

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 257
92ND GENERAL ASSEMBLY

Reported from the Committee on Agriculture, Conservation, Parks and Natural Resources, April 28, 2003, with recommendation that the Senate Committee Substitute do pass.

0602S.10C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 143.121, 147.120, 148.330, 348.430, and 348.432, RSMo, and to enact in lieu thereof nineteen new sections relating to agricultural tax credits.

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

Section A. Sections 143.121, 147.120, 148.330, 348.430, and 348.432, RSMo, are
2 repealed and nineteen new sections enacted in lieu thereof, to be known as sections
3 143.121, 147.120, 148.330, 261.250, 261.253, 261.256, 261.259, 261.262, 261.265, 261.268,
4 261.271, 261.274, 261.277, 261.280, 261.283, 261.286, 261.289, 348.430, and 348.432, to
5 read as follows:

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

4 2. There shall be added to **[his] the taxpayer's** federal adjusted gross income:
5 (a) The amount of any federal income tax refund received for a prior year which
6 resulted in a Missouri income tax benefit;

7 (b) Interest on certain governmental obligations excluded from federal gross
8 income by Section 103 of the Internal Revenue Code. The previous sentence shall not
9 apply to interest on obligations of the state of Missouri or any of its political subdivisions
10 or authorities and shall not apply to the interest described in subdivision (a) of
11 subsection 3 of this section. The amount added **[under] pursuant to** this paragraph

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

12 shall be reduced by the amounts applicable to such interest that would have been
13 deductible in computing the taxable income of the taxpayer except only for the
14 application of Section 265 of the Internal Revenue Code. The reduction shall only be
15 made if it is at least five hundred dollars;

16 (c) The amount of any deduction that is included in the computation of federal
17 taxable income ~~[under]~~ **pursuant to** Section 168 of the Internal Revenue Code as
18 amended by the Job Creation and Worker Assistance Act of 2002 to the extent the
19 amount deducted relates to property purchased on or after July 1, 2002, but before July
20 1, 2003, and to the extent the amount deducted exceeds the amount that would have
21 been deductible ~~[under]~~ **pursuant to** Section 168 of the Internal Revenue Code of 1986
22 as in effect on January 1, 2002; and

23 (d) The amount of any deduction that is included in the computation of federal
24 taxable income for net operating loss allowed by Section 172 of the Internal Revenue
25 Code of 1986, as amended, ~~[except for any deduction]~~ **other than the deduction**
26 **allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue**
27 **Code of 1986, as amended,** for a net operating loss the taxpayer claims in the tax year
28 in which the net operating loss occurred or carries forward for a period ~~[not to exceed]~~
29 **of more than** twenty years and carries backward for ~~[not]~~ more than two years. **Any**
30 **amount of net operating loss taken against federal income taxes but**
31 **disallowed against Missouri income taxes pursuant to this paragraph since**
32 **July 1, 2002, may be carried forward and taken against any loss on the**
33 **Missouri income tax return for a period of not more than twenty years from**
34 **the year of the initial loss.**

35 3. There shall be subtracted from ~~[his]~~ **the taxpayer's** federal adjusted gross
36 income the following amounts to the extent included in federal adjusted gross income:

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

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

53 (c) The amount necessary to prevent the taxation [under sections 143.011 to
54 143.996] **pursuant to chapter 143** of any annuity or other amount of income or gain
55 which was properly included in income or gain and was taxed [under] **pursuant to** the
56 laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a
57 decedent by reason of whose death the taxpayer acquired the right to receive the income
58 or gain, or to a trust or estate from which the taxpayer received the income or gain;

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

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

63 (f) The portion of capital gain specified in [subsection 3 of section 144.747]
64 **section 135.357**, RSMo, that would otherwise be included in federal adjusted gross
65 income; and

66 (g) The amount that would have been deducted in the computation of federal
67 taxable income [under] **pursuant to** Section 168 of the Internal Revenue Code as in
68 effect on January 1, 2002, to the extent that amount relates to property purchased on or
69 after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the
70 amount actually deducted [under] **pursuant to** Section 168 of the Internal Revenue
71 Code as amended by the Job Creation and Worker Assistance Act of 2002.

72 4. There shall be added to or subtracted from [his] **the taxpayer's** federal
73 adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided
74 in section 143.351.

75 5. There shall be added to or subtracted from [his] **the taxpayer's** federal
76 adjusted gross income the modifications provided in section 143.411.

147.120. 1. If any corporation fails or refuses to pay the taxes (including interest
2 and penalties) assessed against it after such assessment becomes final, the director of
3 revenue shall certify a list of the corporations so delinquent to the attorney general who
4 shall proceed forthwith to collect the taxes. Suits for the collection of the taxes may be
5 brought in the name of the state in any court of competent jurisdiction and any judgment
6 rendered in such court in favor of the state shall be a first lien on all properties and
7 assets of the corporation within this state.

8 2. The director of revenue shall notify the secretary of state of any corporation
9 that fails or refuses to pay the taxes, including interest and penalties, assessed against
10 it after such assessment becomes final and the secretary of state shall then
11 administratively dissolve any domestic corporation that is delinquent pursuant to section
12 351.486, RSMo, and shall revoke the certificate of authority of any foreign corporation
13 that is delinquent pursuant to section 351.602, RSMo.

14 3. Any tax provided for pursuant to sections 147.010 to 147.120 not paid on or
15 before the last day prescribed for payment pursuant to sections 147.010 to 147.120
16 (determined with regard to any extension of time for payment) shall be collected with a
17 penalty of five percent per month or fractional part thereof until paid, not exceeding
18 twenty-five percent in the aggregate. Interest at the rate determined by section 32.065,
19 RSMo, shall be added to any tax not paid on or before the date due pursuant to sections
20 147.010 to 147.120 (determined without regard to any extension of time for
21 payment). Nothing in sections 147.010 to 147.120 shall be construed so as to permit any
22 officer of this state to remit or abate such interest.

23 4. If any corporation fails to pay any tax due within the time prescribed pursuant
24 to sections 147.010 to 147.120 or if any corporation makes errors and omissions in
25 reports or payments, and the director of revenue determines that such action is the
26 result of mistake or is due to circumstances beyond reasonable control and that such
27 delinquency or inaccuracy was unavoidable or devoid of any intent to evade the tax, the
28 director of revenue may, at the director's discretion, waive any penalty that would
29 otherwise be imposed.

30 5. The director of revenue shall set the interest rate as determined in section
31 32.065, RSMo. Such interest rate shall be paid on all overpayments for the ensuing
32 calendar year. The interest shall accrue from the due date or the date of overpayment,
33 whichever is later. No interest shall be allowed or paid if overpayment is refunded
34 within four months after the franchise tax report is filed.

35 6. Any notice of assessment of franchise tax due shall be mailed to the
36 corporation within three years after the report was filed. The provisions of this
37 subsection shall apply to all reports filed after December 31, 1981.

38 7. If no report is filed or if a false and fraudulent report is filed, a notice of
39 assessment of franchise tax due may be mailed to the corporation at any time.

40 8. If fraud or evasion on the part of a corporation or anyone on behalf of a
41 corporation is discovered, the director of revenue shall determine the amount of which
42 the state has been defrauded, shall add to the amount so determined a penalty equal to
43 fifty percent thereof, and shall assess the same against the corporation. The amount so

44 assessed shall be immediately due and payable; except that, the director of revenue shall
45 promptly thereafter give to such corporation written notice of such assessment and
46 penalty, which notice shall be served by registered mail. Such corporation shall have the
47 right to petition for hearing of such assessment, as is provided in sections 147.010 to
48 147.120.

49 9. Any person who willfully makes a false corporation franchise tax report, or
50 who willfully makes a false statement in any report under oath or otherwise filed with
51 or transmitted to the director of revenue relating to the amount of any franchise tax due
52 pursuant to sections 147.010 to 147.120 shall, in addition to other penalties provided by
53 law and upon conviction thereof, be fined not more than ten thousand dollars, or be
54 imprisoned in the county jail for not more than one year or by not less than two nor more
55 than five years in the state penitentiary or by both fine and imprisonment together with
56 the cost of prosecution.

57 10. The director of revenue shall administer and enforce the tax imposed by
58 sections 147.010 to 147.120, and the director is authorized to make such rules and
59 regulations and to require such facts and information to be reported as the director may
60 deem necessary to enforce the provisions of sections 147.010 to 147.120.

61 11. No rule or portion of a rule promulgated pursuant to the authority of sections
62 147.010 to 147.120 shall become effective unless it has been promulgated pursuant to the
63 provisions of chapter 536, RSMo.

64 12. Except as otherwise specifically provided in sections 147.010 to 147.120 the
65 franchise tax shall be administered as prescribed in the following provisions of chapter
66 143, RSMo: subsections 1 and 4 of section 143.551, RSMo, sections 143.561, 143.571,
67 143.621, 143.631, 143.641, 143.651, 143.661, 143.681, 143.691, 143.721 and 143.731,
68 RSMo, subsection 1 of section 143.741, RSMo, subsections 1, 2 and 5 of section 143.751,
69 RSMo, sections 143.771 and 143.791, RSMo, **subsections 1 and 2 of section 143.801,**
70 **RSMo,** subsections 1, 2 and 4 of section 143.811, RSMo, sections 143.831, 143.841 and
71 143.851, RSMo, subsections 2 and 3 of section 143.861, RSMo, and sections 143.901,
72 143.902, 143.971 and 143.986, RSMo.

148.330. 1. Every such company shall, on or before the first day of March in each
2 year, make a return, verified by the affidavit of its president and secretary, or other
3 authorized officers, to the director of the department of insurance stating the amount of
4 all premiums received on account of policies issued in this state by the company, whether
5 in cash or in notes, during the year ending on the thirty-first day of December, next
6 preceding. Upon receipt of such returns the director of the department of insurance
7 shall verify the same and certify the amount of tax due from the various companies on

8 the basis and at the rates provided in section 148.320, and shall certify the same to the
9 director of revenue together with the amount of the quarterly installments to be made
10 as provided in subsection 2 of this section, on or before the thirtieth day of April of each
11 year.

12 2. Beginning January 1, 1983, the amount of the tax due for that calendar year
13 and each succeeding calendar year thereafter shall be paid in four approximately equal
14 estimated quarterly installments, and a fifth reconciling installment. The first four
15 installments shall be based upon the tax for the immediately preceding taxable year
16 ending on the thirty-first day of December, next preceding. The quarterly installments
17 shall be made on the first day of March, the first day of June, the first day of September
18 and the first day of December. Immediately after receiving certification from the director
19 of the department of insurance of the amount of tax due from the various companies the
20 director of revenue shall notify and assess each company the amount of taxes on its
21 premiums for the calendar year ending on the thirty-first day of December, next
22 preceding. The director of revenue shall also notify and assess each company the amount
23 of the estimated quarterly installments to be made for the calendar year. If the amount
24 of the actual tax due for any year exceeds the total of the installments made for such
25 year, the balance of the tax due shall be paid on the first day of June of the year
26 following, together with the regular quarterly payment due at that time. If the total
27 amount of the tax actually due is less than the total amount of the installments actually
28 paid, the amount by which the amount paid exceeds the amount due shall be credited
29 against the tax for the following year and deducted from the quarterly installment
30 otherwise due on the first day of June. If the March first quarterly installment made
31 by a company is less than the amount assessed by the director of revenue, the difference
32 will be due on June first, but no interest will accrue to the state on the difference unless
33 the amount paid by the company is less than eighty percent of one-fourth of the total
34 amount of tax assessed by the director of revenue for the immediately preceding taxable
35 year. The state treasurer, upon receiving the moneys paid as a tax upon such premiums
36 to the director of revenue, shall place the moneys to the credit of a fund to be known as
37 "The County Stock Insurance Fund", which is hereby created and established.

38 3. If the estimated quarterly tax installments are not so paid, the director of
39 revenue shall certify such fact to the director of the division of insurance who shall
40 thereafter suspend such delinquent company or companies from the further transaction
41 of business in this state until such taxes shall be paid and such companies shall be
42 subject to the provisions of sections 148.410 to 148.461.

43 4. On or before the first day of September of each year the commissioner of

44 administration shall apportion all moneys in the county stock insurance fund to the
45 general revenue fund of the state, to the county treasurer and to the treasurer of the
46 school district in which the principal office of the company paying the same is located. All
47 premium tax credits described in sections 135.500 to 135.529, RSMo, **and sections**
48 **348.430 and 348.432, RSMo**, shall only reduce the amounts apportioned to the general
49 revenue fund of the state and shall not reduce any moneys apportioned to the treasurer
50 of the school district in which the principal office of the company paying the same is
51 located. Apportionments shall be made in the same ratio which the rates of levy for the
52 same year for state purposes, for county purposes, and for all school district purposes,
53 bear to each other; provided that any proceeds from such tax for prior years remaining
54 on hand in the hands of the county collector or county treasurer undistributed [on the
55 effective date of sections 148.310 to 148.460] and any proceeds of such tax for prior years
56 collected thereafter shall be distributed and paid in accordance with the provisions of
57 such sections. Whenever the word "county" occurs herein it shall be construed to include
58 the city of St. Louis.

261.250. Sections 261.250 to 261.289 shall be known and may be cited as
2 the "Growers' District Authorization Act".

261.253. As used in sections 261.250 to 261.289, the following terms shall
2 mean:

3 (1) "Biodiesel", a renewable fuel or fuel blend of not less than two
4 percent of a monoalkyl ester derived from soybean oil as determined in
5 accordance with specification D6751-02 issued March 2002 by the American
6 Society of Testing and Materials;

7 (2) "Clerk", the clerk or other official of the municipality or county who
8 is the custodian of the official records of the municipality or county;

9 (3) "District" or "growers' district", a body corporate by or pursuant to
10 sections 261.250 to 261.289;

11 (4) "Federal government", the United States of America or any agency
12 or instrumentality, corporate or otherwise, of the United States of America;

13 (5) "Municipality", any incorporated city, town, or village in the state;

14 (6) "Person", any individual, firm, partnership, corporation, company,
15 association, joint stock association, or body politic; and shall include any
16 trustee, receiver, assignee, or other similar representative thereof;

17 (7) "Public body", the state or any municipality, county township,
18 board, commission, authority, district, or any other subdivision of the state;

19 (8) "Real property", all lands, including improvements and fixtures

20 thereon, and property of any nature appurtenant thereto, or used in
21 connection therewith, and every estate, interest and right, legal or equitable,
22 therein, including terms for years and liens by way of judgment, mortgage or
23 otherwise and the indebtedness secured by such liens.

261.256. 1. It is hereby established that growers' districts may be
2 voluntarily created by Missouri producers or agricultural crops for food, feed,
3 industrial and pharmaceutical uses, to be known by the name established by
4 the creators of the growers' district. The provisions of this section shall not
5 apply to private property.

6 2. Upon organization, each district shall adopt bylaws addressing
7 governance of the district, expansion of the district to include new members,
8 and the exercise of any other powers necessary to effectuate the purposes of
9 sections 261.250 to 261.289.

10 3. At any time, a person may opt out of an established growers district.

261.259. 1. The members of a district shall elect a board of
2 commissioners of such district which shall consist of five commissioners.

3 2. All commissioners of a district shall be owners or operators of land
4 used for the cultivation of commercial crops within the physical boundaries
5 of the district.

6 3. Commissioners shall be appointed for a term of office of four years
7 except that all vacancies shall be filled for the unexpired term.

261.262. 1. The powers vested in each district pursuant to sections
2 261.250 to 261.289 shall be exercised by the board of commissioners thereof. A
3 majority of the commissioners shall constitute a quorum of such board for the
4 purpose of conducting business and exercising the powers of the authority
5 and for all other purposes. Action may be taken by the board upon a vote of
6 a majority of the commissioners present, unless in any case the bylaws of the
7 authority shall require a larger number. Meetings of the board of an
8 authority may be held anywhere within the perimeter boundaries of the area
9 of operation of the authority.

10 2. The commissioners of an authority shall elect a chairman from
11 among the commissioners. A district may employ attorneys, engineers,
12 agronomists, technical experts and such other officers, agents and employees,
13 permanent and temporary, as it may require, and shall determine their
14 qualifications, duties and compensation. A district may delegate to one or
15 more of its agents or employees such powers or duties as it may deem proper.

261.265. A commissioner of a district shall receive no compensation for

2 his or her services, but shall be entitled to the necessary expenses, including
3 traveling expenses, incurred in the discharge of his or her duties. Each
4 commissioner shall hold office until such successor has been appointed and
5 qualified.

261.268. For inefficiency or neglect of duty or misconduct in office, a
2 commissioner of a district may be removed by a majority of the board of
3 commissioners, excluding the commissioner at issue, but a commissioner shall
4 be removed only after a hearing at which the commissioner at issue is present
5 and given an opportunity to be heard.

261.271. A district shall constitute a body corporate and politic, having
2 all the powers necessary or convenient to carry out and effectuate the
3 purposes and provisions of sections 261.250 to 261.289 including the following
4 powers in addition to other granted herein:

5 (1) To sue and to be sued;

6 (2) To have a seal and to alter the same at pleasure;

7 (3) To have perpetual succession;

8 (4) To make and execute contracts and other instruments necessary or
9 convenient to the exercise of the powers of the authority;

10 (5) To make, and from time to time, amend and repeal bylaws, rules and
11 regulations not inconsistent with sections 261.250 to 261.289 to carry out the
12 provisions of sections;

13 (6) Adopt regulations;

14 (7) Assess charges and penalties as may be necessary to effectuate the
15 purpose of sections 261.250 to 261.289 and according to the regulations
16 established by the district;

17 (8) Within its area of operation, to purchase, lease, obtain options upon,
18 acquire by gift, grant, bequest, devise, or otherwise, any real or personal
19 property or any interest therein, including fee simple absolute title, together
20 with any improvements thereon, necessary or incidental to its purposes, to
21 hold, improve, or clear any such property; to sell, lease, exchange, transfer,
22 assign, subdivide, retain for its own use, mortgage, pledge, hypothecate or
23 otherwise encumber or dispose of any real or personal property or any
24 interest therein; to enter into contracts with public agencies containing
25 covenants, restrictions and conditions regarding the use of such property for
26 the district's purposes and such other covenants, restrictions and conditions
27 as the district may deem necessary to effectuate the purposes of sections
28 261.250 to 261.289; to make any of the covenants, restrictions, or conditions

29 **of the foregoing contracts running with the land, and to provide appropriate**
30 **remedies for any breach of any such covenants, or conditions, including the**
31 **right in the authority to terminate such contracts and any interest in the**
32 **property created pursuant thereto; to insure or provide for the insurance of**
33 **any real or personal property or operations of authority against any risks or**
34 **hazards, including the power to pay premiums on any such insurance; and to**
35 **enter into contracts necessary to effectuate the purposes of sections 261.250**
36 **to 261.289; provided, however, that no statutory provision with respect to the**
37 **acquisition, clearance or disposition of property by other public bodies shall**
38 **restrict an authority or other public bodies exercising powers pursuant to**
39 **this section, in such functions, unless the general assembly shall specifically**
40 **so state;**

41 **(9) To invest any funds held in reserves or sinking funds or any funds**
42 **not required for immediate disbursement, in property or securities in which**
43 **savings banks may legally invest funds subject to their control;**

44 **(10) To borrow money and to apply for and accept advances, loans,**
45 **grants, contributions and any other form of financial assistance from the**
46 **federal government, the state, county, municipality or other public body or**
47 **from any sources public or private, for the purposes of sections 261.250 to**
48 **261.289, to give such security as may be required and to enter into and carry**
49 **out contracts in connection therewith;**

50 **(11) Acting through one or more commissioners or other persons**
51 **designated by the authority, to conduct examinations and investigations and**
52 **to hear testimony and take proof under oath at public or private hearings on**
53 **any matter material for its information; to administer oaths; to make**
54 **available to appropriate agencies, including those charged with the duty of**
55 **abating or requiring the correction of nuisances or like conditions, its**
56 **findings and recommendations with regard to any building or property where**
57 **conditions exist which are dangerous to the public health, safety, or welfare;**

58 **(12) To make such expenditures as may be necessary to carry out the**
59 **purposes of sections 261.250 to 261.289; and**

60 **(13) To exercise all powers or parts or combinations of powers**
61 **necessary, convenient or appropriate to undertake and carry out all the**
62 **powers herein granted.**

261.274. All property including funds of a district shall be exempt from
2 **levy and sale by virtue of an execution, and no execution or other judicial**
3 **process shall issue against the same nor shall judgment against a district be**

4 a charge or lien upon its property; provided, however, that the provisions of
5 this section shall not apply to or limit the right of obligees to foreclose or
6 otherwise enforce any mortgage of a district or the right of obligees to pursue
7 any remedies for the enforcement of any pledge or lien given by a district on
8 its rents, fees, grants or revenues.

261.277. For the purpose of aiding and cooperating with a district, any
2 public body may, upon such terms, with reasonable consideration, as it may
3 determine:

4 (1) Dedicate, sell, convey or lease any of its interest in any property,
5 or grant easements, licenses or any other rights or privileges therein to a
6 district;

7 (2) Cause administrative and other services to be furnished to the
8 authority of the character which the public body is otherwise empowered to
9 undertake or furnish for the same or other purposes;

10 (3) Do any and all things necessary or convenient to aid and cooperate
11 in the planning or carrying out the purposes of a district;

12 (4) Lend, grant or contribute funds to a district;

13 (5) Employ any funds belonging to or within the control of such public
14 body, including funds derived from the sale or furnishing of property, service,
15 or facilities to a district; and

16 (6) Enter into agreements (which may extend over any period,
17 notwithstanding any provision or rule of law to the contrary) with a district
18 respecting action to be taken by such public body pursuant to any of the
19 powers granted by sections 261.250 to 261.289.

261.280. Any sale, conveyance, lease, or agreement provided for in
2 section 261.277 may be made by a public body without appraisal, public
3 notice, advertisement, or public bidding.

261.283. Any two or more districts may join or cooperate with one
2 another in the exercise of any or all of the powers conferred hereby to
3 effectuate the purposes of sections 261.250 to 261.289.

261.286. Insofar as the provisions of sections 261.250 to 261.289 are
2 inconsistent with the provisions of any other law, the provisions of sections
3 261.250 to 261.289 shall be controlling.

261.289. The powers conferred by sections 261.250 to 261.289 shall be
2 in addition and supplemental to the powers conferred by any other law.

348.430. 1. The tax credit created in this section shall be known as the
2 "Agricultural 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
5 provided 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
12 formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo,
13 for the purpose of operating a development facility or a renewable fuel production
14 facility;

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

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

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

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

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

29 3. For **all tax [year] years beginning on or after January 1, 1999**, a
30 contributor who contributes funds to the authority may receive a credit against the tax
31 **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than
32 taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148, RSMo,
33 chapter 147, RSMo, in an amount of up to one hundred percent of such
34 contribution. **Tax credits claimed in a taxable year may be done so on a**
35 **quarterly basis and applied to the estimated quarterly tax pursuant to this**
36 **subsection.** The awarding of such credit shall be at the approval of the authority,
37 based on the least amount of credits necessary to provide incentive for the contributions.
38 contributor that receives tax credits for a contribution to the authority shall receive no

39 other consideration or compensation for such contribution, other than a federal tax
40 deduction, if applicable, and goodwill. A contributor that receives tax credits for a
41 contribution provided in this section may not be a member, owner, investor or lender of
42 an eligible new generation cooperative or eligible new generation processing entity that
43 receives financial assistance from the authority either at the time the contribution is
44 made or for a period of two years thereafter.

45 4. A contributor shall submit to the authority an application for the tax credit
46 authorized by this section on a form provided by the authority. If the contributor meets
47 all criteria prescribed by this section and the authority, the authority shall issue a tax
48 credit certificate in the appropriate amount. Tax credits issued pursuant to this section
49 [shall initially] **may** be claimed in the taxable year in which the contributor contributes
50 funds to the authority. [Any amount of credit that exceeds the tax due for a
51 contributor's taxable year] **Tax credits allowed pursuant to this section may**
52 **immediately be carried back to any of the contributor's three prior tax years**
53 **and** may be carried forward to any of the contributor's five subsequent taxable
54 years. Tax credits issued pursuant to this section may be assigned, transferred or
55 sold. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise
56 conveyed, a notarized endorsement shall be filed with the authority specifying the name
57 and address of the new owner of the tax credit or the value of the credit.

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

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

348.432. 1. The tax credit created in this section shall be known as the "New
2 Generation 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
5 provided 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
10 formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo,
11 for the purpose of operating a development facility or a renewable fuel production facility
12 and approved by the authority;

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

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

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

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

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

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

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

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

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

37 3. Beginning tax year 1999, and ending December 31, 2002, any producer member
38 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**
40 **quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld
41 pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147,
42 RSMo, in an amount equal to the lesser of fifty percent of such producer member's
43 investment or fifteen thousand dollars.

44 4. For all tax years beginning on or after January 1, 2003, any producer member
45 who invests cash funds in an eligible new generation cooperative **or eligible new**
46 **generation processing entity** may receive a credit against the tax **or estimated**
47 **quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld
48 pursuant to sections 143.191 to 143.265, RSMo, chapter 147, RSMo, or chapter 148,
49 RSMo, in an amount equal to the lesser of fifty percent of such producer member's
50 investment or fifteen thousand dollars. **Tax credits claimed in a taxable year may**
51 **be done so on a quarterly basis and applied to the estimated quarterly tax**
52 **pursuant to subsection 3 of this section.**

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

70 6. Ten percent of the tax credits authorized pursuant to this section initially
71 shall be offered in any fiscal year to small capital projects. If any portion of the ten
72 percent of tax credits offered to small capital costs projects is unused in any calendar

73 year, then the unused portion of tax credits may be offered to employee-qualified capital
74 projects and large capital projects. If the authority receives more applications for tax
75 credits for small capital projects than tax credits are authorized therefor, then the
76 authority, by rule, shall determine the method of distribution of tax credits authorized
77 for small capital projects.

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

T