director of the department of natural resources;

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

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

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

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

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

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

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

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

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

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

43 (12) "Green base building", a base building that meets all requirements in the most
44 current version of the U.S. Green Building Council's Leadership in Energy and
45 Environmental Design Rating System for Core and Shell or that meets the most current
46 requirements for at least a three globes rating under Green Globes;

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

50 (a) Site conservation and sustainable planning;

51 (b) Water conservation and efficiency;

52 (c) Energy efficiency and renewable energy;

53 (d) Conservation of materials and resources; and

54 (e) Indoor environmental quality and human health;

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

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

62 (16) "Green whole building", a whole building that meets all requirements in the
63 most current version of the U.S. Green Building Council's Leadership in Energy and
64 Environmental Design Rating System for New Building Construction and Major
65 Renovations LEED-NC, as amended from time to time, or that meets all requirements in
66 the most current version of the U.S. Green Building Council's Leadership in Energy and

67 Environmental Design Rating System for Existing Buildings, or that meets the most
68 current requirements for at least a three globes rating under Green Globes:

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

73 (18) "LEED-CS" or "LEED Green Building Rating System Version LEED-CS",
74 the most current Leadership in Energy and Environmental Design Green Building Rating
75 System guidelines developed and adopted by the United States Green Building Council for
76 the core and shell of buildings otherwise known as the base building;

77 (19) "LEED-EB" or "LEED Green Building Rating System Version LEED-EB",
78 the most current Leadership in Energy and Environmental Design Green Building Rating
79 System guidelines developed and adopted by the United States Green Building Council for
80 existing buildings;

81 (20) "LEED-NC" or "LEED Green Building Rating System Version LEED-NC",
82 the most current Leadership in Energy and Environmental Design Green Building Rating
83 System developed and adopted by the United States Green Building Council for new
84 buildings and major renovations;

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

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

89 (23) "State tax liability", in the case of a business taxpayer, any liability incurred
90 by such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, RSMo,
91 excluding sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an
92 individual taxpayer, any liability incurred by such taxpayer under the provisions of
93 chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;

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

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

99 (26) "Whole building", the entire building, as comprised of the base building and
100 tenant space.

101 3. (1) The green building tax credit shall be available to an applicant for:

102 (a) Either the construction of a green building or the rehabilitation of a building,
103 which is not a green building, into a green building;

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

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

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

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

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

4. An applicant shall be eligible for a green building tax credit against a state tax liability provided such applicant complies with the requirements of subsection 5 of this section and provided that the building meets the requirements of an eligible building as set forth in subdivision (8) of subsection 2 of this section. The amount of credit shall be determined pursuant to subsection 7 of this section, but the total amount of tax credits issued to a single applicant under this section shall not exceed fifty thousand dollars per tax year.

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

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

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

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

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

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

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

(c) The green tenant space credit component shall be available to an applicant for constructing tenant space or rehabilitating tenant space, which is not green tenant space, into green tenant space. The green tenant space credit component may not be allowed for an taxable year unless all the requirements under subsection 5 of this section are met; and

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

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

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

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

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

(b) The building is in service as shown by a certificate of occupancy or other acceptable form of documentation as determined by the department; and

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

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

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

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

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

178 (2) For each component eligible to receive credit under subsection 4 of this section,
179 once construction is complete and an occupancy certificate is received, such credit
180 component amount shall be allowed for each of the next four succeeding taxable years
181 provided that the applicant obtains an eligibility certificate that meets all requirements for
182 an eligibility certificate as described in paragraph (b) of subdivision (3) of subsection 10
183 of this section.

184 (3) When filing with the department of revenue, the applicant shall file the
185 eligibility certificate and the preliminary credit component certificate with the claim for
186 credit. Allowable costs in this subsection and for all five years that the credit may be
187 available shall not exceed, in the aggregate, the amount determined under subsections 4,
188 6, and 7 of this section.

189 6. For tax years beginning on or after January 1, 2010, the tax credits authorized
190 under this section may be used to satisfy taxes owed under chapters 143, 147, and 148,
191 RSMo, excluding sections 143.191 to 143.265, RSMo, in the tax year the credit is issued.
192 Tax credits issued under this section shall be refundable and may be transferred, sold, or
193 assigned by notarized endorsement, which names the transferee. In no case shall the
194 aggregate amount of all tax credits issued under this section exceed one million dollars per
195 tax year.

196 7. As soon as practicable, but not later than December 1, 2009, the department shall
197 promulgate rules, in accordance with the provisions of this section, to:

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

- 200 (a) The amount of floor space in the building;
- 201 (b) The square footage of the building;
- 202 (c) The green globes rating or the level of LEED rating achieved by the building,
203 with higher ratings corresponding to greater tax credits; and
- 204 (d) Whether the building is located in an economic development area with a higher
205 tax credit corresponding to those buildings located in an economic development area;

206 (2) Determine allowable credit for each of:

- 207 (a) The whole green building credit component;
- 208 (b) The base green building credit component; and
- 209 (c) The green tenant space credit component.

210
211 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is
212 created under the authority delegated in this section shall become effective only if it
213 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
214 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
215 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
216 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, 2008, shall be invalid and void.

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

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

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

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

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

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

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

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

(4) If the director determines that the proposed construction is technically feasible and should operate in accordance with the representations made by the applicant, and is in accordance with the provisions under subsection 5 of this section and any applicable rules or standards adopted by the director, the director shall issue a preliminary credit certificate approving the construction of the facility. The preliminary credit certificate shall state the following:

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

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

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

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

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

(a) A detailed description of the changes;

(b) The reasons for the changes; and

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

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

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

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

10. (1) No final certification shall be issued by the director under this subsection unless the facility was constructed under a preliminary certificate of approval issued under subsection 8 of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The amount of any deduction that is included in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount

18 deducted exceeds the amount that would have been deductible pursuant to Section 168 of the
19 Internal Revenue Code of 1986 as in effect on January 1, 2002;

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

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

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

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

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

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

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

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

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

61 (g) The amount that would have been deducted in the computation of federal taxable
62 income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002,
63 to the extent that amount relates to property purchased on or after July 1, 2002, but before July
64 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section
65 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act
66 of 2002;

67 (h) For all tax years beginning on or after January 1, 2005, the amount of any income
68 received for military service while the taxpayer serves in a combat zone which is included in
69 federal adjusted gross income and not otherwise excluded therefrom. As used in this section,
70 "combat zone" means any area which the President of the United States by Executive Order
71 designates as an area in which armed forces of the United States are or have engaged in combat.
72 Service is performed in a combat zone only if performed on or after the date designated by the
73 President by Executive Order as the date of the commencing of combat activities in such zone,
74 and on or before the date designated by the President by Executive Order as the date of the
75 termination of combatant activities in such zone; and

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

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

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

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

91 7. (1) As used in this subsection, "qualified health insurance premium" means the
92 amount paid during the tax year by such taxpayer for any insurance policy primarily providing
93 health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's dependents.

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

99 **8. (1) As used in this subsection, "qualified home energy audit", shall mean a home**
100 **energy audit conducted by an entity certified by the department of natural resources.**

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

106 **9. (1) As used in this subsection, "energy star certified product", shall mean any**
107 **product approved by both the United States Environmental Protection Agency and the**
108 **United States Department of Energy as eligible to display the energy star label, as amended**
109 **from time to time.**

110 **(2) In addition to the subtractions provided in this section, one hundred percent of**
111 **the purchase price paid, not to exceed one thousand dollars, by a taxpayer for energy star**
112 **products purchased within the taxable year shall be subtracted from the taxpayer's federal**
113 **adjusted gross income to the extent the amount paid for such products is included in**
114 **federal taxable income. The taxpayer shall provide the department of revenue with proof**
115 **of the amount paid for such products.**

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

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

4 **(1) "Appliance", clothes washers and dryers, water heaters, trash compactors,**
5 **dishwashers, conventional ovens, ranges, stoves, air conditioners, refrigerators and**
6 **freezers;**

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

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

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

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

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

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

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

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

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

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

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

 640.216. 1. There is hereby created in the state treasury the "Studies in Energy
2 Conservation Fund", which shall consist of moneys appropriated by the general assembly
3 or donated by any individual or entity. The fund shall be administered by the department
4 of natural resources. Upon appropriation, money in the fund shall be used solely for the
5 purposes set forth in this section and for any administrative expenses involving the
6 implementation of this section. Notwithstanding the provisions of section 33.080, RSMo,
7 to the contrary, any moneys remaining in the fund at the end of the biennium shall not
8 revert to the credit of the general revenue fund. The state treasurer shall invest moneys
9 in the fund in the same manner as other funds are invested. Any interest and moneys
10 earned on such investments shall be credited to the fund.

11 2. Subject to an initial appropriation from the fund, there is hereby established in
12 the College of Natural and Applied Sciences of Missouri State University a full
13 professorship of energy conservation.

14 3. At such time as the professorship in energy conservation required by subsection
15 2 of this section has been established, the department of natural resources may appropriate
16 any remaining moneys from the fund for the purpose of establishing substantially similar
17 full professorships in energy conservation at any public university within this state.

18 4. The duties of the full professor of energy conservation and of any professors
19 holding positions established under subsection 3 of this section shall primarily be to
20 conduct studies and research regarding energy efficiency, but may also include studies and
21 research regarding renewable energy. Such research may involve the evaluation of policy
22 proposals and legislation relating to energy efficiency or renewable energy.

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