

FIRST REGULAR SESSION

HOUSE BILL NO. 369

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MUNZLINGER (Sponsor), MYERS,
SANDER AND MOORE (Co-sponsors).

Read 1st time January 27, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0936L.011

AN ACT

To repeal section 348.430, RSMo, and to enact in lieu thereof one new section relating to the agricultural product utilization contributor tax credit.

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

Section A. Section 348.430, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 348.430, to read as follows:

348.430. 1. The tax credit created in this section shall be known as the "Agricultural Product Utilization Contributor Tax Credit".

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

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

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

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

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

(5) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state

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.

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. [A
40 contributor that receives tax credits for a contribution provided in this section may not be a
41 member, owner, investor or lender of an eligible new generation cooperative or eligible new
42 generation processing entity that receives financial assistance from the authority either at the time
43 the contribution is made or for a period of two years thereafter.]

44 4. A contributor shall submit to the authority an application for the tax credit authorized
45 by this section on a form provided by the authority. If the contributor meets all criteria
46 prescribed by this section and the authority, the authority shall issue a tax credit certificate in the
47 appropriate amount. Tax credits issued pursuant to this section may be claimed in the taxable
48 year in which the contributor contributes funds to the authority. For all fiscal years beginning
49 on or after July 1, 2004, tax credits allowed pursuant to this section may be carried back to any
50 of the contributor's three prior tax years and may be carried forward to any of the contributor's
51 five subsequent taxable years. Tax credits issued pursuant to this section may be assigned,

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

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

66 6. In any given year, at least ten percent of the funds granted to rural agricultural business
67 concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single
68 rural agricultural business concept shall receive more than two hundred thousand dollars in grant
69 awards from the authority. Agricultural businesses owned by minority members or women shall
70 be given consideration in the allocation of funds.