

FIRST REGULAR SESSION

# HOUSE BILL NO. 130

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SHOEMYER (9).

Pre-filed January 2, 2003, and copies ordered printed.

TED WEDEL, Chief Clerk

0848L.011

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### AN ACT

To repeal section 348.432, RSMo, and to enact in lieu thereof one new section relating to new generation cooperative incentive tax credits, with an emergency clause.

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

Section A. Section 348.432, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 348.432, to read as follows:

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

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

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

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

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

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

(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, any producer member who  
38 invests cash funds in an eligible new generation cooperative or eligible new generation  
39 processing entity may receive a credit against the tax otherwise due pursuant to chapter 143,  
40 RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter  
41 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such  
42 producer member's investment or fifteen thousand dollars.

43 4. For all tax years beginning on or after January 1, 2003, any producer member who  
44 invests cash funds in an eligible new generation cooperative **or eligible new generation**  
45 **processing entity** may receive a credit against the tax otherwise due pursuant to chapter 143,  
46 RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147,  
47 RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of such producer  
48 member's investment or fifteen thousand dollars.

49 5. A producer member shall submit to the authority an application for the tax credit  
50 authorized by this section on a form provided by the authority. If the producer member meets  
51 all criteria prescribed by this section and is approved by the authority, the authority shall issue  
52 a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section shall  
53 initially be claimed in the taxable year in which the producer member contributes capital to an  
54 eligible new generation cooperative or eligible new generation processing entity. Any amount

55 of credit that exceeds the tax due for a producer member's taxable year may be carried back to  
56 any of the producer member's three prior taxable years and carried forward to any of the producer  
57 member's five subsequent taxable years. Tax credits issued pursuant to this section may be  
58 assigned, transferred, sold or otherwise conveyed and the new owner of the tax credit shall have  
59 the same rights in the credit as the producer member. Whenever a certificate of tax credit is  
60 assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with  
61 the authority specifying the name and address of the new owner of the tax credit or the value of  
62 the credit.

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

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

Section B. Because immediate action is necessary to provide incentives for financial  
2 investment in new generation cooperatives and processing entities section A of this act is deemed  
3 necessary for the immediate preservation of the public health, welfare, peace, and safety, and is  
4 hereby declared to be an emergency act within the meaning of the constitution, and section A of  
5 this act shall be in full force and effect upon its passage and approval.