

FIRST REGULAR SESSION

# HOUSE BILL NO. 840

## 94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LOEHNER.

Read 1st time February 13, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2114L.01I

### AN ACT

To repeal sections 135.800, 135.805, 348.430, and 348.432, RSMo, and to enact in lieu thereof four new sections relating to agricultural tax credits.

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

Section A. Sections 135.800, 135.805, 348.430, and 348.432, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 135.800, 135.805, 348.430,  
3 and 348.432, to read as follows:

135.800. 1. The provisions of sections 135.800 to 135.830 shall be known and may be  
2 cited as the "Tax Credit Accountability Act of 2004".

3 2. As used in sections 135.800 to 135.830, the following terms mean:

4 (1) "Administering agency", the state agency or department charged with administering  
5 a particular tax credit program, as set forth by the program's enacting statute; where no  
6 department or agency is set forth, the department of revenue;

7 (2) "Agricultural tax credits", the agricultural product utilization contributor tax credit  
8 created pursuant to section 348.430, RSMo, the new generation cooperative incentive tax credit  
9 created pursuant to section 348.432, RSMo, **family farm breeding livestock loan tax credit**  
10 **created under section 348.500, RSMo**, and the wine and grape production tax credit created  
11 pursuant to section 135.700;

12 (3) "All tax credit programs", the tax credit programs included in the definitions of  
13 agricultural tax credits, business recruitment tax credits, community development tax credits,

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

14 domestic and social tax credits, entrepreneurial tax credits, environmental tax credits, housing  
15 tax credits, redevelopment tax credits, and training and educational tax credits;

16 (4) "Business recruitment tax credits", the business facility tax credit created pursuant  
17 to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created  
18 pursuant to sections 135.200 to 135.270, the business use incentives for large-scale development  
19 programs created pursuant to sections 100.700 to 100.850, RSMo, the development tax credits  
20 created pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax credit  
21 created pursuant to section 135.535, and the film production tax credit created pursuant to  
22 section 135.750;

23 (5) "Community development tax credits", the neighborhood assistance tax credit created  
24 pursuant to sections 32.100 to 32.125, RSMo, the family development account tax credit created  
25 pursuant to sections 208.750 to 208.775, RSMo, the dry fire hydrant tax credit created pursuant  
26 to section 320.093, RSMo, and the transportation development tax credit created pursuant to  
27 section 135.545;

28 (6) "Domestic and social tax credits", the youth opportunities tax credit created pursuant  
29 to section 135.460 and sections 620.1100 to 620.1103, RSMo, the shelter for victims of domestic  
30 violence created pursuant to section 135.550, the senior citizen or disabled person property tax  
31 credit created pursuant to sections 135.010 to 135.035, the special needs adoption tax credit  
32 created pursuant to sections 135.325 to 135.339, the maternity home tax credit created pursuant  
33 to section 135.600, and the shared care tax credit created pursuant to section 660.055, RSMo;

34 (7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections  
35 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500  
36 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, RSMo,  
37 the new enterprise creation tax credit created pursuant to sections 620.635 to 620.653, RSMo,  
38 the research tax credit created pursuant to section 620.1039, RSMo, the small business incubator  
39 tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit created  
40 pursuant to section 135.766, and the new generation cooperative tax credit created pursuant to  
41 sections 32.105 to 32.125, RSMo;

42 (8) "Environmental tax credits", the charcoal producer tax credit created pursuant to  
43 section 135.313, the wood energy tax credit created pursuant to sections 135.300 to 135.311, and  
44 the manufacturing and recycling flexible cellulose casing tax credit created pursuant to section  
45 260.285, RSMo;

46 (9) "Housing tax credits", the neighborhood preservation tax credit created pursuant to  
47 sections 135.475 to 135.487, the low-income housing tax credit created pursuant to sections  
48 135.350 to 135.363, and the affordable housing tax credit created pursuant to sections 32.105 to  
49 32.125, RSMo;

50 (10) "Recipient", the individual or entity who is the original applicant for and who  
51 receives proceeds from a tax credit program directly from the administering agency, the person  
52 or entity responsible for the reporting requirements established in section 135.805;

53 (11) "Redevelopment tax credits", the historic preservation tax credit created pursuant  
54 to sections 253.545 to 253.561, RSMo, the brownfield redevelopment program tax credit created  
55 pursuant to sections 447.700 to 447.718, RSMo, the community development corporations tax  
56 credit created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created  
57 pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit created  
58 pursuant to section 100.297, RSMo, and the disabled access tax credit created pursuant to section  
59 135.490;

60 (12) "Training and educational tax credits", the community college new jobs tax credit  
61 created pursuant to sections 178.892 to 178.896, RSMo, the skills development account tax  
62 credit created pursuant to sections 620.1400 to 620.1460, RSMo, the mature worker tax credit  
63 created pursuant to section 620.1560, RSMo, and the sponsorship and mentoring tax credit  
64 created pursuant to section 135.348.

135.805. 1. A recipient of a community development tax credit shall annually, for a  
2 period of three years following issuance of tax credits, provide to the administering agency  
3 information confirming the title and location of the corresponding project, the estimated or actual  
4 time period for completion of the project, and all geographic areas impacted by the project.

5 2. A recipient of a redevelopment tax credit shall annually, for a period of three years  
6 following issuance of tax credits, provide to the administering agency information confirming  
7 whether the property is used for residential, commercial, or governmental purposes, and the  
8 projected or actual project cost, labor cost, and date of completion.

9 3. A recipient of a business recruitment tax credit shall annually, for a period of three  
10 years following issuance of tax credits, provide to the administering agency information  
11 confirming the category of business by size, the address of the business headquarters and all  
12 offices located within this state, the number of employees at the time of the annual update, an  
13 updated estimate of the number of employees projected to increase as a result of the completion  
14 of the project, and the estimated or actual project cost.

15 4. A recipient of a training and educational tax credit shall annually, for a period of three  
16 years following issuance of tax credits, provide to the administering agency information  
17 confirming the name and address of the educational institution used, the average salary of  
18 workers served as of such annual update, the estimated or actual project cost, and the number of  
19 employees and number of students served as of such annual update.

20 5. A recipient of a housing tax credit shall annually, for a period of three years following  
21 issuance of tax credits, provide to the administering agency information confirming the address

22 of the property, the fair market value of the property, as defined in subsection 6 of section  
23 135.802, and the projected or actual labor cost and completion date of the project.

24 6. A recipient of an entrepreneurial tax credit shall annually, for a period of three years  
25 following issuance of tax credits, provide to the administering agency information confirming  
26 the amount of investment and the names of the project, fund, and research project.

27 7. A recipient of an agricultural tax credit shall annually, for a period of three years  
28 following issuance of tax credits, provide to the administering agency information confirming  
29 the type of agricultural commodity, the amount of contribution, the type of equipment purchased,  
30 and the name and description of the facility, except that if the agricultural credit is issued as a  
31 result of a producer member investing in a new generation processing entity **or new generation**  
32 **cooperative** then the new generation processing entity **or new generation cooperative**, and not  
33 the recipient, shall annually, for a period of three years following issuance of tax credits, provide  
34 to the administering agency information confirming the type of agricultural commodity, the  
35 amount of contribution, the type of equipment purchased, and the name and description of the  
36 facility.

37 8. A recipient of an environmental tax credit shall annually, for a period of three years  
38 following issuance of tax credits, provide to the administering agency information detailing any  
39 change to the type of equipment purchased, if applicable, and any change to any environmental  
40 impact statement, if such statement is required by state or federal law.

41 9. The reporting requirements established in this section shall be due annually on June  
42 thirtieth of each year. No person or entity shall be required to make an annual report until at least  
43 one year after the credit issuance date.

44 10. Where the sole requirement for receiving a tax credit in the enabling legislation of  
45 any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a  
46 particular group or entity, the reporting requirements provided in this section shall apply to the  
47 recipient of such assessment or contribution and shall not apply to the assessed nor the  
48 contributor.

49 11. Where the enacting statutes of a particular tax credit program or the rules of a  
50 particular administering agency require reporting of information that includes the information  
51 required in sections 135.802 to 135.810, upon reporting of the required information, the  
52 applicant shall be deemed to be in compliance with the requirements of sections 135.802 to  
53 135.810. The administering agency shall notify in writing the department of economic  
54 development of the administering agency's status as custodian of any particular tax credit  
55 program and that all records pertaining to the program are available at the administering agency's  
56 office for review by the department of economic development.

57           12. The provisions of subsections 1 to 10 of this section shall apply beginning on June  
58 30, 2005.

          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 **within this state** 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 years beginning on or after January 1, 1999, a contributor who contributes  
29 funds to the authority may receive a credit against the tax or estimated quarterly tax otherwise  
30 due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to  
31 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred  
32 percent of such contribution. Tax credits claimed in a taxable year may be done so on a quarterly  
33 basis and applied to the estimated quarterly tax pursuant to this subsection. If a quarterly tax  
34 credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year,

35 such overpayment shall not be refunded but shall be applied to the next taxable year. The  
36 awarding of such credit shall be at the approval of the authority, based on the least amount of  
37 credits necessary to provide incentive for the contributions. A contributor that receives tax  
38 credits for a contribution to the authority shall receive no other consideration or compensation  
39 for such contribution, other than a federal tax deduction, if applicable, and goodwill.

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 may be claimed in the taxable  
44 year in which the contributor contributes funds to the authority. For all fiscal years beginning  
45 on or after July 1, 2004, tax credits allowed pursuant to this section may be carried back to any  
46 of the contributor's three prior tax years and may be carried forward to any of the contributor's  
47 five subsequent taxable years. Tax credits issued pursuant to this section may be assigned,  
48 transferred or sold and the new owner of the tax credit shall have the same rights in the credit as  
49 the contributor. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise  
50 conveyed, a notarized endorsement shall be filed with the authority specifying the name and  
51 address of the new owner of the tax credit or the value of the credit.

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

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

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

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

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

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

36 3. Beginning tax year 1999, and ending December 31, 2002, any producer member who  
37 invests cash funds in an eligible new generation cooperative or eligible new generation  
38 processing entity may receive a credit against the tax or estimated quarterly tax otherwise due  
39 pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to

40 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of  
41 fifty percent of such producer member's investment or fifteen thousand dollars.

42 4. For all tax years beginning on or after January 1, 2003, any producer member who  
43 invests cash funds in an eligible new generation cooperative or eligible new generation  
44 processing entity may receive a credit against the tax or estimated quarterly tax otherwise due  
45 pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to  
46 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an amount equal to the lesser of  
47 fifty percent of such producer member's investment or fifteen thousand dollars. Tax credits  
48 claimed in a taxable year may be done so on a quarterly basis and applied to the estimated  
49 quarterly tax pursuant to subsection 3 of this section. If a quarterly tax credit claim or series of  
50 claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall  
51 not be refunded but shall be applied to the next taxable year.

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 may  
56 be carried back to any of the producer member's three prior taxable years and carried forward to  
57 any of the producer member's five subsequent taxable years regardless of the type of tax liability  
58 to which such credits are applied as authorized pursuant to subsection 3 of this section. Tax  
59 credits issued pursuant to this section may be assigned, transferred, sold or otherwise conveyed  
60 and the new owner of the tax credit shall have the same rights in the credit as the producer  
61 member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise  
62 conveyed, a notarized endorsement shall be filed with the authority specifying the name and  
63 address of the new owner of the tax credit or the value of the credit.

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

71 7. Ninety percent of the tax credits authorized pursuant to this section initially shall be  
72 offered in any fiscal year to employee-qualified capital projects and large capital projects. If any  
73 portion of the ninety percent of tax credits offered to employee-qualified capital projects and  
74 large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may  
75 be offered to small capital projects. The maximum tax credit allowed per employee-qualified



76 capital project is three million dollars and the maximum tax credit allowed per large capital  
77 project is one million five hundred thousand dollars. If the authority approves the maximum tax  
78 credit allowed for any employee-qualified capital project or any large capital project, then the  
79 authority, by rule, shall determine the method of distribution of such maximum tax credit. In  
80 addition, if the authority receives more tax credit applications for employee-qualified capital  
81 projects and large capital projects than the amount of tax credits authorized therefor, then the  
82 authority, by rule, shall determine the method of distribution of tax credits authorized for  
83 employee-qualified capital projects and large capital projects.

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