

SECOND REGULAR SESSION

HOUSE BILL NO. 1346

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MYERS (Sponsor), NANCE, WILDBERGER,
LOEHNER AND SWINGER (Co-sponsors).

Read 1st time January 11, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3301L.03I

AN ACT

To repeal sections 348.434 and 348.436, RSMo, and to enact in lieu thereof four new sections relating to the qualified investor incentive tax credit.

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

Section A. Sections 348.434 and 348.436, RSMo, are repealed and four new sections
2 enacted in lieu thereof, to be known as sections 348.433, 348.434, 348.436, and 348.440, to read
3 as follows:

**348.433. 1. The tax credit created in this section shall be known as the "Qualified
2 Investor 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;**

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.

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

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

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

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

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

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

28 (7) "Qualified investor", a person, partnership, corporation, trust or limited
29 liability company domiciled in the state of Missouri with a gross income of less than ten
30 million dollars that invests cash funds to an eligible new generation cooperative or eligible
31 new generation processing entity;

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

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

38 3. Beginning tax year 2006, and ending December 31, 2010, any qualified investor
39 who invests cash funds in an eligible new generation cooperative or eligible new generation
40 processing entity may receive a credit against the tax or estimated quarterly tax otherwise
41 due under chapter 143, RSMo, other than taxes withheld under sections 143.191 to 143.265,
42 RSMo, chapter 148, RSMo, or chapter 147, RSMo, in an amount equal to the lesser of fifty
43 percent of such qualified investor's investment or fifteen thousand dollars. Tax credits
44 claimed in a taxable year may be done so on a quarterly basis and applied to the estimated
45 quarterly tax under this subsection. If a quarterly tax credit claim or series of claims
46 contributes to causing an overpayment of taxes for a taxable year, such overpayment shall
47 not be refunded but shall be applied to the next taxable year.

48 **4. A qualified investor shall submit to the authority an application for the tax credit**
49 **authorized by this section on a form provided by the authority. If the qualified member**
50 **meets all criteria prescribed by this section and is approved by the authority, the authority**
51 **shall issue a tax credit certificate in the appropriate amount. Tax credits issued under this**
52 **section may be carried back to any of the qualified investor's three prior taxable years and**
53 **carried forward to any of the qualified investor's five subsequent taxable years regardless**
54 **of the type of tax liability to which such credits are applied as authorized under subsection**
55 **3 of this section. Tax credits issued under this section may be assigned, transferred, sold**
56 **or otherwise conveyed and the new owner of the tax credit shall have the same rights in the**
57 **credit as the qualified investor. Whenever a certificate of tax credit is assigned,**
58 **transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the**
59 **authority specifying the name and address of the new owner of the tax credit or the value**
60 **of the credit.**

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

68 **6. Ninety percent of the tax credits authorized under this section initially shall be**
69 **offered in any fiscal year to employee-qualified capital projects and large capital projects.**
70 **If any portion of the ninety percent of tax credits offered to employee-qualified capital**
71 **projects and large capital costs projects is unused in any fiscal year, the unused portion of**
72 **tax credits may be offered to small capital projects. The maximum tax credit allowed per**
73 **employee-qualified capital project is three million dollars and the maximum tax credit**
74 **allowed per large capital project is one million five hundred thousand dollars. If the**
75 **authority approves the maximum tax credit allowed for any employee-qualified capital**
76 **project or any large capital project, the authority shall by rule determine the method of**
77 **distribution of such maximum tax credit. In addition, if the authority receives more tax**
78 **credit applications for employee-qualified capital projects and large capital projects than**
79 **the amount of tax credits authorized therefor, the authority shall by rule determine the**
80 **method of distribution of tax credits authorized for employee-qualified capital projects and**
81 **large capital projects.**

348.434. 1. The aggregate of tax credits issued per fiscal year pursuant to sections
2 348.430 and 348.432 shall not exceed six million dollars. **The aggregate of tax credits issued**

3 per fiscal year under sections 348.430, 348.432, and 348.433 shall not exceed twenty million
4 dollars.

5 2. Upon July 2, 1999, and ending June 30, 2000, tax credits shall be issued pursuant to
6 section 348.430, except that, the authority shall allocate no more than three million dollars to
7 fund section 348.432 in fiscal year 2000. Beginning in fiscal year 2001 and [each subsequent
8 year] ending after fiscal year 2006, tax credits shall be issued pursuant to section 348.432.
9 Beginning in fiscal year 2007 and each subsequent year, tax credits shall be issued under
10 sections 348.432 and 348.433.

11 3. Beginning the first day of May of each fiscal year following implementation of
12 [section 348.432] sections 348.432 and 348.433, the authority may determine the extent of tax
13 credits[, pursuant to section 348.432,] under sections 348.432 and 348.433 that will be utilized
14 in each fiscal year. If the authority determines that:

15 (1) Less than [six] twenty million dollars for a fiscal year is to be utilized in tax credits
16 [pursuant to section] under sections 348.432 and 348.433; and

17 (2) The assets available to the authority, pursuant to section 348.430, do not exceed
18 twelve million dollars;

19

20 then, the authority may offer the remaining authorized tax credits be issued pursuant to section
21 348.430.

348.436. The provisions of sections 348.430 to [348.436] 348.440 shall expire December
2 31, 2010.

348.440. On and after the effective date of this section, in order to qualify for the
2 agricultural tax credits under sections 348.430 to 348.439 and in order to participate in the
3 agricultural linked deposit program, every eligible new generation cooperative and eligible
4 new generation processing entity shall:

5 (1) Have a minimum of seventy-five percent of the members of the new generation
6 cooperative or new generation processing entity be residents of this state; and

7 (2) Offer for sale and sell eligible new generation cooperative shares and eligible
8 new generation processing entity shares in the following order:

9 (a) First, to qualified producers;

10 (b) Second, to qualified investors;

11 (c) For any shares available after the offerings in paragraphs (a) and (b) of this
12 subdivision, to unqualified investors. Such investors shall not be eligible for the
13 agricultural tax credits under sections 348.430 to 348.439.

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