

FIRST REGULAR SESSION

SENATE BILL NO. 503

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLEMENS.

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

TERRY L. SPIELER, Secretary.

2141S.011

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
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 135.800, 135.805, 348.430, and 348.432, to read as follows:

135.800. 1. The provisions of sections 135.800 to 135.830 shall be known
2 and may be 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
5 administering a particular tax credit program, as set forth by the program's
6 enacting statute; where no department or agency is set forth, the department of
7 revenue;

8 (2) "Agricultural tax credits", the agricultural product utilization
9 contributor tax credit created pursuant to section 348.430, RSMo, the new
10 generation cooperative incentive tax credit created pursuant to section 348.432,
11 RSMo, **family farm breeding livestock loan tax credit created pursuant**
12 **to section 348.505, RSMo**, and the wine and grape production tax credit
13 created pursuant to section 135.700;

14 (3) "All tax credit programs", the tax credit programs included in the
15 definitions of agricultural tax credits, business recruitment tax credits,
16 community development tax credits, domestic and social tax credits,
17 entrepreneurial tax credits, environmental tax credits, housing tax credits,
18 redevelopment tax credits, and training and educational tax credits;

19 (4) "Business recruitment tax credits", the business facility tax credit

20 created pursuant to sections 135.110 to 135.150 and section 135.258, the
21 enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the
22 business use incentives for large-scale development programs created pursuant
23 to sections 100.700 to 100.850, RSMo, the development tax credits created
24 pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax
25 credit created pursuant to section 135.535, and the film production tax credit
26 created pursuant to section 135.750;

27 (5) "Community development tax credits", the neighborhood assistance tax
28 credit created pursuant to sections 32.100 to 32.125, RSMo, the family
29 development account tax credit created pursuant to sections 208.750 to 208.775,
30 RSMo, the dry fire hydrant tax credit created pursuant to section 320.093, RSMo,
31 and the transportation development tax credit created pursuant to section
32 135.545;

33 (6) "Domestic and social tax credits", the youth opportunities tax credit
34 created pursuant to section 135.460 and sections 620.1100 to 620.1103, RSMo, the
35 shelter for victims of domestic violence created pursuant to section 135.550, the
36 senior citizen or disabled person property tax credit created pursuant to sections
37 135.010 to 135.035, the special needs adoption tax credit created pursuant to
38 sections 135.325 to 135.339, the maternity home tax credit created pursuant to
39 section 135.600, and the shared care tax credit created pursuant to section
40 660.055, RSMo;

41 (7) "Entrepreneurial tax credits", the capital tax credit created pursuant
42 to sections 135.400 to 135.429, the certified capital company tax credit created
43 pursuant to sections 135.500 to 135.529, the seed capital tax credit created
44 pursuant to sections 348.300 to 348.318, RSMo, the new enterprise creation tax
45 credit created pursuant to sections 620.635 to 620.653, RSMo, the research tax
46 credit created pursuant to section 620.1039, RSMo, the small business incubator
47 tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit
48 created pursuant to section 135.766, and the new generation cooperative tax
49 credit created pursuant to sections 32.105 to 32.125, RSMo;

50 (8) "Environmental tax credits", the charcoal producer tax credit created
51 pursuant to section 135.313, the wood energy tax credit created pursuant to
52 sections 135.300 to 135.311, and the manufacturing and recycling flexible
53 cellulose casing tax credit created pursuant to section 260.285, RSMo;

54 (9) "Housing tax credits", the neighborhood preservation tax credit created
55 pursuant to sections 135.475 to 135.487, the low-income housing tax credit

56 created pursuant to sections 135.350 to 135.363, and the affordable housing tax
57 credit created pursuant to sections 32.105 to 32.125, RSMo;

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

62 (11) "Redevelopment tax credits", the historic preservation tax credit
63 created pursuant to sections 253.545 to 253.561, RSMo, the brownfield
64 redevelopment program tax credit created pursuant to sections 447.700 to
65 447.718, RSMo, the community development corporations tax credit created
66 pursuant to sections 135.400 to 135.430, the infrastructure tax credit created
67 pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit
68 created pursuant to section 100.297, RSMo, and the disabled access tax credit
69 created pursuant to section 135.490;

70 (12) "Training and educational tax credits", the community college new
71 jobs tax credit created pursuant to sections 178.892 to 178.896, RSMo, the skills
72 development account tax credit created pursuant to sections 620.1400 to
73 620.1460, RSMo, the mature worker tax credit created pursuant to section
74 620.1560, RSMo, and the sponsorship and mentoring tax credit created pursuant
75 to section 135.348.

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

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

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

17 project, and the estimated or actual project cost.

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

24 5. A recipient of a housing tax credit shall annually, for a period of three
25 years following issuance of tax credits, provide to the administering agency
26 information confirming the address of the property, the fair market value of the
27 property, as defined in subsection 6 of section 135.802, and the projected or actual
28 labor cost and completion date of the project.

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

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

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

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

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

58 11. Where the enacting statutes of a particular tax credit program or the
59 rules of a particular administering agency require reporting of information that
60 includes the information required in sections 135.802 to 135.810, upon reporting
61 of the required information, the applicant shall be deemed to be in compliance
62 with the requirements of sections 135.802 to 135.810. The administering agency
63 shall notify in writing the department of economic development of the
64 administering agency's status as custodian of any particular tax credit program
65 and that all records pertaining to the program are available at the administering
66 agency's office for review by the department of economic development.

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

 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
5 as provided in this chapter;

6 (2) "Contributor", an individual, partnership, corporation, trust, limited
7 liability company, entity or person that contributes cash funds to the authority;

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

11 (4) "Eligible new generation cooperative", a nonprofit cooperative
12 association formed pursuant to chapter 274, RSMo, or incorporated pursuant to
13 chapter 357, RSMo, for the purpose of operating **within this state** a
14 development facility or a renewable fuel production facility;

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

20 (a) Hold a majority of the governance or voting rights of the entity and

21 any governing committee;

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

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

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

29 3. For all tax years beginning on or after January 1, 1999, a contributor
30 who contributes funds to the authority may receive a credit against the tax or
31 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,
33 RSMo, 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 quarterly
35 basis and applied to the estimated quarterly tax pursuant to this subsection. If
36 a quarterly tax credit claim or series of claims contributes to causing an
37 overpayment of taxes for a taxable year, such overpayment shall not be refunded
38 but shall be applied to the next taxable year. The awarding of such credit shall
39 be at the approval of the authority, based on the least amount of credits
40 necessary to provide incentive for the contributions. A contributor that receives
41 tax credits for a contribution to the authority shall receive no other consideration
42 or compensation for such contribution, other than a federal tax deduction, if
43 applicable, and goodwill.

44 4. A contributor shall submit to the authority an application for the tax
45 credit authorized by this section on a form provided by the authority. If the
46 contributor meets all criteria prescribed by this section and the authority, the
47 authority shall issue a tax credit certificate in the appropriate amount. Tax
48 credits issued pursuant to this section may be claimed in the taxable year in
49 which the contributor contributes funds to the authority. For all fiscal years
50 beginning on or after July 1, 2004, tax credits allowed pursuant to this section
51 may be carried back to any of the contributor's three prior tax years and may be
52 carried forward to any of the contributor's five subsequent taxable years. Tax
53 credits issued pursuant to this section may be assigned, transferred or sold and
54 the new owner of the tax credit shall have the same rights in the credit as the
55 contributor. Whenever a certificate of tax credit is assigned, transferred, sold or
56 otherwise conveyed, a notarized endorsement shall be filed with the authority

57 specifying the name and address of the new owner of the tax credit or the value
58 of the credit.

59 5. The funds derived from contributions in this section shall be used for
60 financial assistance or technical assistance for the purposes provided in section
61 348.407 to rural agricultural business concepts as approved by the authority. The
62 authority may provide or facilitate loans, equity investments, or guaranteed loans
63 for rural agricultural business concepts, but limited to two million dollars per
64 project or the net state economic impact, whichever is less. Loans, equity
65 investments or guaranteed loans may only be provided to feasible projects, and
66 for an amount that is the least amount necessary to cause the project to occur, as
67 determined by the authority. The authority may structure the loans, equity
68 investments or guaranteed loans in a way that facilitates the project, but also
69 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
74 receive more than two hundred thousand dollars in grant awards from the
75 authority. Agricultural businesses owned by minority members or women shall
76 be given consideration in the allocation of funds.

 348.432. 1. The tax credit created in this section shall be known as the
2 "New 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
5 as provided in this chapter;

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

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

14 (4) "Eligible new generation processing entity", a partnership, corporation,
15 cooperative, or limited liability company organized or incorporated pursuant to
16 the laws of this state consisting of not less than twelve members, approved by the

17 authority, for the purpose of owning or operating within this state a development
18 facility or a renewable fuel production facility in which producer members:

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

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

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

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

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

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

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

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

39 3. Beginning tax year 1999, and ending December 31, 2002, any producer
40 member who invests cash funds in an eligible new generation cooperative or
41 eligible new generation processing entity may receive a credit against the tax or
42 estimated quarterly tax otherwise due pursuant to chapter 143, RSMo, other than
43 taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148,
44 RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of
45 such producer member's investment or fifteen thousand dollars.

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

53 claimed in a taxable year may be done so on a quarterly basis and applied to the
54 estimated quarterly tax pursuant to subsection 3 of this section. If a quarterly
55 tax credit claim or series of claims contributes to causing an overpayment of taxes
56 for a taxable year, such overpayment shall not be refunded but shall be applied
57 to the next taxable year.

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

72 6. Ten percent of the tax credits authorized pursuant to this section
73 initially shall be offered in any fiscal year to small capital projects. If any portion
74 of the ten percent of tax credits offered to small capital costs projects is unused
75 in any calendar year, then the unused portion of tax credits may be offered to
76 employee-qualified capital projects and large capital projects. If the authority
77 receives more applications for tax credits for small capital projects than tax
78 credits are authorized therefor, then the authority, by rule, shall determine the
79 method of distribution of tax credits authorized for small capital projects.

80 7. Ninety percent of the tax credits authorized pursuant to this section
81 initially shall be offered in any fiscal year to employee-qualified capital projects
82 and large capital projects. If any portion of the ninety percent of tax credits
83 offered to employee-qualified capital projects and large capital costs projects is
84 unused in any fiscal year, then the unused portion of tax credits may be offered
85 to small capital projects. The maximum tax credit allowed per employee-qualified
86 capital project is three million dollars and the maximum tax credit allowed per
87 large capital project is one million five hundred thousand dollars. If the
88 authority approves the maximum tax credit allowed for any employee-qualified

89 capital project or any large capital project, then the authority, by rule, shall
90 determine the method of distribution of such maximum tax credit. In addition,
91 if the authority receives more tax credit applications for employee-qualified
92 capital projects and large capital projects than the amount of tax credits
93 authorized therefor, then the authority, by rule, shall determine the method of
94 distribution of tax credits authorized for employee-qualified capital projects and
95 large capital projects.

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