

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

Reported from the Committee on Agriculture, Conservation, Parks and Natural Resources, March 4, 2004, with recommendation that the Senate Committee Substitute do pass.

4015S.03C

TERRY L. SPIELER, Secretary.

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Section A. Sections 148.330, 348.430, and 348.432, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 148.330, 348.430, and
3 348.432, to read as follows:

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

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

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. **For all**
38 **fiscal years beginning on or after July 1, 2004, the county stock insurance**
39 **fund shall be included in the calculation of total state revenues under section**
40 **18, article X, Constitution of Missouri.**

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

46 4. On or before the first day of September of each year the commissioner of
47 administration shall apportion all moneys in the county stock insurance fund to the
48 general revenue fund of the state, to the county treasurer and to the treasurer of the
49 school district in which the principal office of the company paying the same is located. All
50 premium tax credits described in sections 135.500 to 135.529, RSMo, **and sections**
51 **348.430 and 348.432, RSMo,** shall only reduce the amounts apportioned to the general
52 revenue fund of the state and shall not reduce any moneys apportioned **to any county**

53 **treasurer or** to the treasurer of the school district in which the principal office of the
54 company paying the same is located. Apportionments shall be made in the same ratio
55 which the rates of levy for the same year for state purposes, for county purposes, and for
56 all school district purposes, bear to each other; provided that any proceeds from such tax
57 for prior years remaining on hand in the hands of the county collector or county
58 treasurer undistributed on the effective date of sections 148.310 to 148.460 and any
59 proceeds of such tax for prior years collected thereafter shall be distributed and paid in
60 accordance with the provisions of such sections. Whenever the word "county" occurs
61 herein it shall be construed to include the city of St. Louis.

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 sold
55 **and the new owner of the tax credit shall have the same rights in the credit**
56 **as the contributor.** Whenever a certificate of tax credit is assigned, transferred, sold
57 or otherwise conveyed, a notarized endorsement shall be filed with the authority
58 specifying the name and address of the new owner of the tax credit or the value of the
59 credit.

60 5. The funds derived from contributions in this section shall be used for financial
61 assistance or technical assistance for the purposes provided in section 348.407, to rural
62 agricultural business concepts as approved by the authority. The authority may provide
63 or facilitate loans, equity investments, or guaranteed loans for rural agricultural

64 business concepts, but limited to two million dollars per project or the net state economic
65 impact, whichever is less. Loans, equity investments or guaranteed loans may only be
66 provided to feasible projects, and for an amount that is the least amount necessary to
67 cause the project to occur, as determined by the authority. The authority may structure
68 the loans, equity investments or guaranteed loans in a way that facilitates the project,
69 but also provides for a compensatory return on investment or loan payment to the
70 authority, based on the risk of the project.

71 6. In any given year, at least ten percent of the funds granted to rural
72 agricultural business concepts shall be awarded to grant requests of twenty-five
73 thousand dollars or less. No single rural agricultural business concept shall receive
74 more than two hundred thousand dollars in grant awards from the
75 authority. Agricultural businesses owned by minority members or women shall be given
76 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.