

FIRST REGULAR SESSION

HOUSE BILL NO. 1142

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LOEHNER (Sponsor),
SCHAD AND SCHLOTTACH (Co-sponsors).

2474L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 32.115, 99.1205, 135.484, 135.535, 135.680, 144.030, and 208.770, RSMo, and to enact in lieu thereof nine new sections relating to tax credits.

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

Section A. Sections 32.115, 99.1205, 135.484, 135.535, 135.680, 144.030, and 208.770, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 32.115, 99.1205, 135.484, 135.535, 135.680, 135.704, 135.706, 144.030, and 208.770, to read as follows:

32.115. 1. The department of revenue shall grant a tax credit, to be applied in the following order until used, against:

(1) The annual tax on gross premium receipts of insurance companies in chapter 148, RSMo;

(2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section 148.030, RSMo;

(3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030, RSMo;

(4) The tax on other financial institutions in chapter 148, RSMo;

(5) The corporation franchise tax in chapter 147, RSMo;

(6) The state income tax in chapter 143, RSMo; and

(7) The annual tax on gross receipts of express companies in chapter 153, RSMo.

2. For proposals approved pursuant to section 32.110:

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

14 (1) The amount of the tax credit shall not exceed fifty percent of the total amount
15 contributed during the taxable year by the business firm or, in the case of a financial institution,
16 where applicable, during the relevant income period in programs approved pursuant to section
17 32.110;

18 (2) Except as provided in subsection 2 or 5 of this section, a tax credit of up to seventy
19 percent may be allowed for contributions to programs where activities fall within the scope of
20 special program priorities as defined with the approval of the governor in regulations
21 promulgated by the director of the department of economic development;

22 (3) Except as provided in subsection 2 or 5 of this section, the tax credit allowed for
23 contributions to programs located in any community shall be equal to seventy percent of the total
24 amount contributed where such community is a city, town or village which has fifteen thousand
25 or less inhabitants as of the last decennial census and is located in a county which is either
26 located in:

27 (a) An area that is not part of a standard metropolitan statistical area;

28 (b) A standard metropolitan statistical area but such county has only one city, town or
29 village which has more than fifteen thousand inhabitants; or

30 (c) A standard metropolitan statistical area and a substantial number of persons in such
31 county derive their income from agriculture.

32

33 Such community may also be in an unincorporated area in such county as provided in
34 subdivision (1), (2) or (3) of this subsection. Except in no case shall the total economic benefit
35 of the combined federal and state tax savings to the taxpayer exceed the amount contributed by
36 the taxpayer during the tax year;

37 (4) Such tax credit allocation, equal to seventy percent of the total amount contributed,
38 shall not exceed four million dollars in fiscal year 1999 and six million dollars in fiscal year 2000
39 and any subsequent fiscal year. When the maximum dollar limit on the seventy percent tax credit
40 allocation is committed, the tax credit allocation for such programs shall then be equal to fifty
41 percent credit of the total amount contributed. Regulations establishing special program
42 priorities are to be promulgated during the first month of each fiscal year and at such times
43 during the year as the public interest dictates. Such credit shall not exceed two hundred and fifty
44 thousand dollars annually except as provided in subdivision (5) of this subsection. No tax credit
45 shall be approved for any bank, bank and trust company, insurance company, trust company,
46 national bank, savings association, or building and loan association for activities that are a part
47 of its normal course of business. Any tax credit not used in the period the contribution was made
48 may be carried over the next five succeeding calendar or fiscal years until the full credit has been
49 claimed. Except as otherwise provided for proposals approved pursuant to section 32.111,

50 32.112 or 32.117, in no event shall the total amount of all other tax credits allowed pursuant to
51 sections 32.100 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six
52 million shall be credits allowed pursuant to section 135.460, RSMo. If six million dollars in
53 credits are not approved, then the remaining credits may be used for programs approved pursuant
54 to sections 32.100 to 32.125. **To the extent that as of the last day of April in any year, less**
55 **than thirty million dollars in tax credits have been issued under the provisions of this**
56 **section, such remaining unissued tax credits shall be made available for allocation**
57 **pursuant to the provisions of sections 135.704 and 135.706, RSMo;**

58 (5) The credit may exceed two hundred fifty thousand dollars annually and shall not be
59 limited if community services, crime prevention, education, job training, physical revitalization
60 or economic development, as defined by section 32.105, is rendered in an area defined by federal
61 or state law as an impoverished, economically distressed, or blighted area or as a neighborhood
62 experiencing problems endangering its existence as a viable and stable neighborhood, or if the
63 community services, crime prevention, education, job training, physical revitalization or
64 economic development is limited to impoverished persons.

65 3. For proposals approved pursuant to section 32.111:

66 (1) The amount of the tax credit shall not exceed fifty-five percent of the total amount
67 invested in affordable housing assistance activities or market rate housing in distressed
68 communities as defined in section 135.530, RSMo, by a business firm. Whenever such
69 investment is made in the form of an equity investment or a loan, as opposed to a donation alone,
70 tax credits may be claimed only where the loan or equity investment is accompanied by a
71 donation which is eligible for federal income tax charitable deduction, and where the total value
72 of the tax credits herein plus the value of the federal income tax charitable deduction is less than
73 or equal to the value of the donation. Any tax credit not used in the period for which the credit
74 was approved may be carried over the next ten succeeding calendar or fiscal years until the full
75 credit has been allowed. If the affordable housing units or market rate housing units in distressed
76 communities for which a tax is claimed are within a larger structure, parts of which are not the
77 subject of a tax credit claim, then expenditures applicable to the entire structure shall be reduced
78 on a prorated basis in proportion to the ratio of the number of square feet devoted to the
79 affordable housing units or market rate housing units in distressed communities, for purposes of
80 determining the amount of the tax credit. The total amount of tax credit granted for programs
81 approved pursuant to section 32.111 for the fiscal year beginning July 1, 1991, shall not exceed
82 two million dollars, to be increased by no more than two million dollars each succeeding fiscal
83 year, until the total tax credits that may be approved reaches ten million dollars in any fiscal year;

84 (2) For any year during the compliance period indicated in the land use restriction
85 agreement, the owner of the affordable housing rental units for which a credit is being claimed

86 shall certify to the commission that all tenants renting claimed units are income eligible for
87 affordable housing units and that the rentals for each claimed unit are in compliance with the
88 provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit
89 the records and accounts of the owner to verify such certification;

90 (3) In the case of owner-occupied affordable housing units, the qualifying owner
91 occupant shall, before the end of the first year in which credits are claimed, certify to the
92 commission that the occupant is income eligible during the preceding two years, and at the time
93 of the initial purchase contract, but not thereafter. The qualifying owner occupant shall further
94 certify to the commission, before the end of the first year in which credits are claimed, that
95 during the compliance period indicated in the land use restriction agreement, the cost of the
96 affordable housing unit to the occupant for the claimed unit can reasonably be projected to be
97 in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner occupant
98 acquiring the affordable housing unit during the compliance period indicated in the land use
99 restriction agreement shall make the same certification;

100 (4) If at any time during the compliance period the commission determines a project for
101 which a proposal has been approved is not in compliance with the applicable provisions of
102 sections 32.100 to 32.125 or rules promulgated therefor, the commission may within one
103 hundred fifty days of notice to the owner either seek injunctive enforcement action against the
104 owner, or seek legal damages against the owner representing the value of the tax credits, or
105 foreclose on the lien in the land use restriction agreement, selling the project at a public sale, and
106 paying to the owner the proceeds of the sale, less the costs of the sale and less the value of all tax
107 credits allowed herein. The commission shall remit to the director of revenue the portion of the
108 legal damages collected or the sale proceeds representing the value of the tax credits. However,
109 except in the event of intentional fraud by the taxpayer, the proposal's certificate of eligibility for
110 tax credits shall not be revoked.

111 4. For proposals approved pursuant to section 32.112, the amount of the tax credit shall
112 not exceed fifty-five percent of the total amount contributed to a neighborhood organization by
113 business firms. Any tax credit not used in the period for which the credit was approved may be
114 carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed.
115 The total amount of tax credit granted for programs approved pursuant to section 32.112 shall
116 not exceed one million dollars for each fiscal year.

117 5. The total amount of tax credits used for market rate housing in distressed communities
118 pursuant to sections 32.100 to 32.125 shall not exceed thirty percent of the total amount of all
119 tax credits authorized pursuant to sections 32.111 and 32.112.

99.1205. 1. This section shall be known and may be cited as the "Distressed Areas Land
2 Assemblage Tax Credit Act".

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

4 (1) "Acquisition costs", the purchase price for the eligible parcel, costs of environmental
5 assessments, closing costs, real estate brokerage fees, reasonable demolition costs of vacant
6 structures, and reasonable maintenance costs incurred to maintain an acquired eligible parcel for
7 a period of five years after the acquisition of such eligible parcel. Acquisition costs shall not
8 include costs for title insurance and survey, attorney's fees, relocation costs, fines, or bills from
9 a municipality;

10 (2) "Applicant", any person, firm, partnership, trust, limited liability company, or
11 corporation which has:

12 (a) Incurred, within an eligible project area, acquisition costs for the acquisition of land
13 sufficient to satisfy the requirements under subdivision (8) of this subsection; and

14 (b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal
15 authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop
16 an urban renewal area or a redevelopment area that includes all of an eligible project area or
17 whose redevelopment plan or redevelopment area, which encompasses all of an eligible project
18 area, has been approved or adopted under an economic incentive law. In addition to being
19 designated the redeveloper, the applicant shall have been designated to receive economic
20 incentives only after the municipal authority has considered the amount of the tax credits in
21 adopting such economic incentives as provided in subsection 8 of this section. The
22 redevelopment agreement shall provide that:

23 a. The funds generated through the use or sale of the tax credits issued under this section
24 shall be used to redevelop the eligible project area;

25 b. No more than seventy-five percent of the urban renewal area identified in the urban
26 renewal plan or the redevelopment area identified in the redevelopment plan may be redeveloped
27 by the applicant; and

28 c. The remainder of the urban renewal area or the redevelopment area shall be
29 redeveloped by co-redevelopers or redevelopers to whom the applicant has assigned its
30 redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

31 (3) "Certificate", a tax credit certificate issued under this section;

32 (4) "Condemnation proceedings", any action taken by, or on behalf of, an applicant to
33 initiate an action in a court of competent jurisdiction to use the power of eminent domain to
34 acquire a parcel within the eligible project area. Condemnation proceedings shall include any
35 and all actions taken after the submission of a notice of intended acquisition to an owner of a
36 parcel within the eligible project area by a municipal authority or any other person or entity under
37 section 523.250, RSMo;

38 (5) "Department", the Missouri department of economic development;

39 (6) "Economic incentive laws", any provision of Missouri law pursuant to which
40 economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land,
41 such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment
42 projects approved or adopted which include the use of economic incentives to redevelop the land.
43 Economic incentive laws include, but are not limited to, the land clearance for redevelopment
44 authority law under sections 99.300 to 99.660, the real property tax increment allocation
45 redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic
46 stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation
47 program under sections 99.1080 to 99.1092;

48 (7) "Eligible parcel", a parcel:

49 (a) Which is located within an eligible project area;

50 (b) Which is to be redeveloped;

51 (c) On which the applicant has not commenced construction prior to November 28,
52 2007;

53 (d) Which has been acquired without the commencement of any condemnation
54 proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel
55 acquired by the applicant from a municipal authority shall not constitute an eligible parcel; and

56 (e) On which all outstanding taxes, fines, and bills levied by municipal governments that
57 were levied by the municipality during the time period that the applicant held title to the eligible
58 parcel have been paid in full;

59 (8) "Eligible project area", an area which shall have satisfied the following requirements:

60 (a) The eligible project area shall consist of at least seventy-five acres and may include
61 parcels within its boundaries that do not constitute an eligible parcel;

62 (b) At least eighty percent of the eligible project area shall be located within a Missouri
63 qualified census tract area, as designated by the United States Department of Housing and Urban
64 Development under 26 U.S.C. Section 42, or within a distressed community as that term is
65 defined in section 135.530, RSMo;

66 (c) The eligible parcels acquired by the applicant within the eligible project area shall
67 total at least fifty acres, which may consist of contiguous and noncontiguous parcels;

68 (d) The average number of parcels per acre in an eligible project area shall be four or
69 more;

70 (e) Less than five percent of the acreage within the boundaries of the eligible project area
71 shall consist of owner-occupied residences which the applicant has identified for acquisition
72 under the urban renewal plan or the redevelopment plan pursuant to which the applicant was
73 appointed or selected as the redeveloper or by which the person or entity was qualified as an
74 applicant under this section on the date of the approval or adoption of such plan;

75 (9) "Interest costs", interest, loan fees, and closing costs. Interest costs shall not include
76 attorney's fees;

77 (10) "Maintenance costs", costs of boarding up and securing vacant structures, costs of
78 removing trash, and costs of cutting grass and weeds;

79 (11) "Municipal authority", any city, town, village, county, public body corporate and
80 politic, political subdivision, or land trust of this state established and authorized to own land
81 within the state;

82 (12) "Municipality", any city, town, village, or county;

83 (13) "Parcel", a single lot or tract of land, and the improvements thereon, owned by, or
84 recorded as the property of, one or more persons or entities;

85 (14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan
86 or urban renewal plan pursuant to which the conditions which provided the basis for an eligible
87 project area to be included in a redevelopment plan or urban renewal plan are to be reduced or
88 eliminated by redevelopment or rehabilitation; and

89 (15) "Redevelopment agreement", the redevelopment agreement or similar agreement
90 into which the applicant entered with a municipal authority and which is the agreement for the
91 implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant
92 was appointed or selected as the redeveloper or by which the person or entity was qualified as
93 an applicant under this section; and such appointment or selection shall have been approved by
94 an ordinance of the governing body of the municipality, or municipalities, or in the case of any
95 city not within a county, the board of aldermen, in which the eligible project area is located. The
96 redevelopment agreement shall include a time line for redevelopment of the eligible project area.
97 The redevelopment agreement shall state that the named developer shall be subject to the
98 provisions of chapter 290, RSMo.

99 3. Any applicant shall be entitled to a tax credit against the taxes imposed under chapters
100 143, 147, and 148, RSMo, except for sections 143.191 to 143.265, RSMo, in an amount equal
101 to fifty percent of the acquisition costs, and one hundred percent of the interest costs incurred for
102 a period of five years after the acquisition of an eligible parcel. No tax credits shall be issued
103 under this section until after January 1, 2008.

104 4. If the amount of such tax credit exceeds the total tax liability for the year in which the
105 applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be
106 carried forward for credit against the taxes imposed under chapters 143, 147, and 148, RSMo,
107 for the succeeding six years, or until the full credit is used, whichever occurs first. The applicant
108 shall not be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265, RSMo.
109 Applicants entitled to receive such tax credits may transfer, sell, or assign the tax credits. Tax
110 credits granted to a partnership, a limited liability company taxed as a partnership, or multiple

111 owners of property shall be passed through to the partners, members, or owners respectively pro
112 rata or pursuant to an executed agreement among the partners, members, or owners documenting
113 an alternate distribution method.

114 5. A purchaser, transferee, or assignee of the tax credits authorized under this section
115 may use acquired tax credits to offset up to one hundred percent of the tax liabilities otherwise
116 imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to 143.265,
117 RSMo. A seller, transferor, or assignor shall perfect such transfer by notifying the department
118 in writing within thirty calendar days following the effective date of the transfer and shall
119 provide any information as may be required by the department to administer and carry out the
120 provisions of this section.

121 6. To claim tax credits authorized under this section, an applicant shall submit to the
122 department an application for a certificate. An applicant shall identify the boundaries of the
123 eligible project area in the application. The department shall verify that the applicant has
124 submitted a valid application in the form and format required by the department. The department
125 shall verify that the municipal authority held the requisite hearings and gave the requisite notices
126 for such hearings in accordance with the applicable economic incentive act, and municipal
127 ordinances. On an annual basis, an applicant may file for the tax credit for the acquisition costs,
128 and for the tax credit for the interest costs, subject to the limitations of this section. If an
129 applicant applying for the tax credit meets the criteria required under this section, the department
130 shall issue a certificate in the appropriate amount. If an applicant receives a tax credit for
131 maintenance costs as a part of the applicant's acquisition costs, the department shall post on its
132 Internet web site the amount and type of maintenance costs and a description of the
133 redevelopment project for which the applicant received a tax credit within thirty days after the
134 department issues the certificate to the applicant.

135 7. The total aggregate amount of tax credits authorized under this section shall not
136 exceed ninety-five million dollars. At no time shall the annual amount of the tax credits issued
137 under this section exceed ten million dollars. **To the extent that as of the first day of**
138 **December in any year, less than ten million dollars in tax credits have been issued under**
139 **the provisions of this section, such remaining unissued tax credits shall be made available**
140 **for allocation pursuant to the provisions of sections 135.704 and 135.706, RSMo.** If the tax
141 credits that are to be issued under this section exceed, in any year, the ten million dollar
142 limitation, the department shall either:

143 (1) Issue tax credits to the applicant in the amount of ten million dollars, if there is only
144 one applicant entitled to receive tax credits in that year; or

145 (2) Issue the tax credits on a pro rata basis to all applicants entitled to receive tax credits
146 in that year. Any amount of tax credits, which an applicant is, or applicants are, entitled to

147 receive on an annual basis and are not issued due to the ten million dollar limitation, shall be
148 carried forward for the benefit of the applicant or applicants to subsequent years. No tax credits
149 provided under this section shall be authorized after August 28, 2013. Any tax credits which
150 have been authorized on or before August 28, 2013, but not issued, may be issued, subject to the
151 limitations provided under this subsection, until all such authorized tax credits have been issued.

152 8. Upon issuance of any tax credits pursuant to this section, the department shall report
153 to the municipal authority the applicant's name and address, the parcel numbers of the eligible
154 parcels for which the tax credits were issued, the itemized acquisition costs and interest costs for
155 which tax credits were issued, and the total value of the tax credits issued. The municipal
156 authority and the state shall not consider the amount of the tax credits as an applicant's cost, but
157 shall include the tax credits in any sources and uses and cost benefit analysis reviewed or created
158 for the purpose of awarding other economic incentives. The amount of the tax credits shall not
159 be considered an applicant's cost in the evaluation of the amount of any award of any other
160 economic incentives, but shall be considered in measuring the reasonableness of the rate of
161 return to the applicant with respect to such award of other economic incentives. The municipal
162 authority shall provide the report to any relevant commission, board, or entity responsible for the
163 evaluation and recommendation or approval of other economic incentives to assist in the
164 redevelopment of the eligible project area. Tax credits authorized under this section shall
165 constitute redevelopment tax credits, as such term is defined under section 135.800 RSMo, and
166 shall be subject to all provisions applicable to redevelopment tax credits provided under sections
167 135.800 to 135.830 RSMo.

168 9. The department may promulgate rules to implement the provisions of this section.
169 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created
170 under the authority delegated in this section shall become effective only if it complies with and
171 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
172 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested
173 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,
174 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
175 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid
176 and void.

135.484. 1. Beginning January 1, 2000, tax credits shall be allowed pursuant to section
2 135.481 in an amount not to exceed sixteen million dollars per year. Of this total amount of tax
3 credits in any given year, eight million dollars shall be set aside for projects in areas described
4 in subdivision (6) of section 135.478 and eight million dollars for projects in areas described in
5 subdivision (10) of section 135.478. The maximum tax credit for a project consisting of
6 multiple-unit qualifying residences in a distressed community shall not exceed three million

7 dollars. **To the extent that as of the first day of December in any year, less than sixteen**
8 **million dollars in tax credits have been issued under the provisions of this section, such**
9 **remaining unissued tax credits shall be made available for allocation under the provisions**
10 **of sections 135.704 and 135.706.**

11 2. Any amount of credit which exceeds the tax liability of a taxpayer for the tax year in
12 which the credit is first claimed may be carried back to any of the taxpayer's three prior tax years
13 and carried forward to any of the taxpayer's five subsequent tax years. A certificate of tax credit
14 issued to a taxpayer by the department may be assigned, transferred, sold or otherwise conveyed.
15 Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a
16 notarized endorsement shall be filed with the department specifying the name and address of the
17 new owner of the tax credit and the value of the credit.

18 3. The tax credits allowed pursuant to sections 135.475 to 135.487 may not be claimed
19 in addition to any other state tax credits, with the exception of the historic structures
20 rehabilitation tax credit authorized pursuant to sections 253.545 to 253.559, RSMo, which
21 insofar as sections 135.475 to 135.487 are concerned may be claimed only in conjunction with
22 the tax credit allowed pursuant to subsection 4 of section 135.481. In order for a taxpayer
23 eligible for the historic structures rehabilitation tax credit to claim the tax credit allowed pursuant
24 to subsection 4 of section 135.481, the taxpayer must comply with the requirements of sections
25 253.545 to 253.559, RSMo, and in such cases, the amount of the tax credit pursuant to
26 subsection 4 of section 135.481 shall be limited to the lesser of twenty percent of the taxpayer's
27 eligible costs or forty thousand dollars.

135.535. 1. A corporation, limited liability corporation, partnership or sole
2 proprietorship, which moves its operations from outside Missouri or outside a distressed
3 community into a distressed community, or which commences operations in a distressed
4 community on or after January 1, 1999, and in either case has more than seventy-five percent of
5 its employees at the facility in the distressed community, and which has fewer than one hundred
6 employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical
7 devices, scientific research, animal research, computer software design or development,
8 computer programming, including Internet, web hosting, and other information technology,
9 wireless or wired or other telecommunications or a professional firm shall receive a forty percent
10 credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes
11 withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such
12 move, if approved by the department of economic development, which shall issue a certificate
13 of eligibility if the department determines that the taxpayer is eligible for such credit. The
14 maximum amount of credits per taxpayer set forth in this subsection shall not exceed one
15 hundred twenty-five thousand dollars for each of the three years for which the credit is claimed.

16 The department of economic development, by means of rule or regulation promulgated pursuant
17 to the provisions of chapter 536, RSMo, shall assign appropriate North American Industry
18 Classification System numbers to the companies which are eligible for the tax credits provided
19 for in this section. Such three-year credits shall be awarded only one time to any company which
20 moves its operations from outside of Missouri or outside of a distressed community into a
21 distressed community or to a company which commences operations within a distressed
22 community. A taxpayer shall file an application for certification of the tax credits for the first
23 year in which credits are claimed and for each of the two succeeding taxable years for which
24 credits are claimed.

25 2. Employees of such facilities physically working and earning wages for that work
26 within a distressed community whose employers have been approved for tax credits pursuant to
27 subsection 1 of this section by the department of economic development for whom payroll taxes
28 are paid shall also be eligible to receive a tax credit against individual income tax, imposed
29 pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at
30 such facility earned for each of the three years that the facility receives the tax credit provided
31 by this section, so long as they were qualified employees of such entity. The employer shall
32 calculate the amount of such credit and shall report the amount to the employee and the
33 department of revenue.

34 3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo,
35 other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the
36 credit against income taxes as provided in subsection 1 of this section, may be taken by such an
37 entity in a distressed community in an amount of forty percent of the amount of funds expended
38 for computer equipment and its maintenance, medical laboratories and equipment, research
39 laboratory equipment, manufacturing equipment, fiber optic equipment, high speed
40 telecommunications, wiring or software development expense up to a maximum of seventy-five
41 thousand dollars in tax credits for such equipment or expense per year per entity and for each of
42 three years after commencement in or moving operations into a distressed community.

43 4. A corporation, partnership or sole partnership, which has no more than one hundred
44 employees for whom payroll taxes are paid, which is already located in a distressed community
45 and which expends funds for such equipment pursuant to subsection 3 of this section in an
46 amount exceeding its average of the prior two years for such equipment, shall be eligible to
47 receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo,
48 in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the
49 funds expended for such additional equipment per such entity. Tax credits allowed pursuant to
50 this subsection or subsection 1 of this section may be carried back to any of the three prior tax
51 years and carried forward to any of the **next** five tax years.

52 5. An existing corporation, partnership or sole proprietorship that is located within a
53 distressed community and that relocates employees from another facility outside of the distressed
54 community to its facility within the distressed community, and an existing business located
55 within a distressed community that hires new employees for that facility may both be eligible for
56 the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits,
57 such a business, during one of its tax years, shall employ within a distressed community at least
58 twice as many employees as were employed at the beginning of that tax year. A business hiring
59 employees shall have no more than one hundred employees before the addition of the new
60 employees. This subsection shall only apply to a business which is a manufacturing, biomedical,
61 medical devices, scientific research, animal research, computer software design or development,
62 computer programming or telecommunications business, or a professional firm.

63 6. Tax credits shall be approved for applicants meeting the requirements of this section
64 in the order that such applications are received. Certificates of tax credits issued in accordance
65 with this section may be transferred, sold or assigned by notarized endorsement which names the
66 transferee.

67 7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall
68 be for an amount of no more than ten million dollars for each year beginning in 1999. To the
69 extent there are available tax credits remaining under the ten million dollar cap provided in this
70 section, up to one hundred thousand dollars in the remaining credits shall first be used for tax
71 credits authorized under section 135.562. **To the extent that as of the first day of December**
72 **in any year, less than ten million dollars in tax credits have been issued under the**
73 **provisions of this section, such remaining unissued tax credits shall be made available for**
74 **allocation under the provisions of sections 135.704 and 135.706.** The total maximum credit
75 for all entities already located in distressed communities and claiming credits pursuant to
76 subsection 4 of this section shall be seven hundred and fifty thousand dollars. The department
77 of economic development in approving taxpayers for the credit as provided for in subsection 6
78 of this section shall use information provided by the department of revenue regarding taxes paid
79 in the previous year, or projected taxes for those entities newly established in the state, as the
80 method of determining when this maximum will be reached and shall maintain a record of the
81 order of approval. Any tax credit not used in the period for which the credit was approved may
82 be carried over until the full credit has been allowed.

83 8. A Missouri employer relocating into a distressed community and having employees
84 covered by a collective bargaining agreement at the facility from which it is relocating shall not
85 be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be
86 eligible for the credit in subsection 2 of this section if the relocation violates or terminates a

87 collective bargaining agreement covering employees at the facility, unless the affected collective
88 bargaining unit concurs with the move.

89 9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax
90 credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the
91 tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and
92 135.245, respectively, for the same business for the same tax period.

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

2 (1) "Adjusted purchase price", the product of:

3 (a) The amount paid to the issuer of a qualified equity investment for such qualified
4 equity investment; and

5 (b) The following fraction:

6 a. The numerator shall be the dollar amount of qualified low-income community
7 investments held by the issuer in this state as of the credit allowance date during the applicable
8 tax year; and

9 b. The denominator shall be the total dollar amount of qualified low-income community
10 investments held by the issuer in all states as of the credit allowance date during the applicable
11 tax year;

12 c. For purposes of calculating the amount of qualified low-income community
13 investments held by an issuer, an investment shall be considered held by an issuer even if the
14 investment has been sold or repaid; provided that the issuer reinvests an amount equal to the
15 capital returned to or recovered by the issuer from the original investment, exclusive of any
16 profits realized, in another qualified low-income community investment within twelve months
17 of the receipt of such capital. An issuer shall not be required to reinvest capital returned from
18 qualified low-income community investments after the sixth anniversary of the issuance of the
19 qualified equity investment, the proceeds of which were used to make the qualified low-income
20 community investment, and the qualified low-income community investment shall be considered
21 held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

22 (2) "Applicable percentage", zero percent for each of the first two credit allowance dates,
23 seven percent for the third credit allowance date, and eight percent for the next four credit
24 allowance dates;

25 (3) "Credit allowance date", with respect to any qualified equity investment:

26 (a) The date on which such investment is initially made; and

27 (b) Each of the six anniversary dates of such date thereafter;

28 (4) "Long-term debt security", any debt instrument issued by a qualified community
29 development entity, at par value or a premium, with an original maturity date of at least seven
30 years from the date of its issuance, with no acceleration of repayment, amortization, or

31 prepayment features prior to its original maturity date, and with no distribution, payment, or
32 interest features related to the profitability of the qualified community development entity or the
33 performance of the qualified community development entity's investment portfolio. The
34 foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument
35 in situations where the issuer has defaulted on covenants designed to ensure compliance with this
36 section or Section 45D of the Internal Revenue Code of 1986, as amended;

37 (5) "Qualified active low-income community business", the meaning given such term
38 in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business
39 that derives or projects to derive fifteen percent or more of its annual revenue from the rental or
40 sale of real estate shall not be considered to be a qualified active low-income community
41 business;

42 (6) "Qualified community development entity", the meaning given such term in Section
43 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered
44 into an allocation agreement with the Community Development Financial Institutions Fund of
45 the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal
46 Revenue Code of 1986, as amended, which includes the state of Missouri within the service area
47 set forth in such allocation agreement;

48 (7) "Qualified equity investment", any equity investment in, or long-term debt security
49 issued by, a qualified community development entity that:

50 (a) Is acquired after September 4, 2007, at its original issuance solely in exchange for
51 cash;

52 (b) Has at least eighty-five percent of its cash purchase price used by the issuer to make
53 qualified low-income community investments; and

54 (c) Is designated by the issuer as a qualified equity investment under this subdivision and
55 is certified by the department of economic development as not exceeding the limitation contained
56 in subsection 2 of this section.

57

58 This term shall include any qualified equity investment that does not meet the provisions of
59 paragraph (a) of this subdivision if such investment was a qualified equity investment in the
60 hands of a prior holder;

61 (8) "Qualified low-income community investment", any capital or equity investment in,
62 or loan to, any qualified active low-income community business. With respect to any one
63 qualified active low-income community business, the maximum amount of qualified low-income
64 community investments made in such business, on a collective basis with all of its affiliates, that
65 may be used from the calculation of any numerator described in subparagraph a. of paragraph

66 (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or
67 several qualified community development entities;

68 (9) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,
69 excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or otherwise due
70 under section 375.916, RSMo, or chapter 147, 148, or 153, RSMo;

71 (10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,
72 RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or the tax
73 imposed in section 375.916, RSMo, or chapter 147, 148, or 153, RSMo.

74 2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits
75 under this section. On each credit allowance date of such qualified equity investment the
76 taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit
77 during the taxable year including such credit allowance date. The tax credit amount shall be
78 equal to the applicable percentage of the adjusted purchase price paid to the issuer of such
79 qualified equity investment. The amount of the tax credit claimed shall not exceed the amount
80 of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax
81 credit claimed under this section shall be refundable or transferable. Tax credits earned by a
82 partnership, limited liability company, S-corporation, or other pass-through entity may be
83 allocated to the partners, members, or shareholders of such entity for their direct use in
84 accordance with the provisions of any agreement among such partners, members, or
85 shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from
86 claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable
87 years. The department of economic development shall limit the monetary amount of qualified
88 equity investments permitted under this section to a level necessary to limit tax credit utilization
89 at no more than fifteen million dollars of tax credits in any fiscal year. **To the extent that as of**
90 **the last day of April in any year, less than fifteen million dollars in tax credits have been**
91 **issued under the provisions of this section, such remaining unissued tax credits shall be**
92 **made available for allocation under the provisions of sections 135.704 and 135.706.** Such
93 limitation on qualified equity investments shall be based on the anticipated utilization of credits
94 without regard to the potential for taxpayers to carry forward tax credits to later tax years.

95 3. The issuer of the qualified equity investment shall certify to the department of
96 economic development the anticipated dollar amount of such investments to be made in this state
97 during the first twelve-month period following the initial credit allowance date. If on the second
98 credit allowance date, the actual dollar amount of such investments is different than the amount
99 estimated, the department of economic development shall adjust the credits arising on the second
100 allowance date to account for such difference.

101 4. The department of economic development shall recapture the tax credit allowed under
102 this section with respect to such qualified equity investment under this section if:

103 (1) Any amount of the federal tax credit available with respect to a qualified equity
104 investment that is eligible for a tax credit under this section is recaptured under Section 45D of
105 the Internal Revenue Code of 1986, as amended; or

106 (2) The issuer redeems or makes principal repayment with respect to a qualified equity
107 investment prior to the seventh anniversary of the issuance of such qualified equity investment.

108
109 Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the
110 tax credit on a return.

111 5. The department of economic development shall promulgate rules to implement the
112 provisions of this section, including recapture provisions on a scaled proportional basis, and to
113 administer the allocation of tax credits issued for qualified equity investments, which shall be
114 conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined
115 in section 536.010, RSMo, that is created under the authority delegated in this section shall
116 become effective only if it complies with and is subject to all of the provisions of chapter 536,
117 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
118 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
119 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently
120 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
121 after September 4, 2007, shall be invalid and void.

122 6. For fiscal years following fiscal year 2010, qualified equity investments shall not be
123 made under this section unless reauthorization is made pursuant to this subsection. For all fiscal
124 years following fiscal year 2010, unless the general assembly adopts a concurrent resolution
125 granting authority to the department of economic development to approve qualified equity
126 investments for the Missouri new markets development program and clearly describing the
127 amount of tax credits available for the next fiscal year, or otherwise complies with the provisions
128 of this subsection, no qualified equity investments may be permitted to be made under this
129 section. The amount of available tax credits contained in such a resolution shall not exceed the
130 limitation provided under subsection 2 of this section. In any year in which the provisions of this
131 section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by
132 general law and not by concurrent resolution. Nothing in this subsection shall preclude a
133 taxpayer who makes a qualified equity investment prior to the expiration of authority to make
134 qualified equity investments from claiming tax credits relating to such qualified equity
135 investment for each applicable credit allowance date.

136 7. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity investment prior to sunset of this section under the provisions of section 23.253, RSMo, from claiming tax credits relating to such qualified equity investment for each credit allowance date.

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

(1) "Authority", the Missouri agricultural and small business development authority established in chapter 348, RSMo;

(2) "Milk producer", any person with a valid Missouri milk producer identification number who operates a dairy farm and provides, sells, or offers milk for sale to a milk plant, receiving station, or transfer station;

(3) "Noncontrollable input cost", fuel, fertilizer, and feed costs;

(4) "Taxpayer", any individual, partnership, or corporation as described in sections 143.441 and 143.471, RSMo, that is subject to the tax imposed in chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax imposed in chapter 147, RSMo.

2. For all taxable years beginning on or after January 1, 2009, any resident taxpayer who is actively engaged in business as a milk, swine, or cattle producer shall be granted a tax credit based upon the amount of milk, swine, or cattle produced and sold. The tax credit authorized under this section shall be allowed based upon production for any month in which the average amount of revenue received from products drops below the announced production price determined by the Food and Agricultural Policy Research Institution on the basis of noncontrollable input cost. The tax credit authorized under this section may be claimed against a taxpayer's state tax liability or quarterly estimated tax in the year of issuance. If the amount of the tax credit issued exceeds the amount of the taxpayer's state tax liability for the tax year for which the credit is claimed, the difference shall not be refundable but may be carried forward to any of the taxpayer's three subsequent taxable years.

24 **3. The authority shall be responsible for the administration and issuance of the**
25 **certificate of tax credits authorized by this section. The authority may impose a fee for the**
26 **provision of services authorized by this section.**

27 **4. Taxpayers shall apply for the milk, swine, or cattle production tax credit by**
28 **submitting an application to the authority on a form provided by the authority.**

29 **5. As of the first day of January, 2011, and the first day of every calendar month**
30 **thereafter, the authority shall report and make available for public inspection the**
31 **announced price based upon the following factors:**

32 **(1) The average price of milk in the top five states where milk is imported into**
33 **Missouri;**

34 **(2) The average transportation costs of importing milk from the top five states**
35 **where milk is imported into Missouri; and**

36 **(3) The cost of milk production in the state of Missouri.**

37 **6. The authority shall not issue more than five thousand dollars in tax credits per**
38 **producer taxpayer per year. The authority shall not issue more tax credits in any calendar**
39 **year than are allocable to this program for such calendar year as provided under section**
40 **32.115, RSMo, section 99.1205, RSMo, sections 135.484, 135.535, and 135.680, and section**
41 **208.770, RSMo.**

42 **7. The authority may promulgate rules to implement the provisions of this section.**
43 **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is**
44 **created under the authority delegated in this section shall become effective only if it**
45 **complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
46 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
47 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
48 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
49 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
50 **adopted after August 28, 2009, shall be invalid and void.**

51 **8. Under section 23.253, RSMo, of the Missouri sunset act:**

52 **(1) The provisions of the new program authorized under this section shall**
53 **automatically sunset on December thirty-first six years after August 28, 2009, unless**
54 **reauthorized by an act of the general assembly; and**

55 **(2) If such program is reauthorized, the program authorized under this section**
56 **shall automatically sunset on December thirty-first twelve years after the effective date of**
57 **the reauthorization of this section; and**

58 **(3) This section shall terminate on September first of the calendar year immediately**
59 **following the calendar year in which the program authorized under this section is sunset.**

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

2 **(1) "Authority", the Missouri agricultural and small business development**
3 **authority established in chapter 348, RSMo;**

4 **(2) "Livestock", any swine or beef cattle;**

5 **(3) "Livestock production costs", the market value of feed commodities used in the**
6 **production of livestock, including but not limited to corn and soybeans, of the type and in**
7 **the quantity determined by the department needed to bring livestock to market based on**
8 **the sale weight of such livestock;**

9 **(4) "Market value", the market price of any feed commodity or livestock on the**
10 **date of sale;**

11 **(5) "Qualifying loss", an aggregate loss from the sale of livestock during a twelve-**
12 **month period based on the total of all sales of livestock during such twelve-month period;**

13 **(6) "Taxpayer", any individual, partnership, or corporation as described in**
14 **sections 143.441 and 143.471, RSMo, that is subject to the tax imposed in chapter 143,**
15 **RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the**
16 **tax imposed in chapter 147, RSMo.**

17 **2. For all taxable years beginning on or after January 1, 2009, any resident**
18 **taxpayer who is actively engaged in business as a livestock producer shall be granted a tax**
19 **credit based upon the amount of livestock produced and sold. The tax credit authorized**
20 **under this section shall be allowed based upon losses incurred as a result of market**
21 **fluctuations which result in current livestock production costs exceeding the current**
22 **market value of livestock. The tax credit authorized under this section may be claimed**
23 **against a taxpayer's state tax liability or quarterly estimated tax in the year of issuance.**
24 **If the amount of the tax credit issued exceeds the amount of the taxpayer's state tax**
25 **liability for the tax year for which the credit is claimed, the difference shall not be**
26 **refundable but may be carried forward to any of the taxpayer's three subsequent taxable**
27 **years. No tax credit issued under this section shall be transferred, sold, assigned, or**
28 **otherwise conveyed.**

29 **3. The department shall be responsible for the administration and issuance of the**
30 **certificate of tax credits authorized by this section. The department may impose a fee for**
31 **the provision of services authorized by this section.**

32 **4. Taxpayers shall apply for the livestock production tax credit by submitting an**
33 **application to the department on a form provided by the department. As part of the**
34 **application, the taxpayer shall provide documentation as to the total amount of livestock**
35 **produced and sold during the tax credit allowance period.**

36 **5. The department shall determine the market value of feed commodities used in**
37 **the production of swine and beef cattle, such as corn and soybeans, and the market value**
38 **of the livestock. Such market values shall be calculated and posted on the fifteenth and last**
39 **day of each month. Based on the current market value of such feed commodities and**
40 **livestock, the department shall determine on a bimonthly basis:**

41 **(1) The current per pound or per unit livestock production cost of bringing each**
42 **type of livestock;**

43 **(2) The current per pound or per unit market price necessary for the livestock**
44 **producer to equal the livestock production costs for each type of livestock;**

45 **(3) The current per pound or per unit market price of each type of livestock; and**

46 **(4) Whether the current livestock production costs exceed the current market price**
47 **for each type of livestock.**

48

49 **If, based on the calculations made by the department of agriculture, the current livestock**
50 **production costs exceed the current market price of livestock, any participant in the**
51 **program shall be eligible to receive a tax credit if the participant has a qualifying loss for**
52 **a twelve-month period.**

53 **6. In any calendar year in which tax credits are available for issuance under the**
54 **provisions of this section, eligible taxpayers may be issued a credit in an amount equal to**
55 **the sum of the qualifying loss for a twelve-month period. The department shall not issue**
56 **more than five thousand dollars in tax credits per livestock producer taxpayer per year.**
57 **The department shall not issue more tax credits in any calendar year than are allocable to**
58 **this program for such calendar year as provided under section 32.115, RSMo, section**
59 **99.1205, RSMo, sections 135.484, 135.535, and 135.680, and section 208.770, RSMo.**

60 **7. The department may promulgate rules to implement the provisions of this**
61 **section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
62 **that is created under the authority delegated in this section shall become effective only if**
63 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
64 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
65 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
66 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
67 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
68 **adopted after August 28, 2009, shall be invalid and void.**

69 **8. Under section 23.253, RSMo, of the Missouri sunset act:**

70 **(1) The provisions of the new program authorized under this section shall**
71 **automatically sunset on December thirty-first six years after August 28, 2009, unless**
72 **reauthorized by an act of the general assembly; and**

73 **(2) If such program is reauthorized, the program authorized under this section**
74 **shall automatically sunset on December thirty-first twelve years after the effective date of**
75 **the reauthorization of this section; and**

76 **(3) This section shall terminate on September first of the calendar year immediately**
77 **following the calendar year in which the program authorized under this section is sunset.**

 144.030. 1. There is hereby specifically exempted from the provisions of sections
2 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to
3 sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and
4 any other state of the United States, or between this state and any foreign country, and any retail
5 sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws
6 of the United States of America, and such retail sales of tangible personal property which the
7 general assembly of the state of Missouri is prohibited from taxing or further taxing by the
8 constitution of this state.

9 2. There are also specifically exempted from the provisions of the local sales tax law as
10 defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and
11 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to
12 the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections
13 144.010 to 144.525 and 144.600 to 144.745:

14 (1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of
15 such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel
16 to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing
17 water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into
18 foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or
19 fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will
20 be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at
21 retail; economic poisons registered pursuant to the provisions of the Missouri pesticide
22 registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with
23 the growth or production of crops, fruit trees or orchards applied before, during, or after planting,
24 the crop of which when harvested will be sold at retail or will be converted into foodstuffs which
25 are to be sold ultimately in processed form at retail;

26 (2) Materials, manufactured goods, machinery and parts which when used in
27 manufacturing, processing, compounding, mining, producing or fabricating become a component
28 part or ingredient of the new personal property resulting from such manufacturing, processing,

29 compounding, mining, producing or fabricating and which new personal property is intended to
30 be sold ultimately for final use or consumption; and materials, including without limitation,
31 gases and manufactured goods, including without limitation slagging materials and firebrick,
32 which are ultimately consumed in the manufacturing process by blending, reacting or interacting
33 with or by becoming, in whole or in part, component parts or ingredients of steel products
34 intended to be sold ultimately for final use or consumption;

35 (3) Materials, replacement parts and equipment purchased for use directly upon, and for
36 the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock
37 or aircraft engaged as common carriers of persons or property;

38 (4) Replacement machinery, equipment, and parts and the materials and supplies solely
39 required for the installation or construction of such replacement machinery, equipment, and
40 parts, used directly in manufacturing, mining, fabricating or producing a product which is
41 intended to be sold ultimately for final use or consumption; and machinery and equipment, and
42 the materials and supplies required solely for the operation, installation or construction of such
43 machinery and equipment, purchased and used to establish new, or to replace or expand existing,
44 material recovery processing plants in this state. For the purposes of this subdivision, a "material
45 recovery processing plant" means a facility that has as its primary purpose the recovery of
46 materials into a useable product or a different form which is used in producing a new product and
47 shall include a facility or equipment which are used exclusively for the collection of recovered
48 materials for delivery to a material recovery processing plant but shall not include motor vehicles
49 used on highways. For purposes of this section, the terms motor vehicle and highway shall have
50 the same meaning pursuant to section 301.010, RSMo. Material recovery is not the reuse of
51 materials within a manufacturing process or the use of a product previously recovered. The
52 material recovery processing plant shall qualify under the provisions of this section regardless
53 of ownership of the material being recovered;

54 (5) Machinery and equipment, and parts and the materials and supplies solely required
55 for the installation or construction of such machinery and equipment, purchased and used to
56 establish new or to expand existing manufacturing, mining or fabricating plants in the state if
57 such machinery and equipment is used directly in manufacturing, mining or fabricating a product
58 which is intended to be sold ultimately for final use or consumption;

59 (6) Tangible personal property which is used exclusively in the manufacturing,
60 processing, modification or assembling of products sold to the United States government or to
61 any agency of the United States government;

62 (7) Animals or poultry used for breeding or feeding purposes;

- 63 (8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and
64 other machinery, equipment, replacement parts and supplies used in producing newspapers
65 published for dissemination of news to the general public;
- 66 (9) The rentals of films, records or any type of sound or picture transcriptions for public
67 commercial display;
- 68 (10) Pumping machinery and equipment used to propel products delivered by pipelines
69 engaged as common carriers;
- 70 (11) Railroad rolling stock for use in transporting persons or property in interstate
71 commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or
72 more or trailers used by common carriers, as defined in section 390.020, RSMo, in the
73 transportation of persons or property;
- 74 (12) Electrical energy used in the actual primary manufacture, processing, compounding,
75 mining or producing of a product, or electrical energy used in the actual secondary processing
76 or fabricating of the product, or a material recovery processing plant as defined in subdivision
77 (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical
78 energy so used exceeds ten percent of the total cost of production, either primary or secondary,
79 exclusive of the cost of electrical energy so used or if the raw materials used in such processing
80 contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo.
81 There shall be a rebuttable presumption that the raw materials used in the primary manufacture
82 of automobiles contain at least twenty-five percent recovered materials. For purposes of this
83 subdivision, "processing" means any mode of treatment, act or series of acts performed upon
84 materials to transform and reduce them to a different state or thing, including treatment necessary
85 to maintain or preserve such processing by the producer at the production facility;
- 86 (13) Anodes which are used or consumed in manufacturing, processing, compounding,
87 mining, producing or fabricating and which have a useful life of less than one year;
- 88 (14) Machinery, equipment, appliances and devices purchased or leased and used solely
89 for the purpose of preventing, abating or monitoring air pollution, and materials and supplies
90 solely required for the installation, construction or reconstruction of such machinery, equipment,
91 appliances and devices;
- 92 (15) Machinery, equipment, appliances and devices purchased or leased and used solely
93 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies
94 solely required for the installation, construction or reconstruction of such machinery, equipment,
95 appliances and devices;
- 96 (16) Tangible personal property purchased by a rural water district;
- 97 (17) All amounts paid or charged for admission or participation or other fees paid by or
98 other charges to individuals in or for any place of amusement, entertainment or recreation, games

99 or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a
100 municipality or other political subdivision where all the proceeds derived therefrom benefit the
101 municipality or other political subdivision and do not inure to any private person, firm, or
102 corporation;

103 (18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1,
104 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of
105 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically
106 including hearing aids and hearing aid supplies and all sales of drugs which may be legally
107 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to
108 administer those items, including samples and materials used to manufacture samples which may
109 be dispensed by a practitioner authorized to dispense such samples and all sales of medical
110 oxygen, home respiratory equipment and accessories, hospital beds and accessories and
111 ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers,
112 electronic Braille equipment and, if purchased by or on behalf of a person with one or more
113 physical or mental disabilities to enable them to function more independently, all sales of
114 scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and
115 augmentative communication devices, and items used solely to modify motor vehicles to permit
116 the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or
117 nonprescription drugs to individuals with disabilities, **or any medical equipment, supplies, or**
118 **devices that are provided to a person on or by the order of a physician, or otherwise paid**
119 **for by a third party health insurer, or Medicare and Medicaid;**

120 (19) All sales made by or to religious and charitable organizations and institutions in
121 their religious, charitable or educational functions and activities and all sales made by or to all
122 elementary and secondary schools operated at public expense in their educational functions and
123 activities;

124 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce
125 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,
126 including fraternal organizations which have been declared tax-exempt organizations pursuant
127 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or
128 charitable functions and activities and all sales made to eleemosynary and penal institutions and
129 industries of the state, and all sales made to any private not-for-profit institution of higher
130 education not otherwise excluded pursuant to subdivision (19) of this subsection or any
131 institution of higher education supported by public funds, and all sales made to a state relief
132 agency in the exercise of relief functions and activities;

133 (21) All ticket sales made by benevolent, scientific and educational associations which
134 are formed to foster, encourage, and promote progress and improvement in the science of

135 agriculture and in the raising and breeding of animals, and by nonprofit summer theater
136 organizations if such organizations are exempt from federal tax pursuant to the provisions of the
137 Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any
138 fair conducted by a county agricultural and mechanical society organized and operated pursuant
139 to sections 262.290 to 262.530, RSMo;

140 (22) All sales made to any private not-for-profit elementary or secondary school, all sales
141 of feed additives, medications or vaccines administered to livestock or poultry in the production
142 of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for
143 food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber,
144 all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying
145 agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as
146 defined in section 142.028, RSMo, natural gas, propane, and electricity used by an eligible new
147 generation cooperative or an eligible new generation processing entity as defined in section
148 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor
149 vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible
150 personal property which, when mixed with feed for livestock or poultry, is to be used in the
151 feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes
152 adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used
153 to improve or enhance the effect of a pesticide and the foam used to mark the application of
154 pesticides and herbicides for the production of crops, livestock or poultry. As used in this
155 subdivision, the term "farm machinery and equipment" means new or used farm tractors and such
156 other new or used farm machinery and equipment and repair or replacement parts thereon, and
157 supplies and lubricants used exclusively, solely, and directly for producing crops, raising and
158 feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale
159 at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel
160 therefor which is:

- 161 (a) Used exclusively for agricultural purposes;
162 (b) Used on land owned or leased for the purpose of producing farm products; and
163 (c) Used directly in producing farm products to be sold ultimately in processed form or
164 otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold
165 ultimately in processed form at retail;

166 (23) Except as otherwise provided in section 144.032, all sales of metered water service,
167 electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil
168 for domestic use and in any city not within a county, all sales of metered or unmetered water
169 service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

205 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071,
206 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of
207 revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local
208 sales taxes on such excise taxes;

209 (26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne
210 vessels which are used primarily in or for the transportation of property or cargo, or the
211 conveyance of persons for hire, on navigable rivers bordering on or located in part in this state,
212 if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while
213 it is afloat upon such river;

214 (27) All sales made to an interstate compact agency created pursuant to sections 70.370
215 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and
216 activities of such agency as provided pursuant to the compact;

217 (28) Computers, computer software and computer security systems purchased for use
218 by architectural or engineering firms headquartered in this state. For the purposes of this
219 subdivision, "headquartered in this state" means the office for the administrative management
220 of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

221 (29) All livestock sales when either the seller is engaged in the growing, producing or
222 feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering
223 or leasing of such livestock;

224 (30) All sales of barges which are to be used primarily in the transportation of property
225 or cargo on interstate waterways;

226 (31) Electrical energy or gas, whether natural, artificial or propane, water, or other
227 utilities which are ultimately consumed in connection with the manufacturing of cellular glass
228 products or in any material recovery processing plant as defined in subdivision (4) of this
229 subsection;

230 (32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or
231 herbicides used in the production of crops, aquaculture, livestock or poultry;

232 (33) Tangible personal property and utilities purchased for use or consumption directly
233 or exclusively in the research and development of agricultural/biotechnology and plant genomics
234 products and prescription pharmaceuticals consumed by humans or animals;

235 (34) All sales of grain bins for storage of grain for resale;

236 (35) All sales of feed which are developed for and used in the feeding of pets owned by
237 a commercial breeder when such sales are made to a commercial breeder, as defined in section
238 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

239 (36) All purchases by a contractor on behalf of an entity located in another state,
240 provided that the entity is authorized to issue a certificate of exemption for purchases to a

contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, RSMo;

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories.

208.770. 1. Moneys deposited in or withdrawn pursuant to subsection 1 of section 208.760 from a family development account by an account holder are exempted from taxation pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and chapter 147, 148 or 153, RSMo, provided, however, that any money withdrawn for an unapproved use should be subject to tax as required by law.

6 2. Interest earned by a family development account is exempted from taxation pursuant
7 to chapter 143, RSMo.

8 3. Any funds in a family development account, including accrued interest, shall be
9 disregarded when determining eligibility to receive, or the amount of, any public assistance or
10 benefits.

11 4. A program contributor shall be allowed a credit against the tax imposed by chapter
12 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and
13 chapter 147, 148 or 153, RSMo, pursuant to sections 208.750 to 208.775. Contributions up to
14 fifty thousand dollars per program contributor are eligible for the tax credit which shall not
15 exceed fifty percent of the contribution amount.

16 5. The department of economic development shall verify all tax credit claims by
17 contributors. The administrator of the community-based organization, with the cooperation of
18 the participating financial institutions, shall submit the names of contributors and the total
19 amount each contributor contributes to a family development account reserve fund for the
20 calendar year. The director shall determine the date by which such information shall be
21 submitted to the department by the local administrator. The department shall submit verification
22 of qualified tax credits pursuant to sections 208.750 to 208.775 to the department of revenue.

23 6. The total tax credits authorized pursuant to sections 208.750 to 208.775 shall not
24 exceed four million dollars in any fiscal year. **To the extent that as of the last day of April in**
25 **any year, less than four million dollars in tax credits have been issued under the provisions**
26 **of this section, such remaining unissued tax credits shall be made available for allocation**
27 **under the provisions of sections 135.704 and 135.706, RSMo.**

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