

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1348
91ST GENERAL ASSEMBLY

Reported from the Committee on Agriculture, Conservation, Parks and Tourism, April 25, 2002, with recommendation that the Senate Committee Substitute do pass.

2818S.06C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 142.028, 261.110, 261.230, 261.235, 261.239, 263.531, 348.430, 348.432, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893 and 414.032, RSMo, relating to agriculture, and to enact in lieu thereof sixteen new sections relating to the same subject.

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

Section A. Sections 142.028, 261.110, 261.230, 261.235, 261.239, 263.531, 348.430, 348.432, 407.750, 407.751, 407.752, 407.850, 407.860, 407.870, 407.890, 407.892, 407.893 and 414.032, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 142.028, 142.031, 261.110, 261.120, 261.230, 261.235, 261.239, 261.240, 263.531, 348.430, 348.432, 407.850, 407.860, 407.870, 414.032 and 414.043, to read as follows:

142.028. 1. As used in this section, the following terms mean:

(1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in conformity with the United States Bureau of Alcohol, Tobacco and Firearms' regulations and fermented and distilled in a facility whose principal (over fifty percent) feed stock is cereal grain or cereal grain by-products;

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the American Society for Testing and Materials - specification number D-439;

(3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel

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

11 ethanol is located within the state of Missouri and which has made formal application,
12 posted a bond, and conformed to the requirements of this section.

13 2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby
14 created and subject to appropriations shall be used to provide economic subsidies to
15 Missouri qualified fuel ethanol producers pursuant to this section. The director of the
16 department of agriculture shall administer the fund pursuant to this section.

17 3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant
18 from the fund, except that a Missouri qualified fuel ethanol producer shall only be
19 eligible for the grant for a total of sixty months **unless such producer during those**
20 **sixty months failed, due to a lack of appropriations, to receive the full amount**
21 **from the fund for which they were eligible, in which case such producers**
22 **shall continue to be eligible for up to twenty-four additional months or until**
23 **they have received the maximum amount of funding for which they were**
24 **eligible during the original sixty month time period.** The amount of the grant
25 is determined by calculating the estimated gallons of qualified fuel ethanol production
26 to be produced from Missouri agricultural products for the succeeding calendar month,
27 as certified by the department of agriculture, and applying such figure to the per-gallon
28 incentive credit established in this subsection. Each Missouri qualified fuel ethanol
29 producer shall be eligible for a total grant in any [calendar] **fiscal** year equal to twenty
30 cents per gallon for the first twelve and one-half million gallons of qualified fuel ethanol
31 produced from Missouri agricultural products in the [calendar] **fiscal** year plus five
32 cents per gallon for the next twelve and one-half million gallons of qualified fuel ethanol
33 produced from Missouri agricultural products in the [calendar] **fiscal** year. All such
34 qualified fuel ethanol produced by a Missouri qualified fuel ethanol producer in excess
35 of twenty-five million gallons shall not be applied to the computation of a grant pursuant
36 to this subsection. The department of agriculture shall pay all grants for a particular
37 month by the fifteenth day after receipt and approval of the application described in
38 subsection 4 of this section. If actual production of qualified fuel ethanol during a
39 particular month either exceeds or is less than that estimated by a Missouri qualified
40 fuel ethanol producer, the department of agriculture shall adjust the subsequent monthly
41 grant by paying additional amount or subtracting the amount in deficiency by using the
42 calculation described in this subsection.

43 4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from
44 the fund for a particular month, an application for such funds shall be received no later
45 than fifteen days prior to the first day of the month for which the grant is sought. The
46 application shall include:

- 47 (1) The location of the Missouri qualified fuel ethanol producer;
- 48 (2) The average number of citizens of Missouri employed by the Missouri
49 qualified fuel ethanol producer in the preceding quarter, if applicable;
- 50 (3) The number of bushels of Missouri agricultural commodities used by the
51 Missouri qualified fuel ethanol producer in the production of fuel ethanol in the
52 preceding quarter;
- 53 (4) The number of gallons of qualified fuel ethanol the producer expects to
54 manufacture during the month for which the grant is applied;
- 55 (5) A copy of the qualified fuel ethanol producer license required pursuant to
56 subsection 5 of this section, name and address of surety company, and amount of bond
57 to be posted pursuant to subsection 5 of this section; and
- 58 (6) Any other information deemed necessary by the department of agriculture to
59 adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol
60 producers.

61 5. The director of the department of agriculture, in consultation with the
62 department of revenue, shall promulgate rules and regulations necessary for the
63 administration of the provisions of this section. The director shall also establish
64 procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri
65 qualified fuel ethanol producer who attempts to obtain moneys pursuant to this section
66 shall be bonded in an amount not to exceed the estimated maximum monthly grant to
67 be issued to such Missouri qualified fuel ethanol producer.

68 6. [No rule or portion of a rule promulgated under the authority of this section
69 shall become effective unless it has been promulgated pursuant to the provisions of
70 section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in
71 section 536.010, RSMo, that is created under the authority delegated in this
72 section shall become effective only if it complies with and is subject to all of
73 the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
74 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of
75 the powers vested with the general assembly pursuant to chapter 536, RSMo,
76 to review, to delay the effective date or to disapprove and annul a rule are
77 subsequently held unconstitutional, then the grant of rulemaking authority
78 and any rule proposed or adopted after August 28, 2002, shall be invalid and
79 void.**

2 **142.031. 1. As used in this section the following terms shall mean:**

- 3 (1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its
4 subsequent standard specifications for biodiesel fuel (B100) blend stock for

5 **distillate fuels;**

6 (2) **"Qualified biodiesel producer", a facility that produces biodiesel, is**
7 **registered with the United States Environmental Protection Agency according**
8 **to the requirements of 40 CFR 79, and at least fifty-one percent is owned by**
9 **agricultural producers actively engaged in agricultural production for**
10 **commercial purposes.**

11 2. **The "Missouri Qualified Biodiesel Producer Incentive Fund" is**
12 **hereby created and subject to appropriations with funds from other revenue**
13 **sources shall be used to provide economic subsidies to Missouri qualified**
14 **biodiesel producers pursuant to this section. The director of the department**
15 **of agriculture shall administer the fund pursuant to this section.**

16 3. **A Missouri qualified biodiesel producer shall be eligible for a**
17 **quarterly grant from the fund, except that a Missouri qualified biodiesel**
18 **producer shall only be eligible for the grant for a total of twenty**
19 **quarters. The amount of the grant is determined by calculating the estimated**
20 **gallons of qualified biodiesel production to be produced from Missouri**
21 **agricultural products for the succeeding quarter, as certified by the**
22 **department of agriculture, and applying such figure to the per-gallon**
23 **incentive credit established in this subsection. At the beginning of each**
24 **quarter, the previous quarter's grant shall be reconciled against the actual**
25 **gallons produced within ten days of the end of the quarter. If the number of**
26 **gallons of biodiesel produced is greater than the number of gallons estimated**
27 **for the previous quarter, the qualified biodiesel producer shall receive an**
28 **amount equal to thirty cents per gallon for each gallon produced in excess of**
29 **the original estimate. If the number of gallons of biodiesel produced is less**
30 **than the number of gallons estimated for the previous quarter, the qualified**
31 **biodiesel producer shall return an amount equal to thirty cents per gallon for**
32 **every gallon overestimated. The overestimated or underestimated amount of**
33 **gallons of biodiesel produced shall be offset against the succeeding quarter's**
34 **estimated amount. If an application for a grant pursuant to this section is not**
35 **received for the succeeding quarter the overestimated or underestimated**
36 **amount shall be paid by the obligated party within thirty days of the**
37 **reconciliation. Each Missouri qualified biodiesel producer shall be eligible**
38 **for a total grant in any calendar year equal to thirty cents per gallon for up**
39 **to fifteen million gallons of qualified biodiesel produced from Missouri**
40 **agricultural products in the calendar year. The department of agriculture**
41 **shall pay all grants for a particular quarter within fifteen days after receipt**

42 **and approval of the application described in subsection 4 of this section.**

43 **4. In order for a Missouri qualified biodiesel producer to obtain a grant**
44 **from the fund for a particular quarter, an application for such funds shall be**
45 **received no later than fifteen days prior to the first day of the quarter for**
46 **which the grant is sought. The application shall include:**

47 **(1) The location of the Missouri qualified biodiesel producer;**

48 **(2) The average number of citizens of Missouri employed by the**
49 **Missouri qualified biodiesel producer in the preceding quarter, if applicable;**

50 **(3) The number of bushel equivalents of Missouri agricultural**
51 **commodities used by the Missouri qualified biodiesel producer in the**
52 **production of biodiesel in the preceding quarter;**

53 **(4) The number of gallons of qualified biodiesel the producer expects**
54 **to manufacture during the quarter for which the grant is applied;**

55 **(5) A copy of the qualified biodiesel producer license required pursuant**
56 **to subsection 5 of this section, name and address of surety company, and**
57 **amount of bond to be posted pursuant to subsection 5 of this section; and**

58 **(6) Any other information deemed necessary by the department of**
59 **agriculture to adequately ensure that such grants shall be made only to**
60 **Missouri qualified biodiesel producers.**

61 **5. The director of the department of agriculture, in consultation with**
62 **the department of revenue, shall promulgate rules and regulations necessary**
63 **for the administration of the provisions of this section. The director shall**
64 **also establish procedures for bonding Missouri qualified biodiesel**
65 **producers. Each Missouri qualified biodiesel producer who attempts to**
66 **obtain moneys pursuant to this section shall be bonded in an amount not to**
67 **exceed the estimated maximum quarterly grant to be issued to such Missouri**
68 **qualified biodiesel producer.**

69 **6. Any rule or portion of a rule, as that term is defined in section**
70 **536.010, RSMo, that is created under the authority delegated in this section**
71 **shall become effective only if it complies with and is subject to all of the**
72 **provisions of chapter 536, RSMo, and, if applicable, section 536.028,**
73 **RSMo. This section and chapter 536, RSMo, are nonseverable and if any of**
74 **the powers vested with the general assembly pursuant to chapter 536, RSMo,**
75 **to review, to delay the effective date or to disapprove and annul a rule are**
76 **subsequently held unconstitutional, then the grant of rulemaking authority**
77 **and any rule proposed or adopted after August 28, 2002, shall be invalid and**
78 **void.**

261.110. 1. The department of agriculture shall develop standards and labeling
2 for organic farming.

3 2. The department of agriculture shall adopt rules to implement the provisions
4 of this section.

5 3. [No rule or portion of a rule promulgated pursuant to the authority of this
6 section shall become effective unless it has been promulgated pursuant to the provisions
7 of chapter 536, RSMo.] **The department may cooperate with any agency of the
8 federal government, any state, any other agency in this state, any private
9 entity or person engaged in growing, processing, marketing of organic
10 products, or any group of such persons in this state, in programs to effectuate
11 such purposes. Such agreements may provide for cost and revenue sharing,
12 and for division of duties and responsibilities under this section and may
13 include other provisions generally to effectuate the purposes of this section.**

14 4. **Any rule or portion of a rule, as that term is defined in section
15 536.010, RSMo, that is created under the authority delegated in this section
16 shall become effective only if it complies with and is subject to all of the
17 provisions of chapter 536, RSMo, and, if applicable, section 536.028,
18 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of
19 the powers vested with the general assembly pursuant to chapter 536, RSMo,
20 to review, to delay the effective date or to disapprove and annul a rule are
21 subsequently held unconstitutional, then the grant of rulemaking authority
22 and any rule proposed or adopted after August 28, 2002, shall be invalid and
23 void.**

**261.120. There is hereby created in the state treasury the "Organic
2 Production and Certification Fee Fund". Fees imposed in accordance with
3 rules promulgated under section 261.110, shall be credited to the organic
4 production and certification fee fund.**

261.230. The director of the department of agriculture shall, for the use of the
2 marketing division of the department of agriculture, develop and implement rules and
3 regulations by product category for all Missouri agricultural products included in the
4 AgriMissouri marketing program [or any equivalent successor program. Any rule or
5 portion of a rule, as that term is defined in section 536.010, RSMo, that is created under
6 the authority delegated in this section shall become effective only if it complies with and
7 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
8 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the
9 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to

10 delay the effective date or to disapprove and annul a rule are subsequently held
11 unconstitutional, then the grant of rulemaking authority and any rule proposed or
12 adopted after August 28, 2000, shall be invalid and void].

261.235. 1. There is hereby created in the state treasury for the use of the
2 marketing division of the state department of agriculture a fund to be known as "The
3 Missouri Agricultural Products Marketing Development Fund". [The general assembly
4 shall appropriate to the fund from the general revenue fund one million three hundred
5 thousand dollars for fiscal year 2002, one million dollars for fiscal year 2003 and seven
6 hundred fifty thousand dollars for fiscal years 2004 to 2006.] All moneys received by the
7 state department of agriculture for Missouri agricultural products marketing
8 development from any source, including trademark fees, shall be deposited in the
9 fund. Moneys deposited in the fund shall, upon appropriation by the general assembly
10 to the state department of agriculture, be expended by the marketing division of the
11 state department of agriculture for [purposes] **promotion** of Missouri agricultural
12 products [marketing development as specified in this section] **under the AgriMissouri**
13 **program**. The unexpended balance in the Missouri agricultural products marketing
14 development fund at the end of the biennium shall not be transferred to the [ordinary]
15 **general** revenue fund of the state treasury and accordingly shall be exempt from the
16 provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue
17 funds of the state by the state treasurer.

18 2. There is hereby created within the department of agriculture the "Citizens'
19 Advisory Commission for Marketing Missouri Agricultural Products". The commission
20 shall establish guidelines, **and make recommendations to the director of**
21 **agriculture, for the use of funds appropriated by the general assembly** for [the
22 spending by] the marketing division of the department of agriculture [of all moneys in],
23 **and for all funds collected or appropriated to** the Missouri agricultural products
24 marketing development fund created pursuant to subsection 1 of this section. The
25 guidelines shall focus on the promotion of the AgriMissouri [or successor] trademark
26 associated with Missouri agricultural products [which has] **that have** been approved by
27 the general assembly, and shall advance the following objectives:

28 (1) Increasing the impact and fostering the effectiveness of local efforts to
29 promote Missouri agricultural products;

30 (2) Enabling and encouraging expanded advertising efforts for Missouri
31 agricultural products;

32 (3) Encouraging effective, high-quality advertising projects, innovative marketing
33 strategies, and the coordination of local, regional and statewide marketing efforts;

34 (4) Providing training and technical assistance to cooperative-marketing partners
35 **of Missouri agricultural products.**

36 3. The commission [shall] **may** establish a fee structure for sellers electing to use
37 the AgriMissouri [or successor] trademark associated with Missouri agricultural
38 products. Under the fee structure: (1) a seller having gross annual sales greater than
39 two million dollars per fiscal year of Missouri agricultural products which constitute the
40 final product of a series of processes or activities shall remit to the marketing division
41 of the department of agriculture, at such times and in such manner as may be
42 prescribed, a trademark fee of one-half of one percent of the aggregate amount of all of
43 such seller's wholesale sales of products carrying the AgriMissouri [or successor]
44 trademark; and (2) all sellers having gross annual sales less than or equal to two million
45 dollars per fiscal year of Missouri agricultural products which constitute the final
46 product of a series of processes or activities shall, after three years of selling Missouri
47 agricultural products carrying the AgriMissouri [or successor] trademark, remit to the
48 marketing division of the department of agriculture, at such times and in such manner
49 as may be prescribed, a trademark fee of one-half of one percent of the aggregate amount
50 of all of such seller's wholesale sales of products carrying the AgriMissouri [or successor]
51 trademark. All trademark fees shall be deposited to the credit of the Missouri
52 agricultural products marketing development fund, created pursuant to this section. The
53 commission may also create [two] **an** additional trademark [labels] **label** to be
54 associated with Missouri agricultural products which are certified organic products [and
55 certified family-farm-produced products].

56 4. The marketing division of the department of agriculture is authorized to
57 [promote] **promulgate** rules consistent with the guidelines and fee structure established
58 by the commission. No rule or portion of a rule shall become effective unless it has been
59 promulgated pursuant to the provisions of chapter 536, RSMo.

60 5. The commission shall consist of nine members appointed by the governor with
61 the advice and consent of the senate. One member shall be the director of the market
62 development division of the department of agriculture, **or his or her representative**At
63 least one member shall be a specialist in advertising; at least one member shall be a
64 specialist in agribusiness; at least one member shall be a specialist in the retail grocery
65 business; at least one member shall be a specialist in communications; at least one
66 member shall be a specialist in product distribution; at least one member shall be a
67 family farmer with expertise in livestock farming; at least one member shall be a family
68 farmer with expertise in grain farming and at least one member shall be a family farmer
69 with expertise in organic farming. Members shall serve for four-year terms, except in

70 the first appointments three members shall be appointed for terms of four years, three
71 members shall be appointed for terms of three years and three members shall be
72 appointed for terms of two years each. Any member appointed to fill a vacancy of an
73 unexpired term shall be appointed for the remainder of the term of the member causing
74 the vacancy. The governor shall appoint a chairperson of the commission, subject to
75 ratification by the commission.

76 6. Commission members shall receive no compensation but shall be reimbursed
77 for actual and necessary expenses incurred in the performance of their official duties on
78 the commission. The division of market development of the department of agriculture
79 shall provide all necessary staff and support services as required by the commission to
80 hold commission meetings, to maintain records of official acts and to conduct all other
81 business of the commission. The commission shall meet quarterly and at any such time
82 that it deems necessary. Meetings may be called by the chairperson or by a petition
83 signed by a majority of the members of the commission. Ten days' notice shall be given
84 in writing to such members prior to the meeting date. A simple majority of the members
85 of the commission shall be present to constitute a quorum. Proxy voting shall not be
86 permitted.

261.239. The marketing division of the department of agriculture shall create an
2 Internet web site for the purpose of fostering the marketing of Missouri agricultural
3 products over the Internet. [The web site shall allow consumers to place orders for
4 Missouri agricultural products over the Internet and shall enable small companies which
5 process Missouri agricultural products to pool products with other such small
6 companies.]

261.240. Any rule or portion of a rule, as that term is defined in section
2 **536.010, RSMo, that is created under the authority delegated in sections**
3 **261.230 to 261.239 shall become effective only if they comply with and are**
4 **subject to all of the provisions of chapter 536, RSMo, and if applicable, section**
5 **536.028, RSMo. These sections and chapter 536, RSMo, are nonseverable and**
6 **if any of the powers vested with the general assembly pursuant to chapter**
7 **536, RSMo, to review, to delay the effective date, or to disapprove and annul**
8 **a rule are subsequently held unconstitutional, then the grant of rulemaking**
9 **authority and any rule proposed or adopted after August 28, 2001, shall be**
10 **invalid and void.**

263.531. 1. In the event any referendum conducted under sections 263.500 to
2 263.537 fails to receive the required number of affirmative votes, the certified
3 organization may, with the consent of the department be authorized to call other

4 referendums.

5 2. After the passage of any referendum, the eligible voters shall be allowed, by
6 the subsequent referendums, at least every [five] ~~ten~~ years, to vote on whether to
7 continue their assessments.

8 3. All the requirements for an initial referendum shall be met in subsequent
9 referendums.

 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,**
16 **corporation, cooperative, or limited liability company organized or**
17 **incorporated pursuant to the laws of this state consisting of not less than**
18 **twelve members, approved by the authority, for the purpose of owning or**
19 **operating within this state a development facility or a renewable fuel**
20 **production facility in which producer members:**

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

23 **(b) Control the hiring and firing of management; and**

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

26 [(5)] **(6) "Renewable fuel production facility", a facility producing an energy**
27 **source which is derived from a renewable, domestically grown, organic compound capable**
28 **of powering machinery, including an engine or power plant, and any by-product derived**
29 **from such energy source.**

30 3. For tax year 1999, a contributor who contributes funds to the authority may

31 receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant
32 to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to
33 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one
34 hundred percent of such contribution. The awarding of such credit shall be at the
35 approval of the authority, based on the least amount of credits necessary to provide
36 incentive for the contributions. A contributor that receives tax credits for a contribution
37 to the authority shall receive no other consideration or compensation for such
38 contribution, other than a federal tax deduction, if applicable, and goodwill. A
39 contributor that receives tax credits for a contribution provided in this section may not
40 be a member, owner, investor or lender of an eligible new generation cooperative **or**
41 **eligible new generation processing entity** that receives financial assistance from
42 the authority either at the time the contribution is made or for a period of two years
43 thereafter.

44 4. A contributor shall submit to the authority an application for the tax credit
45 authorized by this section on a form provided by the authority. If the contributor meets
46 all criteria prescribed by this section and the authority, the authority shall issue a tax
47 credit certificate in the appropriate amount. Tax credits issued pursuant to this section
48 shall initially be claimed [for] **in** the taxable year in which the contributor contributes
49 funds to the authority. Any amount of credit that exceeds the tax due for a contributor's
50 taxable year may be carried forward to any of the contributor's five subsequent taxable
51 years. Tax credits issued pursuant to this section may be assigned, transferred or
52 sold. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise
53 conveyed, a notarized endorsement shall be filed with the authority specifying the name
54 and address of the new owner 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
58 or facilitate loans, equity investments, or guaranteed loans for rural agricultural
59 business concepts, but limited to two million dollars per project or the net state economic
60 impact, whichever is less. Loans, equity investments or guaranteed loans may only be
61 provided to feasible projects, and for an amount that is the least amount necessary to
62 cause the project to occur, as determined by the authority. The authority may structure
63 the loans, equity investments or guaranteed loans in a way that facilitates the project,
64 but also provides for a compensatory return on investment or loan payment to the
65 authority, based on the risk of the project.

66 6. In any given year, at least ten percent of the funds granted to rural

67 agricultural business concepts shall be awarded to grant requests of twenty-five
68 thousand dollars or less. No single rural agricultural business concept shall receive
69 more than two hundred thousand dollars in grant awards from the
70 authority. Agricultural businesses owned by minority members or women shall be given
71 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,**
14 **corporation, cooperative, or limited liability company organized or**
15 **incorporated pursuant to the laws of this state consisting of not less than**
16 **twelve members, approved by the authority, for the purpose of owning or**
17 **operating within this state a development facility or a renewable fuel**
18 **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 [(4)] (5) "Employee-qualified capital project", an eligible new generation
25 cooperative with capital costs greater than fifteen million dollars which will employ at
26 least one hundred employees;

27 [(5)] (6) "Large capital project", an eligible new generation cooperative with
28 capital costs greater than one million dollars;

29 [(6) "Member", a person, partnership, corporation, trust or limited liability
30 company that invests cash funds to an eligible new generation cooperative;]

31 **(7) "Producer member", a person, partnership, corporation, trust or**

32 **limited liability company whose main purpose is agricultural production that**
33 **invests cash funds to an eligible new generation cooperative or eligible new**
34 **generation processing entity;**

35 [(7)] **(8)** "Renewable fuel production facility", a facility producing an energy
36 source which is derived from a renewable, domestically grown, organic compound capable
37 of powering machinery, including an engine or power plant, and any by-product derived
38 from such energy source;

39 [(8)] **(9)** "Small capital project", an eligible new generation cooperative with
40 capital costs of no more than one million dollars.

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

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

57 [4.] **5.** A **producer** member shall submit to the authority an application for the
58 tax credit authorized by this section on a form provided by the authority. If the
59 **producer** member meets all criteria prescribed by this section and is approved by the
60 authority, the authority shall issue a tax credit certificate in the appropriate
61 amount. Tax credits issued pursuant to this section shall initially be claimed [for] **in**
62 the taxable year in which the **producer** member contributes capital to an eligible new
63 generation cooperative **or eligible new generation processing entity**. Any amount
64 of credit that exceeds the tax due for a **producer** member's taxable year may be carried
65 back to any of the **producer** member's three prior taxable years and carried forward to
66 any of the **producer** member's five subsequent taxable years. Tax credits issued
67 pursuant to this section may be assigned, transferred, sold or otherwise conveyed and

68 the new owner of the tax credit shall have the same rights in the credit as the **producer**
69 member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise
70 conveyed, a notarized endorsement shall be filed with the authority specifying the name
71 and address of the new owner of the tax credit or the value of the credit.

72 [5.] **6.** Ten percent of the tax credits authorized pursuant to this section initially
73 shall be offered in any fiscal year to small capital projects. If any portion of the ten
74 percent of tax credits offered to small capital costs projects is unused in any calendar
75 year, then the unused portion of tax credits may be offered to employee-qualified capital
76 projects and large capital projects. If the authority receives more applications for tax
77 credits for small capital projects than tax credits are authorized therefor, then the
78 authority, by rule, shall determine the method of distribution of tax credits authorized
79 for small capital projects.

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

2 407.850. As used in sections 407.850 to 407.885, the following terms mean:

3 (1) "Current model", a model listed in the wholesaler's, manufacturer's or
4 distributor's current sales manual or any supplements thereto;

5 (2) "Current net price", the price listed in the wholesaler's, manufacturer's or
6 distributor's price list or catalogue in effect at the time the contract is canceled or
7 discontinued, less any applicable trade and cash discounts;

8 (3) "Inventory", [farm] **equipment**, implements, machinery, attachments and
9 repair parts;

10 (4) "Net cost", the price the retailer actually paid for the merchandise to the
11 wholesaler, manufacturer or distributor, plus freight from the wholesaler's,

12 manufacturer's or distributor's location to the dealer's location;
13 (5) "Retailer", any person, firm or corporation engaged in the business of selling,
14 repairing and retailing:
15 (a) Farm implements, machinery, attachments or repair parts;
16 (b) Industrial, maintenance and construction power equipment; or
17 (c) Outdoor power equipment used for lawn, garden, golf course, landscaping or
18 grounds maintenance;
19 but shall not include retailers of petroleum and motor vehicles and related automotive
20 care and replacement products normally sold by such retailers.

407.860. 1. The wholesaler, manufacturer or distributor shall repurchase that
2 inventory previously purchased from him and held by the retailer at the date of
3 termination of the contract. The provisions of sections 407.850 to 407.885 shall apply
4 to the transferee of such wholesaler, manufacturer or distributor if such transferee
5 acquired substantially all of the assets of such wholesaler, manufacturer or
6 distributor. The wholesaler, manufacturer or distributor shall pay one hundred percent
7 of the net cost of all new, unsold, undamaged and complete [farm] **equipment**,
8 implements, machinery, and attachments and ninety-five percent of the current net price
9 of all new, unused and undamaged repair parts. The retailer shall pay the cost of
10 transportation to the nearest warehouse maintained by the wholesaler, manufacturer,
11 or distributor, or to a mutually agreeable site. The wholesaler, manufacturer or
12 distributor shall pay the retailer five percent of the current net price on all new, unused
13 and undamaged repair parts returned to cover the cost of handling, packing and
14 loading. The wholesaler, manufacturer or distributor shall have the option of performing
15 the handling, packing and loading in lieu of paying the five percent for these
16 services. The retailer shall pay the cost of transportation to the nearest warehouse
17 maintained by the wholesaler, manufacturer, or distributor, or to a mutually agreeable
18 site.

19 2. Upon payment of the repurchase amount to the retailer, the title and right of
20 possession to the repurchased inventory shall transfer to the wholesaler, manufacturer
21 or distributor.

407.870. The provisions of sections 407.850 to 407.885 shall not require the
2 repurchase from a retailer of:

- 3 (1) Any repair part which because of its condition is not resalable as a new part
4 without repackaging or reconditioning;
5 (2) Any inventory for which the retailer is unable to furnish evidence, satisfactory
6 to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens

7 and encumbrances;

8 (3) Any inventory which the retailer desires to keep, provided the retailer has a
9 contractual right to do so;

10 (4) Any **equipment**, implements, machinery, and attachments which are not in
11 new, unused, undamaged, or complete condition;

12 (5) Any repair parts which are not in new, unused, or undamaged condition;

13 (6) Any **equipment**, implements, machinery or attachments which were
14 purchased twenty-four months or more prior to notice of termination of the contract;

15 (7) Any inventory which was ordered by the retailer on or after the date of
16 notification of termination of the contract;

17 (8) Any inventory which was acquired by the retailer from any source other than
18 the wholesaler, manufacturer or distributor or transferee of such wholesaler,
19 manufacturer or distributor **unless such inventory was acquired from any source**
20 **authorized or arranged by the manufacturer.**

414.032. 1. All kerosene, diesel fuel, heating oil, aviation turbine fuel, gasoline,
2 gasoline-alcohol blends and other motor fuels shall meet the requirements in the annual
3 book of ASTM standards and supplements thereto. The director may promulgate rules
4 and regulations on the labeling, standards for, and identity of motor fuels and heating
5 oils.

6 2. [All sellers of motor fuel which has been blended with an alcohol additive shall
7 notify the buyer of same.

8 3. All sellers of motor fuel which has been blended with at least one percent
9 oxygenate by weight shall notify the buyer at the pump of the type of oxygenate. The
10 provisions of this subsection may be satisfied with a sticker or label on the pump stating
11 that the motor fuel may or may not contain the oxygenate. The department of
12 agriculture shall provide the sticker or label, which shall be reasonable in size and
13 content, at no cost to the sellers.

14 4.] The director may inspect gasoline, gasoline-alcohol blends or other motor fuels
15 to insure that these fuels conform to advertised grade and octane. In no event shall the
16 penalty for a first violation of this section exceed a written reprimand.

414.043. After July 31, 2004 no gasoline sold, offered for sale, or stored
2 **within this state shall contain more than one-half of one percent by volume**
3 **of methyl tertiary butyl ether (MTBE).**

[407.750. Whenever any person, firm, or corporation engaged in
2 the business of selling and repairing industrial, maintenance and
3 construction power equipment enters into a written or parol contract

whereby such retailer agrees to maintain a stock of parts or machines or equipment or attachments with any wholesaler, manufacturer, or distributor of industrial, maintenance and construction power equipment used for industrial, maintenance or construction applications and either such wholesaler, manufacturer, or distributor desires to cancel or discontinue the contract, such wholesaler, manufacturer, or distributor shall pay to such retailer, unless the retailer should desire to keep such merchandise, a sum equal to ninety percent of the net cost of all new, unused, undamaged and complete industrial, maintenance and construction power equipment used for industrial, maintenance and construction applications including transportation charges which have been paid by such retailer, and ninety percent of the current net price on new, unused and undamaged repair parts at the price listed in the current price lists or catalogues, which parts had previously been purchased from such wholesaler, manufacturer, or distributor in the previous two years, and held by such retailer on the date of the cancellation of such contract. Any parts in a dealer's inventory for more than two years shall be returned for ninety percent of his original purchase cost. "Net cost" means the price the retailer actually paid for the equipment. "Current net price" means the price listed in the manufacturer's, wholesaler's or distributor's price list or catalogue in effect on the date of termination, less any applicable trade or cash discounts. Upon the payment of the sum equal to ninety percent of the net cost of such equipment and ninety percent of the current net price on the repair parts, the title to such machinery and repair parts shall pass to the manufacturer, wholesaler or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such equipment and repair parts. All payments required to be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

- (1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;
- (2) Any repair part which is in a broken or damaged package;

- 40 (3) Any single repair part which is priced as a set of two or more
41 items;
- 42 (4) Any repair part which because of its condition is not resalable
43 as a new part without repackaging or reconditioning;
- 44 (5) Any inventory for which the retailer is unable to furnish
45 evidence, satisfactory to the wholesaler, manufacturer or distributor, of
46 title, free and clear of all claims, liens and encumbrances;
- 47 (6) Any inventory which the retailer desires to keep, provided the
48 retailer has a contractual right to do so;
- 49 (7) Any implements, machinery, and attachments which are not in
50 new, unused, undamaged, or complete condition;
- 51 (8) Any repair parts which are not in new, unused, or undamaged
52 condition;
- 53 (9) Any implements, machinery or attachments which were
54 purchased twenty-four months or more prior to notice of termination of the
55 contract;
- 56 (10) Any inventory which was ordered by the retailer on or after
57 the date of notification of termination of the contract;
- 58 (11) Any inventory which was acquired by the retailer from any
59 source other than the wholesaler, manufacturer or distributor or
60 transferee of such wholesaler, manufacturer or distributor;
- 61 (12) Any part that has been removed from an engine or short block
62 or piece of equipment or any part that has been mounted or installed on
63 an engine or on equipment.]

2 [407.751. The provisions of section 407.750 shall be supplemental
3 to any agreement between the retailer and the manufacturer, wholesaler
4 or distributor covering the return of equipment and repair parts. The
5 retailer may elect to pursue either his contract remedy or the remedy
6 provided herein, and an election by the retailer to pursue his contract
7 remedy shall not bar his right to the remedy provided herein as to those
equipment and repair parts not affected by the contract remedy.]

2 [407.752. In the event that any manufacturer, wholesaler, or
3 distributor of machinery and repair parts for industrial, maintenance and
4 construction power equipment used for industrial, maintenance and
5 construction applications, upon cancellation of a contract by either a
retailer or a manufacturer, wholesaler, or distributor, fails or refuses to

6 make payment to such dealer as required by the provisions of section
7 407.750, such manufacturer, wholesaler, or distributor shall be liable in
8 a civil action to the retailer for costs of litigation and attorney's fees and
9 for one hundred percent of the net cost of such machinery, plus
10 transportation charges which have been paid by the retailer and one
11 hundred percent of the current net price of the repair parts.]

[407.890. Whenever any person, firm, or corporation engaged in
2 the business of selling and repairing outdoor power equipment used for
3 lawn, garden, golf course, landscaping or grounds maintenance, enters into
4 a written or parol contract whereby such retailer agrees to maintain a
5 stock of parts or machines or equipment or attachments with any
6 wholesaler, manufacturer, or distributor of outdoor power equipment used
7 for lawn, garden, golf course, landscaping or grounds maintenance, and
8 either such wholesaler, manufacturer, or distributor desires to cancel or
9 discontinue the contract, such wholesaler, manufacturer, or distributor
10 shall pay to such retailer, unless the retailer should desire to keep such
11 merchandise, a sum equal to ninety percent of the net cost of all new,
12 unused, undamaged and complete outdoor power equipment used for lawn,
13 garden, golf course, landscaping or grounds maintenance, including
14 transportation charges which have been paid by such retailer, and ninety
15 percent of the current net price on new, unused and undamaged repair
16 parts at the price listed in the current price lists or catalogues, which
17 parts had previously been purchased from such wholesaler, manufacturer,
18 or distributor in the previous two years, and held by such retailer on the
19 date of the cancellation of such contract. Any parts in dealer's inventory
20 for more than two years shall be returned for ninety percent of his original
21 purchase cost. "Net cost" means the price the retailer actually paid for the
22 equipment. "Current net price" means the price listed in the
23 manufacturer's, wholesaler's or distributor's price list or catalogue in effect
24 on the date of termination, less any applicable trade or cash
25 discounts. Upon the payment of the sum equal to ninety percent of the
26 net cost of such equipment and ninety percent of the current net price on
27 the repair parts, the title to such machinery and repair parts shall pass
28 to the manufacturer, wholesaler or distributor making such payment, and
29 such manufacturer, wholesaler, or distributor shall be entitled to the
30 possession of such equipment and repair parts. All payments required to

be made under the provisions of this section must be made within ninety days after the return of the machinery or repair parts. After ninety days, all payments or allowances shall include interest at the rate stated in section 408.040, RSMo. The provisions of this section shall not require the repurchase from a retailer of:

(1) Any repair part which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets or batteries;

(2) Any repair part which is in a broken or damaged package;

(3) Any single repair part which is priced as a set of two or more items;

(4) Any repair part which because of its condition is not resalable as a new part without repackaging or reconditioning;

(5) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer or distributor, of title, free and clear of all claims, liens and encumbrances;

(6) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(7) Any implements, machinery, and attachments which are not in new, unused, undamaged, or complete condition;

(8) Any repair parts which are not in new, unused, or undamaged condition;

(9) Any implements, machinery or attachments which were purchased twenty-four months or more prior to notice of termination of the contract;

(10) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract;

(11) Any inventory which was acquired by the retailer from any source other than the wholesaler, manufacturer or distributor or transferee of such wholesaler, manufacturer or distributor;

(12) Any part that has been removed from an engine or short block or piece of equipment or any part that has been mounted or installed on an engine or on equipment.]

[407.892. The provisions of section 407.890 shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler or distributor covering the return of equipment and repair parts. The retailer may elect to pursue either his contract remedy or the remedy

5 provided herein, and an election by the retailer to pursue his contract
6 remedy shall not bar his right to remedy provided herein as to those
7 equipment and repair parts not affected by the contract remedy.]

2 [407.893. In the event that any manufacturer, wholesaler, or
3 distributor of machinery and repair parts for outdoor power equipment
4 used for lawn, garden, golf course, landscaping or ground maintenance,
5 upon cancellation of a contract by either a retailer or a manufacturer,
6 wholesaler, or distributor, fails or refuses to make payment to such dealer
7 as required by the provisions of section 407.890, such manufacturer,
8 wholesaler, or distributor shall be liable in a civil action to the retailer for
9 costs of litigation and attorneys' fees and for one hundred percent of the
10 net cost of such machinery, plus transportation charges which have been
11 paid by the retailer and one hundred percent of the current net price of
the repair parts.]

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