

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1182
92ND GENERAL ASSEMBLY

Reported from the Committee on Agriculture, January 29, 2004, with recommendation that the House Committee Substitute for House Bill No. 1182 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

4015L.02C

AN ACT

To repeal sections 148.330, 348.430, and 348.432, RSMo, and to enact in lieu thereof three new sections relating to tax credits.

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

Section A. Sections 148.330, 348.430, and 348.432, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 148.330, 348.430, and 348.432, to read as follows:

148.330. 1. Every such company shall, on or before the first day of March in each year, make a return, verified by the affidavit of its president and secretary, or other authorized officers, to the director of the department of insurance stating the amount of all premiums received on account of policies issued in this state by the company, whether in cash or in notes, during the year ending on the thirty-first day of December, next preceding. Upon receipt of such returns the director of the department of insurance shall verify the same and certify the amount of tax due from the various companies on the basis and at the rates provided in section 148.320, and shall certify the same to the director of revenue together with the amount of the quarterly installments to be made as provided in subsection 2 of this section, on or before the thirtieth day of April of each year.

2. Beginning January 1, 1983, the amount of the tax due for that calendar year and each succeeding calendar year thereafter shall be paid in four approximately equal estimated quarterly installments, and a fifth reconciling installment. The first four installments shall be based upon the tax for the immediately preceding taxable year ending on the thirty-first day of December,

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

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

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

41 4. On or before the first day of September of each year the commissioner of
42 administration shall apportion all moneys in the county stock insurance fund to the general
43 revenue fund of the state, to the county treasurer and to the treasurer of the school district in
44 which the principal office of the company paying the same is located. All premium tax credits
45 described in sections 135.500 to 135.529, RSMo, **and sections 348.430 and 348.432, RSMo,**
46 shall only reduce the amounts apportioned to the general revenue fund of the state and shall not
47 reduce any moneys apportioned **to any county treasurer or** to the treasurer of the school district
48 in which the principal office of the company paying the same is located. Apportionments shall
49 be made in the same ratio which the rates of levy for the same year for state purposes, for county
50 purposes, and for all school district purposes, bear to each other; provided that any proceeds from

51 such tax for prior years remaining on hand in the hands of the county collector or county
52 treasurer undistributed on the effective date of sections 148.310 to 148.460 and any proceeds of
53 such tax for prior years collected thereafter shall be distributed and paid in accordance with the
54 provisions of such sections. Whenever the word "county" occurs herein it shall be construed to
55 include the city of St. Louis.

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 in
5 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
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 **all tax [year] years beginning on or after January 1, 1999**, a contributor who
29 contributes funds to the authority may receive a credit against the tax **or estimated quarterly**
30 **tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections
31 143.191 to 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one

32 hundred percent of such contribution. **Tax credits claimed in a taxable year may be done so**
33 **on a quarterly basis and applied to the estimated quarterly tax pursuant to this subsection.**

34 The awarding of such credit shall be at the approval of the authority, based on the least amount
35 of credits necessary to provide incentive for the contributions. A contributor that receives tax
36 credits for a contribution to the authority shall receive no other consideration or compensation
37 for such contribution, other than a federal tax deduction, if applicable, and goodwill. A
38 contributor that receives tax credits for a contribution provided in this section may not be a
39 member, owner, investor or lender of an eligible new generation cooperative or eligible new
40 generation processing entity that receives financial assistance from the authority either at the time
41 the contribution is made or for a period of two years thereafter.

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

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

65 6. In any given year, at least ten percent of the funds granted to rural agricultural business
66 concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single
67 rural agricultural business concept shall receive more than two hundred thousand dollars in grant

68 awards from the authority. Agricultural businesses owned by minority members or women shall
69 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] **sixty**
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 **or estimated quarterly tax** otherwise due
40 pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to
41 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of
42 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, 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 **or estimated quarterly tax** otherwise due
46 pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to
47 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an amount equal to the lesser of
48 fifty percent of such producer member's investment or fifteen thousand dollars. **Tax credits**
49 **claimed in a taxable year may be done so on a quarterly basis and applied to the estimated**
50 **quarterly tax pursuant to subsection 3 of this section.**

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