

FIRST REGULAR SESSION

HOUSE BILL NO. 109

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WELLS (Sponsor), POLLOCK, SATER, FAITH, DENISON, FLANIGAN, SCHNEIDER, FRANZ, FRAKER, MOLENDORP, BRANDOM, HOUGH, HOSKINS, SMITH (150), BRATTIN, NANCE, KELLEY (126), HIGDON, LOEHNER, DUGGER, GUERNSEY, LAIR, MCGHEE, RUZICKA, GATSCHENBERGER, SCHAD, BLACK, TILLEY, NETH, STILL, ROWLAND, COOKSON, ZERR, CRAWFORD, ENTLICHER, SCHARNHORST, FRANKLIN AND TAYLOR (Co-sponsors).

0409L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 30.260, 30.750, 30.758, 30.767, 30.810, and 30.860, RSMo, and to enact in lieu thereof five new sections relating to linked deposits, with an emergency clause.

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

Section A. Sections 30.260, 30.750, 30.758, 30.767, 30.810, and 30.860, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 30.260, 30.750,
3 30.758, 30.810, and 30.860, to read as follows:

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

11 2. The state treasurer shall determine by the exercise of the treasurer's best judgment the
12 amount of state moneys that are not needed for current operating expenses of the state

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.

13 government and shall keep on demand deposit in banking institutions in this state selected by the
14 treasurer and approved by the governor and state auditor the amount of state moneys which the
15 treasurer has so determined are needed for current operating expenses of the state government
16 and disburse the same as authorized by law.

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

25 (1) The preservation of such state moneys;

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

32 (3) The liquidity needs of the state;

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

35 (5) All other factors which to the treasurer as a prudent state treasurer seem to be
36 relevant to the general public welfare in the light of the circumstances at the time prevailing. The
37 state treasurer may also place state moneys which are determined not needed for current
38 operations of the state government in linked deposits as provided in sections 30.750 to [30.767]
39 **30.765.**

40 4. Except for state moneys deposited in linked deposits as provided in sections 30.750
41 to 30.860, the rate of interest payable by all banking institutions on time deposits of state moneys
42 shall be set under subdivisions (1) to (5) of this subsection and subsections 6 and 7 of this
43 section. The rate shall never exceed the maximum rate of interest which by federal law or
44 regulation a bank which is a member of the Federal Reserve System may from time to time pay
45 on a time deposit of the same size and maturity. The rate of interest payable by all banking
46 institutions on time deposits of state moneys is as follows:

47 (1) Beginning January 1, 2010, the rate of interest payable by a banking institution on
48 up to seven million dollars of time deposits of state moneys shall be the same as the average rate

49 paid during the week next preceding the week in which the deposit was made for United States
50 of America treasury securities maturing and becoming payable closest to the time of termination
51 of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent.
52 In the case of a banking institution that holds more than seven million dollars of time deposits
53 of state moneys, the rate of interest payable on deposits in excess of seven million dollars of time
54 deposits of state moneys shall be set at the market rate as determined in subsection 6 of this
55 section;

56 (2) Beginning January 1, 2011, the rate of interest payable by a banking institution on
57 up to five million dollars of time deposits of state moneys shall be the same as the average rate
58 paid during the week next preceding the week in which the deposit was made for United States
59 of America treasury securities maturing and becoming payable closest to the time of termination
60 of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent.
61 In the case of a banking institution that holds more than five million dollars of time deposits of
62 state moneys, the rate of interest payable on deposits in excess of five million dollars of time
63 deposits of state moneys shall be set at the market rate as determined in subsection 6 of this
64 section;

65 (3) Beginning January 1, 2012, the rate of interest payable by a banking institution on
66 up to three million dollars of time deposits of state moneys shall be the same as the average rate
67 paid during the week next preceding the week in which the deposit was made for United States
68 of America treasury securities maturing and becoming payable closest to the time of termination
69 of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent.
70 In the case of a banking institution that holds more than three million dollars of time deposits of
71 state moneys, the rate of interest payable on deposits in excess of three million dollars of time
72 deposits of state moneys shall be set at the market rate as determined in subsection 6 of this
73 section;

74 (4) Beginning January 1, 2013, the rate of interest payable by a banking institution on
75 up to one million dollars of time deposits of state moneys shall be the same as the average rate
76 paid during the week next preceding the week in which the deposit was made for United States
77 of America treasury securities maturing and becoming payable closest to the time of termination
78 of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent.
79 In the case of a banking institution that holds more than one million dollars of time deposits of
80 state moneys, the rate of interest payable on deposits in excess of one million dollars of time
81 deposits of state moneys shall be set at the market rate as determined in subsection 6 of this
82 section;

83 (5) Beginning January 1, 2014, the rate of interest payable by a banking institution on
84 all time deposits of state moneys shall be set at the market rate as determined in subsection 6 of
85 this section.

86 5. Notwithstanding subdivisions (1) to (5) of subsection 4 of this section, for any new
87 time deposits of state moneys placed after January 1, 2010, with a term longer than eighteen
88 months, the rate of interest payable by a banking institution shall be set at the market rate as
89 determined in subsection 6 of this section.

90 6. Market rate shall be determined no less frequently than once a month by the director
91 of investments in the office of state treasurer. The process for determining a market rate shall
92 include due consideration of prevailing rates offered for certificates of deposit by
93 well-capitalized Missouri financial institutions, the advance rate established by the Federal Home
94 Loan Bank of Des Moines for member institutions and the costs of collateralization, as well as
95 an evaluation of the credit risk associated with other authorized securities under section 15,
96 article IV, of the Missouri Constitution. Banking institutions may also offer a higher rate than
97 the market rate for any time deposit placed with the state treasurer in excess of the total amount
98 of state moneys set at the United States of America treasury securities maturing and becoming
99 payable closest to the time of termination of the deposit indicated in subdivisions (1) to (5) of
100 subsection 4 of this section.

101 7. Within the parameters of the state treasurer's written investment policy, the state
102 treasurer may subscribe for or purchase outright or by repurchase agreement investments of the
103 character described in subsection 3 of this section which the treasurer, in the exercise of the
104 treasurer's best judgment, believes to be the best for investment of state moneys at the time and
105 in payment therefor may withdraw moneys from any bank account, demand or time, maintained
106 by the treasurer without having any supporting warrant of the commissioner of administration.
107 The state treasurer may bid on subscriptions for such obligations in accordance with the
108 treasurer's best judgment. The state treasurer shall provide for the safekeeping of all such
109 obligations so acquired in the same manner that securities pledged to secure the repayment of
110 state moneys deposited in banking institutions are kept by the treasurer pursuant to law. The
111 state treasurer may hold any such obligation so acquired by the treasurer until its maturity or
112 prior thereto may sell the same outright or by reverse repurchase agreement provided the state's
113 security interest in the underlying security is perfected or temporarily exchange such obligation
114 for cash or other authorized securities of at least equal market value with no maturity more than
115 one year beyond the maturity of any of the traded obligations, for a negotiated fee as the
116 treasurer, in the exercise of the treasurer's best judgment, deems necessary or advisable for the
117 best interest of the people of the state of Missouri in the light of the circumstances at the time
118 prevailing. The state treasurer may pay all costs and expenses reasonably incurred by the

119 treasurer in connection with the subscription, purchase, sale, collection, safekeeping or delivery
120 of all such obligations at any time acquired by the treasurer.

121 8. As used in this chapter, except as more particularly specified in section 30.270,
122 obligations of the United States shall include securities of the United States Treasury, and United
123 States agencies or instrumentalities as described in section 15, article IV, Constitution of
124 Missouri. The word "temporarily" as used in this section shall mean no more than six months.

30.750. As used in sections 30.750 to [30.767] **30.765**, the following terms mean:

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

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

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

12 (4) "Eligible beginning farmer":

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

15 a. Is a Missouri resident;

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

17 c. Is at least eighteen years old; and

18 d. In the preceding five years has not owned, either directly or indirectly, farm land
19 greater than fifty percent of the average size farm in the county where the proposed farm
20 operation is located or farm land with an appraised value greater than four hundred fifty thousand
21 dollars. A farmer who qualifies as an eligible farmer under this provision may utilize the
22 proceeds of a linked deposit loan to purchase agricultural land, farm buildings, new and used
23 farm equipment, livestock and working capital;

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

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

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

31 (5) "Eligible facility borrower", a borrower qualified under section 30.860 to apply for
32 a reduced-rate loan under sections 30.750 to [30.767] **30.765**;

33 (6) "Eligible farming operation", any person engaged in farming in an authorized farm
34 corporation, family farm, or family farm corporation as defined in section 350.010 that has all
35 of the following characteristics:

36 (a) Is headquartered in this state;

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

39 (c) Employs less than ten employees;

40 (d) Is organized for profit;

41 (7) "Eligible governmental entity", any political subdivision of the state seeking to
42 finance capital improvements, capital outlay, or other significant programs through an eligible
43 lending institution;

44 (8) "Eligible higher education institution", any approved public or private institution as
45 defined in section 173.205;

46 (9) "Eligible job enhancement business", a new, existing, or expanding firm operating
47 in Missouri, or as a condition of accepting the linked deposit, will locate a facility or office in
48 Missouri associated with said linked deposit, which employs ten or more employees in Missouri
49 on a yearly average and which, as nearly as possible, is able to establish or retain at least one job
50 in Missouri for each fifty thousand dollars received from a linked deposit loan except when the
51 applicant can demonstrate significant costs for equipment, capital outlay, or capital
52 improvements associated with the physical expansion, renovation, or modernization of a facility
53 or equipment. In such cases, the maximum amount of the linked deposit shall not exceed fifty
54 thousand dollars per job created or retained plus the initial cost of the physical expansion,
55 renovation or capital outlay;

56 (10) "Eligible lending institution", a financial institution that is eligible to make
57 commercial or agricultural or student loans or discount or purchase such loans, is a public
58 depository of state funds or obtains its funds through the issuance of obligations, either directly
59 or through a related entity, eligible for the placement of state funds under the provisions of
60 section 15, article IV, Constitution of Missouri, and agrees to participate in the linked deposit
61 program;

62 (11) "Eligible livestock operation", any person engaged in production of livestock or
63 poultry in an authorized farm corporation, family farm, or family farm corporation as defined in
64 section 350.010;

65 (12) "Eligible locally owned business", any person seeking to establish a new firm,
66 partnership, cooperative company, or corporation that shall retain at least fifty-one percent

67 ownership by residents in a county in which the business is headquartered, that consists of the
68 following characteristics:

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

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

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

74 (13) "Eligible marketing enterprise", a business enterprise operating in this state which
75 is in the process of marketing its goods, products or services within or outside of this state or
76 overseas, which marketing is designed to increase manufacturing, transportation, mining,
77 communications, or other enterprises in this state, which has proposed its marketing plan and
78 strategy to the department of economic development and which plan and strategy has been
79 approved by the department for purposes of eligibility pursuant to sections 30.750 to [30.767]
80 **30.765**. Such business enterprise shall conform to the characteristics of paragraphs (a), (b) and
81 (d) of subdivision (6) of this section and also employ less than twenty-five employees;

82 (14) "Eligible multitenant development enterprise", a new enterprise that develops
83 multitenant space for targeted industries as determined by the department of economic
84 development and approved by the department for the purposes of eligibility pursuant to sections
85 30.750 to [30.767] **30.765**;

86 (15) "Eligible residential property developer", an individual who purchases and develops
87 a residential structure of either two or four units, if such residential property developer uses and
88 agrees to continue to use, for at least the five years immediately following the date of issuance
89 of the linked deposit loan, one of the units as his principal residence or if such person's principal
90 residence is located within one-half mile from the developed structure and such person agrees
91 to maintain the principal residence within one-half mile of the developed structure for at least
92 the five years immediately following the date of issuance of the linked deposit loan;

93 (16) "Eligible residential property owner", a person, firm or corporation who purchases,
94 develops or rehabilitates a multifamily residential structure;

95 (17) "Eligible small business", a person engaged in an activity with the purpose of
96 obtaining, directly or indirectly, a gain, benefit or advantage and which conforms to the
97 characteristics of paragraphs (a), (b) and (d) of subdivision (6) of this section, and also employs
98 less than one hundred employees;

99 (18) "Eligible student borrower", any person attending, or the parent of a dependent
100 undergraduate attending, an eligible higher education institution in Missouri who may or may
101 not qualify for need-based student financial aid calculated by the federal analysis called

102 Congressional Methodology Formula pursuant to 20 U.S.C. 1078, as amended (the Higher
103 Education Amendments of 1986);

104 (19) "Eligible water supply system", a water system which serves fewer than fifty
105 thousand persons and which is owned and operated by:

106 (a) A public water supply district established pursuant to chapter 247; or

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

108 (c) A water corporation; and which is certified by the department of natural resources
109 in accordance with its rules and regulations to have suffered a significant decrease in its capacity
110 to meet its service needs as a result of drought;

111 (20) "Farming", using or cultivating land for the production of agricultural crops,
112 livestock or livestock products, forest products, poultry or poultry products, milk or dairy
113 products, or fruit or other horticultural products;

114 (21) "Linked deposit", a certificate of deposit, or in the case of production credit
115 associations, the subscription or purchase outright of obligations described in section 15, article
116 IV, Constitution of Missouri, placed by the state treasurer with an eligible lending institution at
117 rates otherwise provided by law in section 30.758, provided the institution agrees to lend the
118 value of such deposit, according to the deposit agreement provided in sections 30.750 to [30.767],
119 **30.765**, to eligible multitenant development enterprises, eligible small businesses, eligible
120 alternative energy operations, eligible alternative energy consumers, eligible locally owned
121 businesses, farming operations, eligible job enhancement businesses, eligible marketing
122 enterprises, eligible residential property developers, eligible residential property owners, eligible
123 governmental entities, eligible agribusinesses, eligible beginning farmers, eligible livestock
124 operations, eligible student borrowers, eligible facility borrowers, or eligible water supply
125 systems at below the present borrowing rate applicable to each multitenant development
126 enterprise, small business, alternative energy operation, alternative energy consumer, farming
127 operation, eligible job enhancement business, eligible marketing enterprise, eligible residential
128 property developer, eligible residential property owner, eligible governmental entity, eligible
129 agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower,
130 or supply system at the time of the deposit of state funds in the institution;

131 (22) "Market rate", the interest rate more specifically described in subsection 6 of section
132 30.260;

133 (23) "Professional forester", any individual who holds a bachelor of science degree in
134 forestry from a regionally accredited college or university with a minimum of two years of
135 professional forest management experience;

136 (24) "Qualified biomass", any agriculture- derived organic material or any wood-derived
137 organic material harvested in accordance with a site-specific forest management plan focused

138 on long-term forest sustainability developed by a professional forester and qualified, in
139 consultation with the conservation commission, by the agriculture and small business
140 development authority;

141 (25) "Water corporation", as such term is defined in section 386.020;

142 (26) "Water system", as such term is defined in section 386.020.

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

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

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

21 4. The eligible lending institution shall enter into a deposit agreement with the state
22 treasurer, which shall include requirements necessary to carry out the purposes of sections 30.750
23 to [30.767] **30.765**. The deposit agreement shall specify the length of time for which the lending
24 institution will lend funds upon receiving a linked deposit, and the original deposit plus renewals
25 shall not exceed five years, except as otherwise provided in this chapter. The agreement shall
26 also include provisions for the linked deposit of a linked deposit for an eligible facility borrower,
27 eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation,
28 eligible alternative energy consumer, eligible locally owned business, eligible small business,
29 eligible marketing enterprise, eligible residential property developer, eligible residential property
30 owner, eligible governmental entity, eligible agribusiness, eligible beginning farmer, eligible

31 livestock operation, eligible student borrower or job enhancement business. Interest shall be paid
32 at the times determined by the state treasurer.

33 5. The period of time for which such linked deposit is placed with an eligible lending
34 institution shall be neither longer nor shorter than the period of time for which the linked deposit
35 is used to provide loans at reduced interest rates. The agreement shall further provide that the
36 state shall receive market interest rates on any linked deposit or any portion thereof for any
37 period of time for which there is no corresponding linked deposit loan outstanding to an eligible
38 multitenant enterprise, eligible farming operation, eligible alternative energy operation, eligible
39 alternative energy consumer, eligible locally owned business, eligible small business, eligible
40 job enhancement business, eligible marketing enterprise, eligible residential property developer,
41 eligible residential property owner, eligible governmental entity, eligible agribusiness, eligible
42 beginning farmer, eligible livestock operation, eligible student borrower, eligible facility
43 borrower, or eligible water supply system, except as otherwise provided in this subsection.
44 Within thirty days after the annual anniversary date of the linked deposit, the eligible lending
45 institution shall repay the state treasurer any linked deposit principal received from borrowers
46 in the previous yearly period and thereafter repay such principal within thirty days of the yearly
47 anniversary date calculated separately for each linked deposit loan, and repaid at the linked
48 deposit rate. Such principal payment shall be accelerated when more than thirty percent of the
49 linked deposit loan is repaid within a single monthly period. Any principal received and not
50 repaid, up to the point of the thirty percent or more payment, shall be repaid within thirty days
51 of that payment at the linked deposit rate. Finally, when the linked deposit is tied to a revolving
52 line of credit agreement between the banking institution and its borrower, the full amount of the
53 line of credit shall be excluded from the repayment provisions of this subsection.

 30.810. Except for specific provisions to the contrary in sections 30.800 to 30.850, all
2 definitions, requirements, responsibilities, rights, remedies and other matters set forth in sections
3 30.750 to [30.767] **30.765** shall apply to linked deposits and linked deposit loans to eligible
4 guaranteed agribusinesses, eligible guaranteed livestock operations, and eligible guaranteed
5 vermiculture operations.

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

2 (1) "Agricultural commodity", any agricultural product that has been produced for
3 purpose of sale or exchange, except for animals whose principal use may be construed as
4 recreational or as a pet;

5 (2) "Authority", the Missouri agricultural and small business development authority
6 organized under sections 348.005 to 348.180;

7 (3) "Borrower", any partnership, corporation, cooperative, or limited liability company
8 organized or incorporated under the laws of this state consisting of not less than twelve members

9 for the purpose of owning or operating within this state a development facility or a renewable
10 fuel production facility in which producer members:

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

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

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

16 (4) "Development facility", a facility producing either a good derived from an
17 agricultural commodity or using a process to produce a good derived from an agricultural
18 product;

19 (5) "Eligible facility borrower", a development facility or renewal fuel production facility
20 borrower qualified by the authority under this section to apply for a reduced-rate loan under
21 sections 30.750 to [30.767] **30.765**;

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

26 2. The authority shall accept applications and issue certificates of qualification as an
27 eligible facility borrower to development facilities and renewable fuel production facilities for
28 purposes of applying for reduced-rate loans under sections 30.750 to [30.767] **30.765** to finance
29 new costs or refinance existing debt associated with such facilities. The authority may charge
30 for each certificate of qualification a one-time fee in an amount not to exceed the actual cost of
31 issuance of the certificate.

32 3. In determining whether a facility will qualify as an eligible facility borrower, the
33 authority shall consider the following factors:

34 (1) The borrower's ability to repay the loan;

35 (2) The general economic conditions of the area in which the agricultural property will
36 be or is located;

37 (3) The prospect of success of the particular project for which the loan is sought; and

38 (4) Such other factors as the authority may establish by rule.

39 4. No reduced rate loan made to an eligible facility borrower under sections 30.750 to
40 [30.767] **30.765** shall:

41 (1) Exceed seventy million dollars for any single eligible facility borrower;

42 (2) Exceed seventy percent of the total anticipated cost of the development facility or
43 renewable fuel production facility or, in the case of refinancing existing debt, ninety percent of
44 the fair market value of the development facility or renewable fuel production facility;

45 (3) Exceed a loan term of five years, except that such loan may be extended up to two
 46 additional loan periods of five years each for a maximum total loan term of fifteen years; and

47 (4) When a banking institution or an eligible lending institution extends credit under the
 48 provisions of this section and provides the lead in underwriting the credit, it may enter into a
 49 participation agreement, sell part of the loan to third parties, syndicate the loan, or make other
 50 written arrangement with financial intermediaries, provided that at all times any financial
 51 intermediary, participant, purchaser, or other party obtaining a legal or equitable interest in the
 52 loan otherwise qualifies for linked deposit loans and fully collateralizes those loans as required
 53 by this chapter.

54 5. The state treasurer may contract with other parties as permitted in section 30.286 and
 55 consult with the authority to implement this section. However, the state treasurer shall make the
 56 final determination on the placement of linked deposits of state funds in banking institutions or
 57 eligible lending institutions as permitted by the constitution.

58 6. The state treasurer shall promulgate rules to implement the provisions of this section.
 59 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the
 60 authority delegated in this section shall become effective only if it complies with and is subject
 61 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
 62 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
 63 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
 64 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
 65 or adopted after August 28, 2005, shall be invalid and void.

66 7. The provisions of sections 23.250 to 23.298 shall not apply to the provisions of this
 67 section.

2 [30.767. The state treasurer shall not, after December 31, 2015, invest in
 3 any linked deposit the value of which is to be lent to a recipient other than an
 4 eligible water supply system or an eligible student borrower. The state treasurer
 5 shall not, after January 1, 2020, invest in any linked deposit, the value of which
 6 is to be lent to any new eligible facility borrower. However, such restriction shall
 7 not apply to any extensions of existing loans as provided for in section 30.860.]

2 Section B. Because immediate action is necessary to help strengthen the economy, the
 3 repeal and reenactment of section A of this act is deemed necessary for the immediate
 4 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
 5 emergency act within the meaning of the constitution, and the repeal and reenactment of section
 6 A of this act shall be in full force and effect upon its passage and approval.