

FIRST REGULAR SESSION

# HOUSE BILL NO. 116

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MYERS, WHORTON (Co-sponsors) AND MOORE.

Pre-filed December 19, 2002, and copies ordered printed.

TED WEDEL, Chief Clerk

0648L.011

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### AN ACT

To repeal sections 348.430 and 348.432, RSMo, and to enact in lieu thereof two new sections relating to tax credits for contributions to agricultural commodity development.

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

Section A. Sections 348.430 and 348.432, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 348.430 and 348.432, to read as follows:

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 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

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

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 tax year 1999, a contributor who contributes funds to the authority may receive  
29 a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143,  
30 RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148,  
31 RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such contribution.  
32 The awarding of such credit shall be at the approval of the authority, based on the least amount  
33 of credits necessary to provide incentive for the contributions. A contributor that receives tax  
34 credits for a contribution to the authority shall receive no other consideration or compensation  
35 for such contribution, other than a federal tax deduction, if applicable, and goodwill. A  
36 contributor that receives tax credits for a contribution provided in this section may not be a  
37 member, owner, investor or lender of an eligible new generation cooperative or eligible new  
38 generation processing entity that receives financial assistance from the authority either at the time  
39 the contribution is made or for a period of two years thereafter.

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 shall initially be claimed in the  
44 taxable year in which the contributor contributes funds to the authority. Any amount of credit  
45 that exceeds the tax due for a contributor's taxable year may be carried forward to any of the  
46 contributor's five subsequent taxable years. Tax credits issued pursuant to this section may be  
47 assigned, transferred or sold. Whenever a certificate of tax credit is assigned, transferred, sold  
48 or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the  
49 name and address of the new owner of the tax credit or the value of the credit.

50 5. The funds derived from contributions in this section shall be used for financial  
51 assistance or technical assistance for the purposes provided in section 348.407, to rural  
52 agricultural business concepts as approved by the authority. The authority may provide or

53 facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts,  
54 but limited to two million dollars per project or the net state economic impact, whichever is less.  
55 Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for  
56 an amount that is the least amount necessary to cause the project to occur, as determined by the  
57 authority. The authority may structure the loans, equity investments or guaranteed loans in a way  
58 that facilitates the project, but also provides for a compensatory return on investment or loan  
59 payment to the authority, based on the risk of the project.

60         6. In any given year, at least ten percent of the funds granted to rural agricultural business  
61 concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single  
62 rural agricultural business concept shall receive more than two hundred thousand dollars in grant  
63 awards from the authority. Agricultural businesses owned by minority members or women shall  
64 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 a development facility or a renewable fuel production facility and approved by the  
12 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 one hundred

25 employees;

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

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

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

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

37 3. Beginning tax year 1999, and ending December 31, [2002] **2003**, any producer  
38 member who invests cash funds in an eligible new generation cooperative or eligible new  
39 generation processing entity may receive a credit against the tax **or estimated quarterly tax**  
40 otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections  
41 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to  
42 the lesser of fifty percent of such producer member's investment or fifteen thousand dollars.

43 4. For all tax years beginning on or after January 1, [2003] **2004**, any producer member  
44 who invests cash funds in an eligible new generation cooperative **and who owns land in**  
45 **Missouri which produces a commodity in an amount to cover the member's obligation to**  
46 **deliver the commodity to the eligible new generation cooperative in which the member is**  
47 **investing, or who, beginning July 1, 2004, is domiciled in the state of Missouri**, may receive  
48 a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143,  
49 RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147,  
50 RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of such producer  
51 member's investment or fifteen thousand dollars.

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 shall  
56 initially be claimed in the taxable year in which the producer member contributes capital to an  
57 eligible new generation cooperative or eligible new generation processing entity. Any amount  
58 of credit that exceeds the tax due for a producer member's taxable year may be carried back to  
59 any of the producer member's three prior taxable years and carried forward to any of the producer  
60 member's five subsequent taxable years. Tax credits issued pursuant to this section may be

61 assigned, transferred, sold or otherwise conveyed and the new owner of the tax credit shall have  
62 the same rights in the credit as the producer member. Whenever a certificate of tax credit is  
63 assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with  
64 the authority specifying the name and address of the new owner of the tax credit or the value of  
65 the credit.

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

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